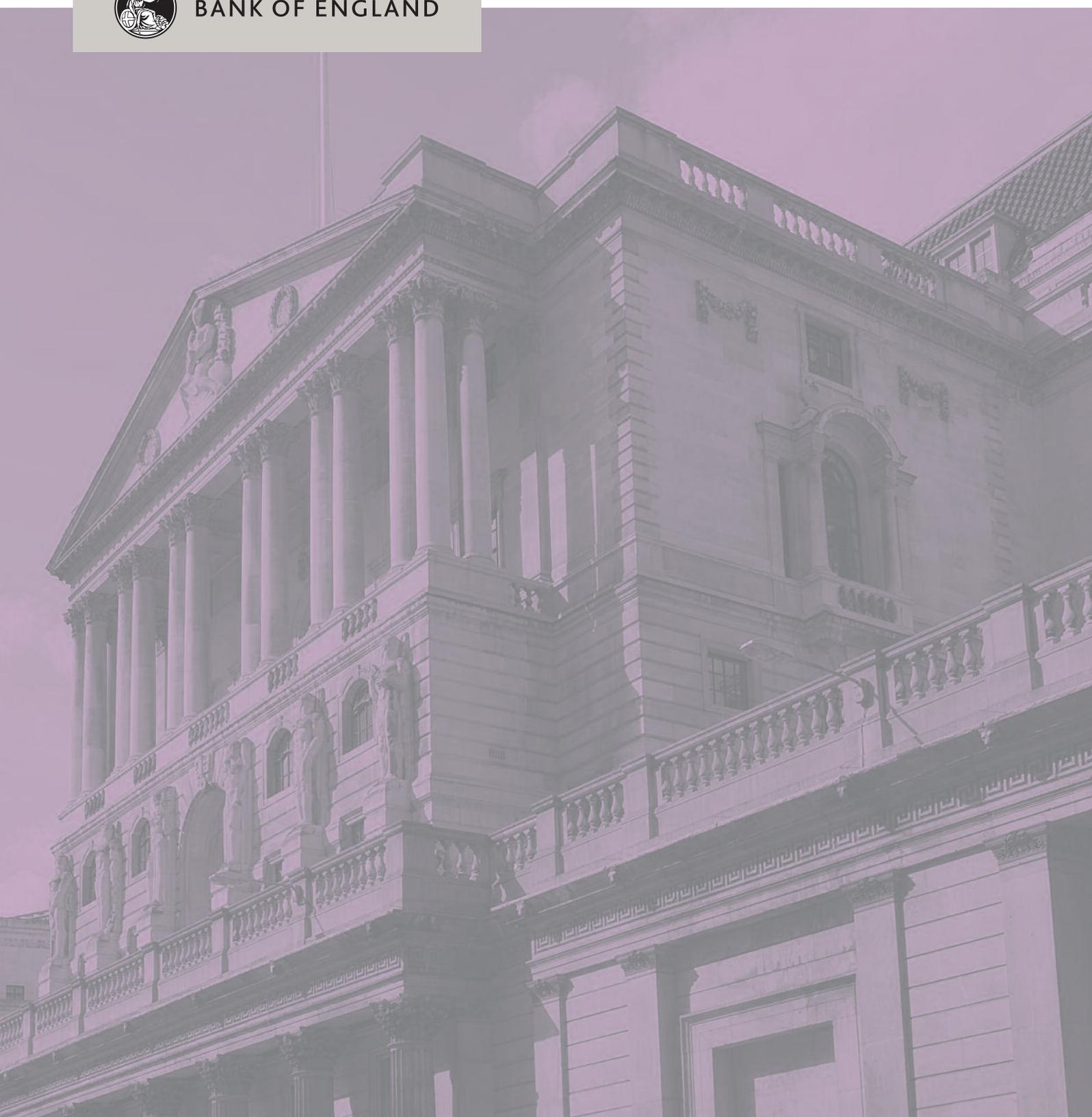


Consultation Paper
UK withdrawal from the EU: Changes to FMI rules and
onshored Binding Technical Standards
October 2018



BANK OF ENGLAND





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Consultation paper

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By responding to this consultation, you provide personal data to the Bank of England. This may include your name, contact details (including, if provided, details of the organisation you work for), and opinions or details offered in the response itself.

The response will be assessed to inform our work as a regulator and central bank, both in the public interest and in the exercise of our official authority. We may use your details to contact you to clarify any aspects of your response.

The consultation paper will explain if responses will be shared with other organisations (for example, the Financial Conduct Authority). If this is the case, the other organisation will also review the responses and may also contact you to clarify aspects of your response. We will retain all responses for the period that is relevant to supporting ongoing regulatory policy developments and reviews. However, all personal data will be redacted from the responses within five years of receipt. To find out more about how we deal with your personal data, your rights or to get in touch please visit bankofengland.co.uk/legal/privacy.

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Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England receives a request for disclosure of this information, we will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England.

Responses are requested by Wednesday 2 January 2019.

Please address any comments or enquiries to:

Financial Market Infrastructure Directorate

Bank of England

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Contents

1	Overview	1
2	Interpreting the Bank’s supervisory approach documents and other guidance relating to FMI supervision	4
3	Amendments to onshored Binding Technical Standards for FMIs	5
4	Amendments to the Bank’s domestic rules for FMIs	7
5	The Bank’s obligations under the Regulations	8
	Appendices	9

1 Overview

1.1 The UK's withdrawal from the European Union (EU)¹ requires changes to be made to United Kingdom (UK) legislation to ensure that it remains functional. The European Union (Withdrawal) Act 2018 (the Act) converts directly applicable EU law (eg EU Regulations) into UK law, and preserves domestic law that relates to EU membership (including domestic law that was introduced to implement EU Directives). This body of law is referred to as 'retained EU law'. The Act also provides Government ministers powers to make changes to the law so that it continues to operate effectively after the UK's withdrawal from the EU. These processes are often referred to as 'onshoring' or 'Nationalising the Acquis'² (NtA).³

1.2 This consultation paper (CP) sets out the Bank of England's (the Bank) proposals to fix deficiencies arising from the UK's withdrawal from the EU in its capacity as competent authority for financial market infrastructures (FMIs). This encompasses fixing deficiencies in FMI-related Binding Technical Standards (BTS) and the Bank's domestic rules for FMIs (FMI rules). This CP also covers the Bank's proposed approach to interpreting certain Bank issued non-binding material.

1.3 This CP is relevant to FMIs supervised by the Bank,⁴ as well as market infrastructures and market participants more generally.

1.4 This CP is published as part of the Bank of England's consultation package on amending financial services legislation under the Act.⁵ As explained in CP25/18 'The Bank of England's approach to amending financial services legislation under the European Union (Withdrawal) Act 2018' (the 'NtA approach CP'), HM Treasury has proposed to delegate powers under the Act to the financial services regulators (Financial Conduct Authority (FCA), PRA, Bank and Payment Systems Regulator (PSR)),⁶ giving them responsibility for fixing deficiencies in onshored BTS.⁷

1.5 In this CP, the Bank is consulting on fixes to deficiencies arising from the UK's withdrawal from the EU in onshored BTS that the Bank as FMI supervisor will be responsible for under the Schedule of the 'Financial Regulators' powers, (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018' (the Regulations). The delegated powers may also be used by the regulators to amend deficiencies within their respective rules. Therefore, the Bank expects to have the power to make 'EU exit instruments', where appropriate, to prevent, remedy or

¹ References in this CP to the EU and/or its Member States include, as appropriate, the European Economic Area (EEA) States of Norway, Iceland and Liechtenstein.

² Acquis refers to the 'acquis communautaire'.

³ HM Treasury has set out its approach to onshoring EU financial services regulation in 'HM Treasury's approach to financial services legislation under the European Union (Withdrawal) Act', June 2018:

<http://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act>.

⁴ The Bank has legal powers to supervise ten FMIs covering three types of FMIs (central counterparties; central securities depositories; payment systems). For further information, see 'The Bank of England's supervision of financial market infrastructures – Annual Report 2018': <https://www.bankofengland.co.uk/news/2018/february/supervision-of-financial-market-infrastructures-annual-report-2018>.

⁵ The Bank and PRA has issued four consultation papers on Thursday 25 October 2018, available at:

<http://www.bankofengland.co.uk/news/2018/october/boes-approach-to-amending-financial-services-legislation-under-the-eu-withdrawal-act-2018>.

⁶ 'The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018' draft SI (the 'Regulations').

⁷ In addition to the power to address deficiencies, the Regulations also delegate to the regulators (Financial Conduct Authority, PRA, Bank and Payment Systems Regulator) an ongoing power to make and maintain BTS. These powers cannot be exercised until after the UK has left the EU.

mitigate any failure of the BTS within the Bank's remit and FMI rules to operate effectively or any other deficiency in these BTS or FMI rules arising from the UK's withdrawal from the EU.

1.6 As set out in the NtA approach CP, HMT is responsible for addressing deficiencies in primary and secondary UK financial services legislation that arise following the UK's withdrawal from the EU. The changes proposed to onshored BTS and FMI rules in this CP are consistent with, and in some cases consequential upon, changes that HMT proposes to make to relevant legislation, and should be read in conjunction with those changes. This CP focuses on changes where the Bank proposes to depart from the general approach described in Chapter 3 and 4 of the NtA approach CP, or where the Bank considers that further explanation is appropriate. The two documents should be read together. This CP does not describe those changes which are simply consequential on changes proposed by HM Treasury to relevant legislation.

1.7 The Government has committed to give the financial services regulators transitional powers to enable firms to adjust to changes made as a result of onshoring. As set out in the NtA approach CP, the Bank is considering exercising the transitional powers in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to FMIs, in the eventuality that there is no Implementation Period.⁸ This is set out in the NtA approach CP, and the Bank will continue to consider its approach to the potential use of the temporary transitional power, including in light of response received to this CP.

1.8 The changes proposed in this CP are technical amendments to ensure an operable legal framework for the day the UK leaves the EU on 29 March 2019 (exit day).⁹ The powers delegated to the Bank under the Act can only be used to fix 'deficiencies' that arise as a result of the UK's withdrawal from the EU. They cannot be the basis for policy changes unrelated to the UK's withdrawal from the EU. As such, the format and content of this CP has different elements compared to a usual Bank consultation on rules under the Financial Services and Markets Act 2000 (FSMA). Statutory FSMA requirements, for example to undertake cost benefit analysis, do not apply to the exercise of the powers under the Act.

1.9 The responsibility for some onshored BTS is shared between the FCA and Bank (joint BTS). Where this is the case, the approach is that one regulator will take the lead in proposing amendments in close consultation with the other relevant regulator, based on which regulator's remit and objectives are most relevant to the joint BTS. The FCA will separately consult on the BTS it has been assigned, and the Bank recommends that relevant FMIs, market infrastructures and market participants also review its consultations.

1.10 Under the Regulations, regulators also have the option to retain joint BTS as joint or divide them so that, for example, there is a Bank version for Central Counterparties (CCPs) and an FCA version for other trade counterparties. The Bank is not proposing to subdivide any of the BTS that are in the Bank's remit as FMI regulator.

1.11 As set out in the NtA approach CP, the changes proposed in this CP would take effect on the exit date of 11:00pm Friday 29 March 2019 only in the event that there is no Implementation Period. If the draft Withdrawal Agreement agreed between the UK and EU¹⁰ is

⁸ A draft Withdrawal Agreement was agreed between the UK and EU in March 2018. The draft Withdrawal Agreement provides for an implementation period ending on Thursday 31 December 2020 (the 'Implementation Period').

⁹ As defined in the Act.

¹⁰ 'Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community', March 2018: <https://www.gov.uk/government/publications/draft-withdrawal-agreement-19-march-2018>.

ratified and the Implementation Period commences on Friday 29 March 2019, the proposed changes would not take effect until after the end of the Implementation Period. To the extent that it is necessary, further modifications to FMI rules and onshored BTS may be required to reflect any agreement that is reached between the UK and EU on their future relationship.

1.12 The Bank proposes in this CP only to make changes to FMI rules and onshored BTS that were adopted before Sunday 1 July 2018.¹¹ The changes proposed in this CP are based on draft Statutory Instruments (SIs)¹² that have been published or laid before Parliament before publication of this CP. The Bank will also consult on any further changes to FMI rules and onshored BTS after relevant SIs which reflect the Government's policy in relation to these issues have been published.

1.13 The rest of the document is structured as follows:

- Chapter 2 sets out how to interpret certain Bank materials related to the Bank's role as FMI competent authority in the context of the UK's withdrawal from the EU;
- Chapter 3 sets out those changes to onshored BTS which deviate from the approach set out in the NtA approach CP or where the Bank's approach requires further explanation;
- Chapter 4 sets out the proposed approach to amending the deficiencies arising from UK's withdrawal from the EU in FMI rules; and
- Chapter 5 sets out the Bank's obligations under the Regulations.

1.14 The appendices to this CP consist of:

- Appendix 1: Draft Supervisory Statement 'Non-binding Bank materials: The Bank's approach after the UK's withdrawal from the EU in relation to Financial Market Infrastructure supervision';
- Appendix 2: Draft FMI rule changes; and
- Appendix 3: Draft BTS EU Exit Instruments within the Bank's remit as FMI competent authority

Responses and next steps

1.15 This consultation closes on Wednesday 2 January 2019. The Bank invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to: fmibts@bankofengland.co.uk.

¹¹ Any BTS that come into force after this date will be considered in later CPs.

¹² The EMIR SI was published on 22 October 2018:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/750328/Over-the-Counter-Derivatives-Draft-SI.PDF.

The CSDR SI was published on 22 October 2018: <https://www.gov.uk/government/publications/draft-central-securities-depositories-amendment-eu-exit-regulations-2018/draft-central-securities-depositories-amendment-eu-exit-regulations-2018-explanatory-information>.

2 Interpreting the Bank's supervisory approach documents and other guidance relating to FMI supervision

2.1 This chapter covers the Bank's proposal on the treatment of Bank guidance, for example the Bank's supervisory approach documents and Statements of Policy, issued in the Bank's role as FMI competent authority in effect on exit day. The draft Supervisory Statement in Appendix 2 provides a list of relevant materials, as well as guidance on how these materials should be interpreted when the UK leaves the EU. The draft Supervisory Statement sets out that the Bank will not be making detailed amendments to these materials ahead of the UK's withdrawal from the EU. The Bank proposes that FMIs interpret these materials in the context of the UK's withdrawal from the EU, the changes made to related legislation, the proposed amendments to FMI rules, and the proposed amendments to BTS under the Act.

2.2 The Bank has previously communicated that it is planning an update of 'The Bank of England's approach to FMI supervision'¹³ in due course to clarify its objectives in light of a recommendation from the Bank's Independent Evaluation Office to 'provide a fuller articulation of the Bank's FMI supervisory strategy and objectives'.¹⁴ The Bank does not propose any further update to this document ahead of exit day to reflect the UK's withdrawal from the EU.

2.3 For the Bank's approach to EU Guidelines and Recommendations issued by the European Supervisory Authorities (ESA), readers are referred to the NtA approach CP.

¹³ The Bank's approach to FMI supervision: <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/the-boe-approach-to-the-supervision-of-fmi.pdf>.

¹⁴ The Bank provided a response to the Independent Evaluation Office's evaluation: <https://www.bankofengland.co.uk/-/media/boe/files/independent-evaluation-office/2017/boe-response-to-the-ieo-evaluation-of-fmi-supervision.pdf>.

3 Amendments to onshored Binding Technical Standards for FMIs

3.1 The Bank is consulting in this CP on those European Market Infrastructure Regulation (EMIR)¹⁵ and Central Securities Depositories Regulation (CSDR)¹⁶ BTS that are the responsibility of the Bank (as per the Regulations) in its capacity as FMI competent authority. The draft EU exit instruments which provide for the changes to BTS the Bank is proposing to make to fix deficiencies arising from the UK's withdrawal from the EU are contained in Appendix 3.

3.2 This chapter does not comment on each proposed amendment. The Bank considers it appropriate to provide specific commentary on proposed changes that represent a departure from the approach set out in the NtA approach CP and where the Bank considers that an explanation would be appropriate to make clear the rationale for maintaining the general approach. These proposed changes are set out below.

3.3 All proposed changes are included in Appendix 3, which contains all the draft EU exit instruments.

1) EMIR Intragroup exemptions

3.4 In the EMIR SI, HM Treasury introduces transitional provisions governing intragroup exemptions from certain provisions between group entities in the UK and entities in the European Economic Area or a third country. One element of this regime supplants the existing transitional intragroup exemptions contained in Article 3(2) of the EMIR clearing obligation BTS (2016/1178, 2015/2205 and 2016/592). Therefore, these Articles are deleted in the relevant draft EU exit instruments, and the cross-references to these Articles in Article 4(3) and 4(4) of the clearing obligation BTS are amended to refer to the new transitional regime.

2) References to European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM)

3.5 Annex II of EMIR BTS (153/2013) and Article 81 of CSDR BTS (2017/392) specify that financial instruments can be considered highly liquid and bearing minimal credit and market risk if they meet certain conditions. One type of instrument that may be considered eligible is debt instruments issued or guaranteed by the EFSF or ESM.¹⁷

3.6 The standard approach to fixing deficiencies in onshored BTS is to treat EU or EU-related institutions as a third country rather than retain preferential treatment for the EU or EU instruments. However, the treatment of certain debt instruments issued or guaranteed by the EFSF and ESM is not a deficiency arising from the UK's withdrawal from the EU. Their inclusion is aligned with standards agreed by the Basel Committee on Banking Supervision in relation to capital and liquidity requirements for banks clarifying that instruments issued or guaranteed

¹⁵ Regulation (EU) No 648/2012.

¹⁶ Regulation (EU) No 909/2014.

¹⁷ The same treatment is applied to debt instruments issued or guaranteed by governments, central banks, or a set of multilateral development banks listed in an Annex to Directive 2006/48/EC.

by certain international organisations should be treated as highly liquid, and that banks may assign claims on the EFSF and ESM a 0% risk weight.¹⁸

3.7 The Bank proposes to retain the references to EFSF and ESM in the onshored EMIR and CSDR BTS, as doing so will maintain consistency with internationally agreed standards.

3) Geographical scope of CSDs contained in application information concerning groups

3.8 Article 7 of the CSDR BTS (2017/392) requires firms applying to be authorised as a CSD to provide information on their parent undertaking and on services that they share with other undertakings in a group, if that group contains other CSDs or credit institutions designated to provide banking-type ancillary services.

3.9 The definition of a CSD in the SI (Central Securities Depositories (Amendment) (EU Exit) Regulations 2018) is limited to CSDs established in the UK (as opposed to the EU). The approach set out in the NtA approach CP would therefore mean that if a CSD which is applying for authorisation in the UK is part of a group which includes non-UK CSDs, that group would not be captured in the information to be provided in an authorisation application.

3.10 Information about the wider group is important in understanding the risks that a CSD might be exposed to, and therefore relevant for the Bank to consider as part of the authorisation process. Therefore the Bank proposes to broaden the scope of 'other CSDs' in this specific obligation to include groups of undertakings that contain any non-UK CSDs.

4) Covered bonds

3.11 There are references to covered bonds in Article 1(2) of each of BTS 2016/1178 and 2015/2205 (which specify certain contracts as subject to the clearing obligation). These provisions cross-refer to the Capital Requirements Regulation (575/2013) (CRR); the onshoring of the relevant provisions in the CRR limit their scope to domestic (UK) covered bond issuers.¹⁹ Non-UK covered bond issuers may therefore fall outside these definitions.

3.12 This consultation is seeking feedback on any potential effects of applying the approach set out in the NtA approach CP in these instances.

5) Deleted BTS

3.13 A number of EMIR BTS and CSDR BTS within the Bank's remit as FMI competent authority will need to be deleted, as the requirements set out in these BTS will no longer be applicable following the UK's withdrawal from the EU. For example, UK regulators will not be under binding obligations to share information under the BTS covering EU colleges and exchange of information between EU supervisory authorities and these will be deleted. This deletion will be done through an EU exit instrument which deletes the relevant onshored BTS in retained EU law.

¹⁸ See this publication from the Basel Committee on Banking Supervision in relation to the capital and liquidity treatment for the ESM and EFSF: https://www.bis.org/publ/bcbs_n17.htm.

¹⁹ See the draft legislation relating to the onshoring of the CRR here: https://assets.publishing.service.gov.uk/mwg-internal/de5fs23hu73ds/progress?id=xvHV2u9AU41_xRgm519TtVWM2-SV6TtBOvHh7oFAWmr0.

4 Amendments to the Bank's domestic rules for FMIs

4.1 In addition to the proposed fixes in onshored BTS and approach to non-binding Bank materials, the Bank is also consulting on amendments to the Bank's FMI rules. The power to fix deficiencies in rules will be delegated by HMT to the regulators via the Regulations.

4.2 There are currently four Recognised Clearing House (RCH) rules made by the Bank of England under the Financial Services and Markets Act 2000.²⁰ RCH 2 and RCH 4 currently contain references to EU legislation. The Bank proposes to amend these RCH rules in line with the approach set out in the NtA approach CP. Appendix 2 sets out the proposed new language of the rules on which this CP is consulting.

4.3 RCH 2 stipulates the extent of duty and notice requirements for UK RCHs with respect to regulatory provisions. Section 2.3 outlines that the duty does not apply to the extent it is required under EU law or any enactment or rule of law in the UK. UK RCHs will not be subject to EU law in relation to their operations within the UK after the UK's withdrawal from the EU, therefore the Bank proposes to remove the reference to EU law in RCH 2.

4.4 RCH 4 stipulates the requirement for UK CCPs to notify the Bank of certain incidents having an impact on their information technology systems. Section 4.5(b) defines 'information technology system', which includes a 'network and information system' as such term is defined in the Directive on Security of Network and Information Systems.²¹ This is an EU-derived definition. The Bank proposes to amend the definition of 'information technology system' to include 'network and information system' as defined in regulation 1(2) of The Network and Information Systems Regulations 2018,²² which is domestic legislation. From a comparison of the current definition of network and information system within Directive 2016/1148/EC against the definition in The Network and Information Systems Regulations 2018, the Bank considers that they are substantively similar.

²⁰ The Recognised Clearing House Rules, RCH 1-3, can be found on the Bank website: <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/recognised-clearing-houses-rules.pdf>. The Recognised Clearing House Rule, RCH 4, can be found on the Bank website: <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/recognised-clearing-house-rules-instrument-2018.pdf>.

²¹ Directive 2016/1148/EC, Article 4(1).

²² The current UK legislation can be found here: <http://www.legislation.gov.uk/ukSI/2018/506/made>.

5 The Bank's obligations under the Regulations

5.1 HM Treasury has delegated a power, under Section 8 of the Act, to the Bank to make changes to Bank rules and relevant BTS. As such, similar restrictions that apply to the power in Section 8 also apply to the Bank's delegated power. Different constraints will exist in relation to the transitional power as highlighted in Chapter 4 of the NtA approach CP.

5.2 In accordance with those restrictions, the Bank considers that all changes proposed to Rules and BTS in this CP are appropriate to prevent, remedy or mitigate any:

- (a) failure of the relevant Bank rules or BTS to operate effectively; or
- (b) other deficiency in the relevant Bank rules or BTS, arising from the UK's withdrawal from the EU.

5.3 The types of changes that fall within the scope of 'deficiency' are listed in Section 8(2) of the Act. This list is exhaustive, ie all amendments must address deficiencies of these types or make consequential, supplementary, transitory or transitional provision in connection with them.

5.4 The Bank also confirms that the proposed Rule and BTS changes made under the Act do not:

- (a) impose or increase taxation or fees;
- (b) make retrospective provision;
- (c) create a criminal offence which is capable of leading to imprisonment of more than two years;
- (d) establish a public authority;
- (e) implement the Article 50 Withdrawal Agreement;
- (f) result in the transfer of a function of an EU authority to a UK authority;
- (g) confer any power to legislate by means of orders, rules, regulations or any other subordinate instrument; or
- (h) amend any legislation other than the relevant Bank rules or BTS.

Equality and diversity

5.5 The Bank has performed an assessment of the policy proposals and does not consider that the proposals give rise to equality and diversity implications.

Appendices

1	Draft Supervisory Statement ‘Non-binding Bank materials relating to Financial Market Infrastructure Supervision: The Bank’s approach after the UK’s withdrawal from the EU’	10
2	Draft FMI rule changes	12
3	List of onshored BTS in the Bank’s remit as FMI competent authority and draft BTS (EU Exit) Instruments	15

Appendix 1: Draft Supervisory Statement ‘Non-binding Bank materials relating to Financial Market Infrastructure Supervision: The Bank’s approach after the UK’s withdrawal from the EU’

1 Introduction

1.1 HM Treasury has set out its intention to ensure that the UK will continue to have a functioning financial services regulatory regime regardless of the outcome of negotiations with the EU.¹ Their approach is to ensure that EU-derived laws and rules that are currently in place in the UK will continue to apply at the point of exit to the extent that they remain operable in a UK regime. Changes will only be made to those laws or rules that would otherwise not operate appropriately. This will provide continuity and certainty for firms as the UK leaves the EU.

1.2 This statement sets out how Financial Market Infrastructures (FMIs) should interpret existing Bank supervisory materials in light of the UK’s withdrawal from the EU.

1.3 This statement is relevant to all Bank supervised FMIs operating, or intending to operate, in the United Kingdom. The Bank may issue further expectations in relation to this topic.

2 Supervisory expectations for FMIs on the UK’s exit from the EU

2.1 The Bank of England has issued various materials in relation to its supervision of FMIs:

- The Bank of England’s approach to the supervision of FMIs.
- The Bank of England’s approach to the supervision of services providers to recognised payments.
- The Policy Statement on financial penalties imposed by the Bank under FSMA 2000 or under part 5 of the Banking Act 2009.
- The implementation by the Bank of England of ESMA’s guidelines and recommendations on CCP interoperability arrangements.
- The Policy Statement on the giving of directions to qualifying parent undertakings of UK recognised clearing houses.
- The statutory statements of procedure in respect of the Bank of England’s supervision of financial market infrastructures.
- The guidance on recognised clearing houses for insolvency practitioners.
- Other relevant material on the Bank’s financial market infrastructure supervision website.²

¹ See HM Treasury’s approach to financial services legislation under the European Union (Withdrawal) Act 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/720298/HM_Treasury_s_approach_to_financial_services_legislation_under_the_European_Union_Withdrawal_Act.pdf.

² All relevant material can be found on the Bank website: <https://www.bankofengland.co.uk/financial-stability/financial-market-infrastructure-supervision>.

2.2 The Bank is not intending to make line-by-line amendments to the material listed above ahead of the UK's withdrawal from the EU. Firms should read and interpret these materials in light of the UK's withdrawal from the EU, as well as the amendments that have been made to related legislation, including FMI rules and Binding Technical Standards, under the European Union (Withdrawal) Act 2018. For example, references to the role of the European Supervisory Authorities (ESAs) or to colleges established under EU law would no longer be relevant.

Appendix 2: Draft FMI rule changes

EU EXIT INSTRUMENT: RECOGNISED CLEARING HOUSE RULES (EU EXIT) INSTRUMENT 2019

Powers exercised

- A. The Bank of England (“the Bank”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- C. In this instrument “Exit Day” has the meaning given in the European Union (Withdrawal) Act 2018.
- D. The Bank makes the modifications specified in the Annexes to this instrument.

<i>Part</i>	<i>Annex</i>
<i>Recognised Clearing House Rules Instrument (FMI 2013/1)</i>	<i>A</i>
<i>Recognised Clearing House Rules Instrument (FMI 2018/1)</i>	<i>B</i>

Commencement

- E. This instrument comes into force on Exit Day.

Citation

- F. This instrument may be cited as the Recognised Clearing House Rules (EU Exit) Instrument 2019.

By order of the Bank of England
[DATE]

Annex A

Recognised Clearing House Rules Instrument 2013

1. MODIFICATIONS TO RECOGNISED CLEARING HOUSE RULES INSTRUMENT 2013

1.1 In this Annex new text is underlined and deleted text is struck through.

1.2 Recognised Clearing House Rules Instrument 2013 (FMI 2013/1) is modified as follows:

RCH 2 Extent of duty and notice requirements for proposal to make regulatory provisions

...

2.3 The duty in section 300B(1) does not apply to a regulatory provision to the extent that it:

(a) is required under ~~EU law~~ or any enactment or rule of law in the United Kingdom;

...

Annex B

Recognised Clearing House Rules Instrument 2018

1. MODIFICATIONS TO RECOGNISED CLEARING HOUSE RULES INSTRUMENT 2018

1.1 In this Annex new text is underlined and deleted text is struck through.

1.2 Recognised Clearing House Rules Instrument 2018 (FMI 2018/1) is modified as follows:

RCH 4 Notification of incidents

...

4.5 In this rule, in respect of a recognised central counterparty:

...

- (b) 'information technology system' includes a 'network and information system' as such term is defined in regulation 1(2) of The Network and Information Systems Regulations 2018~~Article 4(1) of Directive 2016/1148/EC~~; and

...

Appendix 3: Draft BTS EU Exit Instruments within the Bank’s remit as FMI competent authority

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (AMENDMENT ETC.) (EU EXIT) (No. 1) INSTRUMENT [YEAR]

Powers exercised

- A. The Bank of England (“the Bank”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations:

Pre-conditions to making

- B. The Bank is the appropriate regulator for the specified EU Regulations in Part 3 of the Schedule to the Regulations.
- C. The Bank has consulted the Prudential Regulation Authority (“the PRA”) and the Financial Conduct Authority (“the FCA”) in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- E. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “exit day” has the meaning given in the Act; and
 - (c) “specified EU Regulations” has the meaning given in regulation 2(l) of the Regulations.

Modifications

- F. The Bank makes the modifications contained in the Annex listed in column (2) below to the corresponding specified EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Commission Delegated Regulation (EU) No 1249/2012	A
Commission Delegated Regulation (EU) No 152/2013	B
Commission Delegated Regulation (EU) No 153/2013	C
Commission Delegated Regulation (EU) No 484/2014	D

Deletions

- G. The specified EU Regulation listed in Annex E is deleted.

Commencement

- H. This instrument comes into force on exit day.

Citation

- I. This instrument may be cited as the Technical Standards (European Market Infrastructure) (Amendment etc.) (EU Exit) (No. 1) Instrument [YEAR].

By order of the Bank of England

[DATE]

Annex A

Format of Records Maintained by CCPs

MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 1249/2012

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Commission Implementing Regulation (EU) No 1249/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of the records to be maintained by central counterparties according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

ANNEX

Tables of fields to be recorded as referred to in Article 1

Table 1

Records of transactions processed

	Field	Format	Description
--	--------------	---------------	--------------------

Details on the original terms of the contracts cleared, to be provided to the extent they are applicable

...

22	Underlying	<i>A unique product identifier, ISIN (12 alphanumerical digits and CFI (6 alphanumerical digits). Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), B= Basket, or I=Index.</i>	The instrument identification applicable to the security that is the underlying asset in a derivative contract as well as the transferable security falling within Article 4(1)(18)(e) 2(1)(24)(c) of <u>Directive 2004/39/EC Regulation (EU) No 600/2014.</u>
----	------------	--	---

...

24	Inclusion of the instrument in the <u>BankESMA</u> register of contracts subject to the clearing obligation (in case of derivative contract)	Y=Yes / N=No.	
----	--	---------------	--

Table 3

Business records

	Field	Format	Description
--	--------------	---------------	--------------------

...

Shareholders or members that have qualifying holdings (fields to be added for each of the relevant shareholder/member)			
17	Written communications with competent Authorities, <u>ESMA</u>	<i>Documents</i>	

	and the relevant members of the ESCB		
--	--------------------------------------	--	--

Annex B

Capital Requirements for Central Counterparties

2 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 152/2013

- 2.1 In this Annex new text is underlined and deleted text is struck through.
- 2.2 Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 3

Capital requirements for operational and legal risks

1. A CCP shall calculate its capital requirements for operational — including legal — risk referred to in Article 1 using either the Basic Indicator Approach or Advanced Measurement Approaches as provided in ~~Directive 2006/48/EC~~ Regulation (EU) No 575/2013 subject to the restrictions provided in paragraphs 2 to 7.
2. A CCP may use the basic indicator approach in order to calculate its capital requirements for operational risk in accordance with ~~Article 103 of Directive 2006/48/EC~~ Article 315 of Regulation (EU) No 575/2013.
- ...
6. A CCP may also apply to its competent authority for permission to use Advanced Measurement Approaches. The competent authority may grant the CCP the permission to use Advanced Measurement Approaches based on its own operational risk measurement systems in accordance with ~~Article 105 of Directive 2006/48/EC~~ Article 312 of Regulation (EU) No 575/2013.

Article 4

Capital requirements for credit risk, counterparty credit risk and market risk which are not already covered by specific financial resources as referred to in Articles 41 to 44 of Regulation (EU) No 648/2012

1. A CCP shall calculate its capital requirements referred to in Article 1 as the sum of 8 % of its risk-weighted exposure amounts for credit and counterparty credit risk and its capital requirements for market risk calculated in accordance with ~~Directives 2006/48/EC and 2006/49/EC~~ Regulation (EU) No 575/2013, subject to the restrictions provided in paragraphs 2 to 5.
2. For the calculation of capital requirements for market risk which is not already covered by specific financial resources as referred to in Articles 41 to 44 of Regulation (EU) No 648/2012, a CCP shall use the methods provided for in ~~Annexes I to IV to Directive 2006/49/EC~~ Articles 327 to 378 of Regulation (EU) No 575/2013.
3. For the calculation of the risk-weighted exposure amounts for credit risk which is not already covered by specific financial resources as referred to in Articles 41 to 44 of Regulation (EU) No 648/2012, a CCP shall apply the Standardised Approach for credit risk provided for in ~~Articles 78 to 83 of Directive 2006/48/EC~~ Articles 111 to 141 Regulation (EU) No 575/2013.
4. For the calculation of the risk-weighted exposure amounts for counterparty credit risk which is not already covered by specific financial resources as referred to in Articles 41 to 44 of Regulation (EU) No 648/2012, a CCP shall use the Mark-to-market Method provided for in ~~Annex III, part 3 to Directive 2006/48/EC~~ Article 274 Regulation (EU) No 575/2013 and the

Financial Collateral Comprehensive Method applying supervisory volatility adjustments provided for in ~~Annex VIII, Part 3 to Directive 2006/48/EC~~ Articles 218 to 236 Regulation (EU) No 575/2013.

...

Article 6

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

Annex C

Requirements for Central Counterparties

3 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 153/2013

- 3.1 In this Annex new text is underlined and deleted text is struck through.
- 3.2 Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Information to be provided to ~~ESMA~~the Bank of England for the recognition of a CCP

An application for recognition submitted by a CCP established in a third country shall contain at least the following information:

- ...
- (c) ~~a list of the Member States in which it intends to provide services~~
- ...
- (e) details to be included in the ~~ESMA~~Bank of England website in accordance with Article 88(1)(e) of Regulation (EU) No 648/2012;
- ...
- (i) a breakdown of values, in prospective form if needed, cleared by the applying CCP ~~by each Union currency cleared in pounds sterling;~~
- ...

Article 4

Risk management and internal control mechanisms

- ...
8. A CCP's financial statement shall be prepared on an annual basis and be audited by statutory auditors or audit firms within the meaning of the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2006/43/EC of the European Parliament and of the Council, and its implementing measures, as that law has effect on exit day.
- ...

Article 12

General requirements

1. A CCP shall keep records in a durable medium that allows information to be provided to the competent authorities, ~~ESMA and relevant European System of Central Banks (ESCB) members,~~ and in such a form and manner that the following conditions are met:
- ...
4. Where the records processed by the CCP contain personal data CCPs shall have regard to their obligations under Regulation (EU) No 2016/679~~Directive 95/46/EC~~ of the European

Parliament and of the Council⁽⁶⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council⁽⁷⁾.

5. Where a CCP maintains records outside the United Kingdom~~Union~~, it shall ensure that the competent authority ~~is, ESMA and the relevant members of the ESCB~~ are able to access the records to the same extent and within the same periods as if they were maintained within the United Kingdom~~Union~~.

...

Article 15

Business records

2. The records referred to in paragraph 1 shall be made each time a material change in the relevant documents occurs and shall include at least:

...

(n) written communications with competent authorities, ~~ESMA and the relevant members of the ESCB~~;

...

Article 24

Percentage

...

4. Where a CCP clears OTC derivatives that have the same risk characteristics as derivatives executed on UK regulated markets or an equivalent third country market, on the basis of an assessment of the risk factors set out in paragraph 2, the CCP may use an alternative confidence interval of at least 99 % for those contracts if the risks of OTC derivatives contracts it clears are appropriately mitigated using such confidence interval and the conditions in paragraph 2 are respected.

...

Article 26

Time horizons for the liquidation period

...

4. Where a CCP clears OTC derivatives that have the same risk characteristics as derivatives executed on UK regulated markets or an equivalent third country market, it may use a time horizon for the liquidation period different from the one specified in paragraph 1, provided that it can demonstrate to its competent authority that:

...

Article 44

Highly secured arrangements for the deposit of financial instruments

1. If a CCP is unable to deposit the financial instruments referred to in Article 45 or those posted to it as margins, default fund contributions or contributions to other financial resources, both by way of title transfer and security interest, with the operator of a securities settlement system that ensures the full protection of those instruments then such financial instruments shall be deposited with any of the following:

...

(b) an authorised credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013~~under Directive 2006/48/EC of the European Parliament and of the Council⁽⁸⁾~~ that ensures the full segregation and protection of those instruments, enables the CCP prompt

access to the financial instruments when required and that the CCP can demonstrate has low credit risk based upon an internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

(c) a third country financial institution that is subject to and complies with prudential rules considered by the relevant competent authorities to be at least as stringent as those laid down in Regulation (EU) No 575/2013 and those imposed in a law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU Directive 2006/48/EC, and its implementing measures, as that law has effect on exit day, and which has robust accounting practices, safekeeping procedures, and internal controls and that ensures the full segregation and protection of those instruments, enables the CCP prompt access to the financial instruments when required and that the CCP can demonstrate to have low credit risk based upon an internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country.

...

Article 45

Highly secured arrangements maintaining cash

1. For the purposes of Article 47(4) of Regulation (EU) No 648/2012, where cash is deposited other than with a central bank then such deposit shall meet each of the following conditions:

...

(b) the deposit shall be placed with one of the following entities:

(i) an authorised credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 under Directive 2006/48/EC that the CCP can demonstrate to have low credit risk based upon an internal assessment by the CCP. In performing such assessment the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

(ii) a third country financial institution that is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down in Regulation (EU) No 575/2013 and those imposed in a law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU, and its implementing measures, as that law has effect on exit day, Directive 2006/48/EC and which has robust accounting practices, safekeeping procedures, and internal controls and that the CCP can demonstrate to have low credit risk based upon an internal based upon an internal assessment by the CCP. In performing such assessment the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country.

...

Article 62

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Point (h) Section 2 of Annex I shall apply from three years after the date of entry into force of this Regulation in respect of transactions on derivatives, as referred to in points (b) and (d) of Article 2(4) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council⁽⁴⁹⁾.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

ANNEX I

Conditions applicable to financial instruments, bank guarantees and gold considered as highly liquid collateral

SECTION 1

Financial instruments

...

For the purposes of Article 46(1) of Regulation (EU) No 648/2012, highly liquid collateral in the form of financial instruments shall be financial instruments meeting the conditions provided for in point 1 of Annex II to this Regulation or transferable securities and money-market instruments which meet each of the following conditions:

...

(g) they are not issued by:

...

(iii) an entity whose business involves providing services critical to the functioning of the CCP, unless that entity is the Bank of England~~an EEA central bank~~ or a central bank of issue of a currency in which the CCP has exposures;

...

SECTION 2

Bank guarantees

1. A commercial bank guarantee, subject to limits agreed with the competent authority, shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

...

(f) it is not issued by:

...

(ii) an entity whose business involves providing services critical to functioning of the CCP, unless that entity is the Bank of England~~an EEA central bank~~ or a central bank of issue of a currency in which the CCP has exposures;

2. A bank guarantee issued by a central bank shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

(a) it is issued by the Bank of England~~an EEA central bank~~ or a central bank of issue of a currency in which the CCP has exposures;

SECTION 3

Gold

Gold shall be allocated pure gold bullion of recognised good delivery and meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

...

(b) it is deposited with the Bank of England~~an EEA central bank~~ or a central bank of issue of a currency in which the CCP has exposures that has adequate arrangements so as to safeguard clearing member or clients' ownership rights to the gold and enables the CCP prompt access to the gold when required;

(c) it is deposited with an authorised credit institution as defined in point 1 of Article 4(1) of Regulation (EU) 575/2013~~under Directive 2006/48/EC~~ that has adequate arrangements so as to safeguard clearing member or clients' ownership rights to the gold, enables the CCP prompt

access to the gold when required and the CCP can demonstrate to the competent authority that it has low credit risk based upon an adequate internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the credit institution in a particular country;

(d) it is deposited with a third country credit institution that is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down in Regulation (EU) No 575/2013 and those imposed in a law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU, and its implementing measures, as that law has effect on exit day, Directive 2006/48/EC and which has robust accounting practices, safekeeping procedures and internal controls and that has adequate arrangements so as to safeguard clearing member or clients' ownership rights to the gold, enables the CCP prompt access to the gold when required and CCP can demonstrate to the competent authority—that it has low credit risk based upon an internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the credit institution in a particular country.

ANNEX II

Conditions applicable to highly liquid financial instruments

1. For the purposes of Article 47(1) of Regulation (EU) No 648/2012, financial instruments can be considered highly liquid financial instruments, bearing minimal credit and market risk if they are debt instruments meeting each of the following conditions:

(a) they are issued or explicitly guaranteed by:

...

(iii) a multilateral development bank as listed under ~~Section 4.2 of Part 1 of Annex VI to Directive 2006/48/EC~~ Article 117 of Regulation (EU) No 575/2013;

Annex D

Hypothetical Capital of a Central Counterparty

4 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 484/2014

- 4.1 In this Annex new text is underlined and deleted text is struck through.
- 4.2 Commission Delegated Regulation (EU) No 484/2014 of 12 May 2014 laying down implementing technical standards with regards to the hypothetical capital of a central counterparty as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Frequency, dates and uniform format of the reporting required by Articles 50c(2) and 89(5a) of Regulation (EU) No 648/2012

1. The frequency of the reporting required by Article 50c(2) of Regulation (EU) No 648/2012 and, where applicable, by the ~~third~~second subparagraph of Article 89(5a) of Regulation (EU) No 648/2012 shall be monthly, except where the discretion provided for in Article 3(1) of this Regulation is exercised, in which case the frequency shall be either weekly or daily.

...

Article 4

Transitional provision

~~By way of derogation from Article 2(2), during the period from the date of application of this Regulation until 31 December 2014, CCPs shall report the information referred to in that paragraph at the latest by fifteen working days after the reference day, or earlier where possible.~~

Article 5

Entry into force and date of application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 2 June 2014, except for Article 1(3), Article 2(3) and Article 3, which apply from 1 January 2015.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

ANNEX I

Information related to hypothetical capital

ID	Item	Legal references	Amount
90	Total amount of initial margin	Art. 89(5a) third <u>second</u> subparagraph, Regulation (EU) 648/2012	

ANNEX II

Instructions for reporting information related to hypothetical capital

...

Template ID	Instructions	
90	Total amount of initial margin	
	Legal references	Third <u>Second</u> subparagraph of Article 89(5a) of Regulation (EU) No 648/2012.
	Calculation	The total initial margin received by the CCP from its clearing members shall be calculated as required in Articles 24 to 27 of the Delegated Regulation (EU) No 153/2013.
	Instructions	This information shall be reported only where applicable. The reporting currency shall be identified using ISO 4217 currency code followed by a space and the amount. Figures can be rounded with a rounding error smaller than 1 %.
	Format	ISO-Code amount

Annex E

Deletions

5 DELETIONS OF SPECIFIED EU REGULATIONS

- 5.1 The following specified EU Regulation, as it forms part of domestic law by virtue of section 3 of the Act, is deleted:
 - 5.1.1 Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties Text with EEA relevance.

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (AMENDMENT ETC.) (EU EXIT) (No. 2) INSTRUMENT [YEAR]

Powers exercised

- A. The Bank of England (“the Bank”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The Bank and the Financial Conduct Authority (“FCA”) are the appropriate regulators for the specified EU Regulations in Part 5 of the Schedule to the Regulations.
- C. The FCA has consented to the modifications contained in Annexes A to D of this instrument.
- D. The Bank and FCA have consulted the Prudential Regulation Authority (“the PRA”) in accordance with regulation 5 of the Regulations.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- F. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “exit day” has the meaning given in the Act; and
 - (c) “specified EU Regulations” has the meaning given in regulation 2(l) of the Regulations.

Modifications

- G. The Bank makes the modifications contained in the Annex listed in column (2) below to the corresponding specified EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Commission Delegated Regulation (EU) No 285/2014	A
Commission Delegated Regulation (EU) No 2015/2205	B
Commission Delegated Regulation (EU) No 2016/592	C
Commission Delegated Regulation (EU) No 2016/1178	D

Commencement

- H. This instrument comes into force on exit day.

Citation

- I. This instrument may be cited as the Technical Standards (European Market Infrastructure) (Amendment etc.) (EU Exit) (No. 2) Instrument [YEAR].

By order of the Bank of England

[DATE]

Annex A

Direct, Substantial and Foreseeable Effect of Contracts within the UK, and To Prevent Evasion of Rules and Obligations

1 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 285/2014

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Contracts with a direct, substantial and foreseeable effect within the United Kingdom~~Union~~

1. An OTC derivative contract shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom~~Union~~ when at least one third country entity benefits from a guarantee provided by a financial counterparty established in the United Kingdom~~Union~~ which covers all or part of its liability resulting from that OTC derivative contract, to the extent that the guarantee meets both of the following conditions:

...

- (b) it is at least equal to 5 per cent of the sum of current exposures, as defined in Article 272, point (17) of Regulation (EU) No 575/2013 of the European Parliament and of the Council⁽³⁾, in OTC derivative contracts of the financial counterparty established in the United Kingdom~~Union~~ issuing the guarantee.

When the guarantee is issued for a maximum amount which is below the threshold set out in point (a) of the first subparagraph, the contracts covered by that guarantee shall not have a direct, substantial and foreseeable effect within the United Kingdom~~Union~~ unless the amount of the guarantee is increased, in which case the direct, substantial and foreseeable effect of the contracts within the United Kingdom~~Union~~ shall be re-assessed by the guarantor against the conditions set out in points (a) and (b) of the first subparagraph on the day of the increase.

Where the liability resulting from one or more OTC derivative contracts is below the threshold set out in point (a) of the first subparagraph, such contracts shall not be considered to have a direct, substantial and foreseeable effect within the United Kingdom~~Union~~ even where the maximum amount of the guarantee covering such liability is equal to or above the threshold set out in point (a) of the first subparagraph and even where the condition set out in point (b) of the first subparagraph has been met.

...

OTC derivative contracts for an aggregate notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency concluded before a guarantee is issued or increased, and subsequently covered by a guarantee that meets the conditions set out in points

(a) and (b) of the first subparagraph, shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom ~~Union~~.

2. An OTC derivative contract shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom ~~Union~~ where the two entities established in a third country enter into the OTC derivative contract through their branches in the United Kingdom ~~Union~~ and would qualify as financial counterparties if they were established in the United Kingdom ~~Union~~.

...

Article 4

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 2 shall apply from 10 October 2014.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

Annex B

Clearing Obligation

2 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 2015/2205

- 2.1 In this Annex new text is underlined and deleted text is struck through.
- 2.2 Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Categories of counterparties

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

...

(b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council⁽²⁾~~ that are non-financial counterparties;

(c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ that are non-financial counterparties;

...

3. Where counterparties are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ or UCITS as defined in section 236A of the Financial Services and Markets Act 2000~~undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council⁽³⁾~~, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

...

Article 3

Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

...

(e) the applicable relevant day referred to in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 for OTC derivative contracts in respect of which that Part has granted a transitional period.

In relation to points (a) to (d), ~~W~~where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

~~2. — By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the United Kingdom Union, the clearing obligation shall take effect on:~~

~~(a) 21 December 2018 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country; or~~

~~(b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country:~~

~~(i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;~~

~~(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.~~

~~This derogation shall only apply where the counterparties fulfil the following conditions:~~

~~(a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~

~~(b) the counterparty established in the Union is:~~

~~(i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or~~

~~(ii) either a financial counterparty or a non-financial counterparty and the counterparty referred to in point (a) is a non-financial counterparty;~~

~~(c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~

~~(d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~

~~(e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.~~

...

Article 4

Minimum remaining maturity

...

3. . For financial counterparties in Category 3 and for transactions referred to in Article 3(2) of this Regulation to which an exemption from the clearing obligation applies under Part 5 of The

Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 and which are concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 50 years for contracts that belong to the classes in Table 1 set out in Annex I;
- (b) 3 years for contracts that belong to the classes in Table 2 set out in Annex I.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions ~~referred to in Article 3(2)~~ to which transitional provisions in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply, the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

Article 5

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

Annex C

Clearing Obligation

MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 2016/592

- 2.3 In this Annex new text is underlined and deleted text is struck through.
- 2.4 Commission Delegated Regulation (EU) 2016/592 of 1 March 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Categories of counterparties

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

...

(b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council~~⁽¹⁾ that are non-financial counterparties;

(c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ that are non-financial counterparties;

...

3. Where counterparties are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ or UCITS as defined in section 236A of the Financial Services and Markets Act 2000~~undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council~~⁽²⁾, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

...

Article 3

Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

...

(e) the relevant day referred to in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 for OTC derivative contracts to which transitional provisions in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply.

In relation to points (a) to (d), ~~W~~where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

~~2. By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the United Kingdom Union, the clearing obligation shall take effect on:~~

~~(a) 9 May 2019 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country; or~~

~~(b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country:~~

~~(i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;~~

~~(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.~~

~~This derogation shall only apply where the counterparties fulfil the following conditions:~~

~~(a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~

~~(b) the counterparty established in the Union is:~~

~~(i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or~~

~~(ii) either a financial counterparty or a non-financial counterparty and the counterparty referred to in point (a) is a non-financial counterparty;~~

~~(c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~

~~(d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~

~~(e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.~~

...

Article 4

Minimum remaining maturity

...

3. For financial counterparties in Category 3 and for transactions ~~referred to in Article 3(2) of this Regulation~~ to which transitional provisions in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply and which are concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be 5 years and 3 months.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions ~~referred to in Article 3(2)~~ to which transitional provisions in Part of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply, the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

Article 5

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

Annex D

Clearing Obligation

3 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 2016/1178

- 3.1 In this Annex new text is underlined and deleted text is struck through.
- 3.2 Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation Regulation 2016/1178, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Article 2

Categories of counterparties

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

...

(b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council⁽³⁾~~ that are non-financial counterparties;

(c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ that are non-financial counterparties;

...

3. Where counterparties are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ or UCITS as defined in section 236 of the Financial Services and Markets Act 2000~~undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council⁽⁴⁾~~, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

...

Article 3

Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

...

(e) the relevant day referred to in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 for OTC derivative contracts to which transitional provisions in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply.

In relation to points (a) to (d), ~~W~~where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

~~2. — By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the United Kingdom Union, the clearing obligation shall take effect on:~~

~~(a) 9 August 2019 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country; or~~

~~(b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country:~~

~~(i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;~~

~~(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.~~

~~This derogation shall only apply where the counterparties fulfil the following conditions:~~

~~(a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~

~~(b) the counterparty established in the Union is:~~

~~(i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or~~

~~(ii) either a financial counterparty or a non-financial counterparty and the counterparty referred to in point (a) is a non-financial counterparty;~~

~~(c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~

~~(d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~

~~(e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.~~

...

Article 4

Minimum remaining maturity

...

3. For financial counterparties in Category 3 and for transactions ~~referred to in Article 3(2) of this Regulation~~ to which transitional provisions in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply and which are concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

(a) 15 years for contracts that belong to the classes in Table 1 set out in Annex I;

(b) 3 years for contracts that belong to the classes in Table 2 set out in Annex I.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions ~~referred to in Article 3(2)~~ to which transitional provisions in Part of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 apply, the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

Article 5

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CENTRAL SECURITIES DEPOSITORIES) (AMENDMENT ETC.) (EU EXIT INSTRUMENT [YEAR])

Powers exercised

- A. The Bank of England (“the Bank”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations:

Pre-conditions to making

- B. The Bank is the appropriate regulator for the EU Regulations specified in Part 3 of the Schedule to the Regulations.
- C. The Bank has consulted the Prudential Regulation Authority (“the PRA”) and the Financial Conduct Authority (“the FCA”) in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- E. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “exit day” has the meaning given in the Act;
 - (c) “specified EU Regulations” has the meaning given in regulation 2(l) of the Regulations.
 - (d) “the Central Securities Depositories BTS” means the specified EU Regulations made under Regulation 909/2014 and listed in Part 3 of the Regulations that are not listed in Annex G , as they form part of domestic law by virtue of section 3 of the Act;
- F. The Bank makes the modifications specified in Annex A to each of the Central Securities Depositories BTS.
- G. The Bank makes the modifications contained in the Annex listed in column (2) below to the corresponding EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Articles 1 to 7 of, and the Annex to, Commission Delegated Regulation 2017/390	B
Commission Delegated Regulation 2017/391	C
Commission Delegated Regulation 2017/392	D
Commission Delegated Regulation 2017/393	E
Commission Delegated Regulation 2017/394	F

Deletions

- H. The specified EU Regulations (or parts thereof) listed in Annex G are deleted.

Notes

- I. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Commencement

J. This instrument comes into force on exit day.

Citation

K. This instrument may be cited as the Technical Standards (Central Securities Depositories) (EU Exit) Instrument [YEAR].

By order of the Bank of England
[DATE]

Annex A

General Modifications

1 GENERAL MODIFICATIONS

1.1 In the Central Securities Depositories BTS, for each occurrence of the phrases specified in column (2) of Table 1 below, substitute the phrase specified in the same row of column 3 of Table 1

Table 1: substitutions for references to EU Directives in certain defined terms

<i>(1)</i> <i>Defined term</i>	<i>(2)</i> <i>Phrase to be replaced</i>	<i>(3)</i> <i>Substitute wording</i>
Exchange-traded fund	<p><i>“point (46) of Article 4(1) of Directive 2014/65/EU of the European Parliament and of the Council”</i></p> <p>or</p> <p><i>“point (46) of Article 4(1) of Directive 2014/65/EU of the European Parliament and of the Council”</i></p> <p>or</p> <p><i>“Article 4(1)(46) of Directive 2014/65/EU”</i></p>	<i>“Article 2(1)(26) of Regulation (EU) No. 600/2014/EU”</i>
Transferable securities	<p><i>“Article 4(1)(44) of Directive 2014/65/EU of the European Parliament and of the Council”</i></p> <p>or</p> <p><i>“Article 4(1)(44) of Directive 2014/65/EU”</i></p>	<i>“Article 2(1)(24) of Regulation (EU) No. 600/2014/EU”</i>

Sovereign debt	<p><i>“point (61) of Article 4(1) of Directive 2014/65/EU”</i></p> <p>or</p> <p><i>“Article 4(1)(61) of Directive 2014/65/EU”</i></p>	<p><i>“Article 2(1)(46) of Regulation (EU) No. 600/2014/EU”</i></p>
Professional client	<p><i>“point (10) of Article 4(1) of Directive 2014/65/EU”</i></p>	<p><i>“point (a) of Article 2(1)(8) of Regulation (EU) No. 600/2014/EU”</i></p>
Retail client	<p><i>“point (11) of Article 4(1) of Directive 2014/65/EU”</i></p>	<p><i>“Article 2(8) of Commission Delegated Regulation (EU) 2017/565”</i></p>

- 1.2 In Annex II of Commission Delegated Regulation 2017/392 and Annex IV of Commission Delegated Regulation 2017/394, after each occurrence of the phrase *“Annex I to Directive 2013/36/EU of the European Parliament and of the Council”* or *“Annex I of Directive 2013/36/EU of the European Parliament and of the Council”* or *“Annex I to Directive 2013/36/EU”*, insert *“subject to the modifications in Article 4(1)(26A) of Regulation (EU) 575/2013/EU”*

Annex B

Certain Prudential Requirements, CSDs and Credit Institutions Offering Banking-type Ancillary Services

2 MODIFICATIONS TO ARTICLES 1-7 TO, AND THE ANNEX OF, REGULATION 2017/390

- 2.1 In this Annex new text is underlined and deleted text is struck through.
- 2.2 Articles 1 to 7 of, and the Annex to, Regulation 2017/390 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on certain prudential requirements for central securities depositories and designated credit institutions offering banking-type ancillary services, as they form part of domestic law by virtue of section 3 of the Act, are modified as follows:

Article 2

Conditions regarding capital instruments

1. For the purposes of Article 1, a CSD shall hold capital instruments that meet all of the following conditions:
- (a) they are subscribed capital which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom or a third country, as equity capital subscribed by the shareholders or other proprietors within the meaning of Article 22 of Council Directive 86/635/EEC⁽¹⁶⁾; ~~Article 22 of Council Directive 86/635/EEC~~;
 - (b) they have been paid up, including the related share premium accounts;
 - (c) they fully absorb losses in going concern situations;
 - (d) in the event of bankruptcy or liquidation, they rank after all other claims in insolvency actions or under the applicable insolvency law.
2. In addition to the capital instruments that meet the conditions in paragraph 1, a CSD authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services may, in order to meet the requirements in Article 1, use capital instruments that:
- (a) meet the conditions in paragraph 1;
 - (b) are 'own funds instruments' as defined in point 119 of Article 4(1) of Regulation (EU) No 575/2013;
 - (c) are subject to the provisions of Regulation (EU) No 575/2013.

Article 6

Capital requirements for business risk

1. The capital requirements of a CSD for business risk shall be whichever of the following is higher:
- (a) the estimate resulting from the application of paragraph 2, minus whichever of the following is the lowest:
 - (i) the net income after tax of the last audited financial year;

- (ii) the expected net income after tax for the current financial year;
 - (iii) the expected net income after tax for the previous financial year where audited results are not yet available;
- (b) 25 % of the CSD's annual gross operational expenses referred to in paragraph 3.
2. For the purposes of point (a) of paragraph 1, a CSD shall apply all of the following:
- (a) estimate the capital necessary to cover losses resulting from business risk on reasonably foreseeable adverse scenarios relevant to its business model;
 - (b) document the assumptions and the methodologies used to estimate the expected losses referred to in point (a);
 - (c) review and update the scenarios referred to in point (a) at least annually.
3. For the calculation of a CSD's annual gross operational expenses, the following shall apply:
- (a) the CSD's annual gross operational expenses shall consist of at least the following:
 - (i) total personnel expenses including wages, salaries, bonuses and social costs;
 - (ii) total general administrative expenses, and, in particular, marketing and representation expenses;
 - (iii) insurance expenses;
 - (iv) other employees' expenses and travelling;
 - (v) real estate expenses;
 - (vi) IT support expenses;
 - (vii) telecommunications expenses;
 - (viii) postage and data transfer expenses;
 - (ix) external consultancy expenses;
 - (x) tangible and intangible assets' depreciation and amortisation;
 - (xi) impairment and disposal of fixed assets;
 - (b) the CSD's annual gross operational expenses shall be determined in accordance with one of the following:
 - (i) International Financial Reporting Standards (IFRS) adopted pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council ⁽¹¹⁾;
 - (ii) the law of the United Kingdom (or any part of it) which immediately before exit day implemented Council Directives 78/660/EEC ⁽¹²⁾, 83/349/EEC ⁽¹³⁾ and 86/635/EEC, and their implementing measures, as that law has effect on exit day;
 - (iii) generally accepted accounting principles of a third country determined to be equivalent to IFRS in accordance with Commission Regulation (EC) No 1569/2007 ⁽¹⁴⁾ or accounting standards of a third country the use of which is permitted in accordance with Article 4 of that Regulation;
 - (c) the CSD may deduct tangible and intangible assets' depreciation and amortisation from annual gross operational expenses;
 - (d) the CSD shall use the most recent audited information from their annual financial statement;
 - (e) where the CSD has not completed business for one year from the date it starts its operations, it shall apply the gross operational expenses projected in its business plan.

Annex C

Reporting on Internalised Settlements

3 MODIFICATIONS TO REGULATION 2017/391

- 3.1 In this Annex new text is underlined and deleted text is struck through.
- 3.2 Regulation 2017/391 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards further specifying the content of the reporting on internalised settlements, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

...

2. Where available, the exchange rate of the European Central Bank on the last day of the period covered by the reports shall be used for the conversion of other currencies into euros.
3. The aggregated value of internalised settlement instructions referred to in paragraph 1 shall be calculated as follows:

- (a) in the case of internalised settlement instructions against payment, the settlement amount of the cash leg;
- (b) in the case of internalised settlement instructions free of payment, the market value of the securities or, if not available, the nominal value of the securities.

The market value referred to in point (b) of the first subparagraph shall be calculated as follows:

- (a) for financial instruments referred to in Article 3(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council⁽⁴⁾ admitted to trading on a UK trading venue ~~within the Union~~, the value determined on the basis of the closing price of the most relevant market in terms of liquidity referred to in Article 4(6)(b) of that Regulation;
- (b) for financial instruments admitted to trading on a UK trading venue ~~within the Union~~ other than those referred to in point (a), the value determined on the basis of the closing price of the UK trading venue ~~within the Union~~ with the highest turnover;
- (c) for financial instruments other than those referred to in points (a) and (b) the value determined on the basis of a price calculated using a pre-determined methodology, approved by the competent authority, that refers to criteria related to market data, such as market prices available across trading venues or investment firms.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 10 March 2019

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

Annex D

Authorisation, Supervision and Operational Requirements

4 MODIFICATIONS TO SPECIFIED ARTICLES OF REGULATION 2017/392

- 4.1 In this Annex new text is underlined and deleted text is struck through.
- 4.2 Regulation 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

CHAPTER I GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

...

(b) 'settlement instruction' means a transfer order as defined in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 point (i) of Article 2 of Directive 98/26/EC of the European Parliament and of the Council ⁽⁴⁾;

...

(e) 'issuer CSD' means a CSD which provides the core service referred to in point 1 or 2 of Section A of the Annex to Regulation (EU) No 909/2014 in relation to a securities issue;

(f) 'investor CSD' means a CSD that either is a participant in the ~~securities settlement system~~ SSS operated by another CSD or third-country CSD or that uses a third party or an intermediary that is a participant in the ~~securities settlement system~~ SSS operated by another CSD or third-country CSD in relation to a securities issue;

...

Article 4

Identification and legal status of applicant CSDs

1. An application for authorisation shall clearly identify the applicant CSD and the activities and services that it intends to carry out.
2. The application for authorisation shall include the following information:
 - (a) contact details of the person responsible for the application;
 - (b) contact details of the person or persons in charge of the applicant CSD's compliance and internal control function;
 - (c) the corporate name of the applicant CSD, its Legal Entity Identifier (LEI) and registered address in the ~~Union~~ United Kingdom;
 - (d) the memorandum and articles of association or other constitutional and statutory documentation of the applicant CSD;
 - (e) an excerpt from the relevant commercial or court register, or other forms of certified evidence of the registered address and business activity of the applicant CSD that is valid at the date

- of the application;
- (f) the identification of the securities settlement systems that the applicant CSD operates or intends to operate;
 - (g) a copy of the decision of the management body regarding the application and the minutes of the meeting in which the management body approved the application file and its submission;
 - (h) a chart showing the ownership links between the parent undertaking, subsidiaries and any other associated entities or branches, wherein the entities shown in the chart are identified by their full corporate name, legal status, registered address, and tax numbers or company registration numbers;
 - (i) a description of the business activities of the applicant CSD's subsidiaries and other legal persons in which the applicant CSD holds a participation, including information on the level of participation;
 - (j) a list including:
 - (i) the name of each person or entity who, directly or indirectly, holds 5 % or more of the applicant CSD's capital or voting rights;
 - (ii) the name of each person or entity that could exercise a significant influence over the applicant CSD's management due to its holding in the applicant CSD's capital;
 - (k) a list including:
 - (i) the name of each entity in which the applicant CSD holds 5 % or more of the entity's capital and voting rights;
 - (ii) the name of each entity over whose management the applicant CSD exercises significant influence;
 - (l) a list of core services listed in Section A of the Annex to Regulation (EU) No 909/2014 that the applicant CSD is providing or intends to provide;
 - (m) a list of ancillary services explicitly specified in Section B of the Annex to Regulation (EU) No 909/2014 that the applicant CSD is providing or intends to provide;
 - (n) a list of any other ancillary services permitted under, but not explicitly specified under Section B of the Annex to Regulation (EU) No 909/2014 that the applicant CSD is providing or intends to provide;
 - (o) a list of the investment services subject to the UK law on markets in financial instruments as defined in Article 2(1)(51) of Regulation (EU) No. 909/2014/EU ~~Directive 2014/65/EU~~ referred to in point (n);
 - (p) a list of services and activities that the applicant CSD outsources or intends to outsource to a third party in accordance with Article 30 of Regulation (EU) No 909/2014;
 - (q) the currency or currencies that the applicant CSD processes, or intends to process in connection with services that the applicant CSD provides, irrespective of whether cash is settled on a central bank account, a CSD account, or an account at a designated credit institution;
 - (r) information on any pending and final judicial, administrative, arbitration or any other legal proceedings to which the applicant CSD is a party and which may cause it financial or other costs.

~~3. Where the applicant CSD intends to provide core services or to set up a branch in accordance with Article 23(2) of Regulation (EU) No 909/2014, the application for authorisation shall also include the following information:~~

- ~~(a) the Member State or Member States in which the applicant CSD intends to operate;~~
- ~~(b) a programme of operations stating in particular the services which the applicant CSD provides or intends to provide in the host Member State;~~
- ~~(c) the currency or currencies that the applicant CSD processes or intends to process in the host Member State;~~

- ~~(d) where the services are provided or intended to be provided through a branch, the organisational structure of the branch and the names of the persons responsible for its management;~~
- ~~(e) where relevant, an assessment of the measures that the applicant CSD intends to take to allow its users to comply with the national laws referred to in Article 49(1) of Regulation (EU) No 909/2014.~~

Article 7

Information concerning groups

1. Where the applicant CSD is part of a group of undertakings that includes other CSDs or third country CSDs or credit institutions referred to in point (b) of Article 54(2) of Regulation (EU) No 909/2014, the application for authorisation shall include the following:
 - (a) the policies and procedures referred to in Article 26(7) of Regulation (EU) No 909/2014;
 - (b) information on the composition of the senior management, the management body, and the shareholders structure of the parent undertaking and of the other undertakings in the group;
 - (c) the services and key individuals other than senior management that the applicant CSD shares with other undertakings in the group.
2. Where the applicant CSD has a parent undertaking, the application for authorisation shall provide the following information:
 - (a) the registered address of the parent undertaking of the applicant CSD;
 - (b) where the parent undertaking is an entity authorised or registered and subject to supervision under ~~Union~~the law of the United Kingdom (or any part of it) or third country legislation, any relevant authorisation or registration number and the name of the authority or authorities competent for the supervision of the parent undertaking.
3. Where the applicant CSD has outsourced services or activities to an undertaking within the group in accordance with Article 30 of Regulation (EU) No 909/2014, the application shall include a summary and a copy of the outsourcing agreement.

SECTION 2

Financial resources for the provision of services by the applicant CSD

Article 8

Financial reports, business plan, and recovery plan

1. An application for authorisation shall include the following financial and business information to enable the competent authority to assess compliance of the applicant CSD with Articles 44, 46 and 47 of Regulation (EU) No 909/2014:
 - (a) financial reports including a complete set of financial statements for the preceding three years, and the statutory audit report on the annual and consolidated financial statements within the meaning of the law of the United Kingdom (or any part of it) which immediately before exit day implemented Directive 2006/43/EC of the European Parliament and of the Council⁽⁶⁾, and its implementing measures, as that law has effect on exit day, for the preceding three years;
 - (b) where the applicant CSD is audited by an external auditor, the name and the national registration number of the external auditor;
 - (c) a business plan, including a financial plan and an estimated budget that foresees various business scenarios for the services provided by the applicant CSD, over a reference period of at least three years;
 - (d) any plan for the establishment of subsidiaries and branches and their location;

- (e) a description of the business activities that the applicant CSD plans to carry out, including the business activities of any subsidiaries or branches of the applicant CSD.
2. Where historical financial information referred to in point (a) of paragraph 1 is not available, an application for authorisation shall include the following information about the applicant CSD:
- (a) evidence that demonstrates sufficient financial resources during six months after the granting of an authorisation;
- (b) an interim financial report;
- (c) statements concerning the financial situation of the applicant CSD, including a balance sheet, income statement, changes in equity and in cash flows and a summary of accounting policies and other relevant explanatory notes;
- (d) audited annual financial statements of any parent undertaking for the three financial years preceding the date of the application.
3. The application shall include a description of an adequate recovery plan to ensure continuity of the applicant CSD's critical operations referred to in Article 22(2) of Regulation (EU) No 909/2014 including:
- (a) a summary that provides an overview of the plan and its implementation;
- (b) the identification of the critical operations of the applicant CSD, stress scenarios and events triggering recovery, and a description of recovery tools to be used by the applicant CSD;
- (c) an assessment of any impact of the recovery plan on stakeholders that are likely to be affected by its implementation;
- (d) an assessment of the legal enforceability of the recovery plan that takes account of any legal constraints imposed by ~~Union, national~~ the law of the United Kingdom (or any part of it) or third country legislation.

Article 17

Record-keeping

1. An application for authorisation shall include a description of the record-keeping systems, policies and procedures of the applicant CSD, established and maintained in accordance with Chapter VIII of this Regulation.
- ~~2. Where an applicant CSD applies for authorisation before the date of application of Article 54, the application for authorisation shall contain the following information:~~
- ~~(a) an analysis of the extent to which the applicant CSD's existing record-keeping systems, policies and procedures are compliant with the requirements under Article 54;~~
- ~~(b) an implementation plan detailing how the applicant CSD will comply with the requirements referred to in Article 54 by the date on which it becomes applicable.~~

Article 30

Transfer of participants and clients' assets in case of a withdrawal of authorisation

An application for authorisation shall include information concerning the procedures put in place by the applicant CSD to ensure the timely and orderly settlement and transfer of the assets of clients and participants to another CSD or third-country CSD in the event of a withdrawal of its authorisation.

SECTION 8

Access to CSDs

Article 37

Access rules

An application for authorisation shall include a description of the procedures for dealing with the following requests for access:

- (a) from legal persons intending to become participants in accordance with Article 33 of Regulation (EU) No 909/2014 and Chapter XIII of this Regulation;
- (b) from issuers in accordance with Article 49 of Regulation (EU) No 909/2014 and Chapter XIII of this Regulation;
- (c) from other CSDs or third-country CSDs in accordance with Article 52 of Regulation (EU) No 909/2014 and Chapter XIII of this Regulation;
- (d) from other market infrastructures in accordance with Article 53 of Regulation (EU) No 909/2014 and Chapter XIII of this Regulation.

Article 41

Periodic information relevant for the reviews

For each review period, the CSD shall provide the competent authority with the following information:

- (a) a complete set of the latest audited financial statements of the CSD, including those consolidated at group level;
- (b) a summarised version of the most recent interim financial statements of the CSD;
- (c) any decisions of the management body following the advice of the user committee, as well as any decisions where the management body has decided not to follow the advice of the user committee;
- (d) information on any pending civil, administrative or any other judicial or extrajudicial proceedings involving the CSD, in particular in relation to matters concerning tax and insolvency, or matters that may cause financial or reputational costs for the CSD;
- (e) information on any pending civil, administrative or any other judicial or extrajudicial, proceedings involving a member of the management body or a member of the senior management that may have a negative impact on the CSD;
- (f) any final decisions resulting from the proceedings referred to in points (d) and (e);
- (g) a copy of the results of business continuity stress tests or similar exercises performed during the review period;
- (h) a report on the operational incidents that occurred during the review period and affected the smooth provision of any core services, the measures taken to address them and the results thereof;
- (i) a report on the performance of the securities settlement system, including an assessment of the system's availability during the review period, measured on a daily basis as the percentage of time the system is operational and functioning according to the agreed parameters;
- (j) a summary of the types of manual intervention performed by the CSD;
- (k) information concerning the identification of the CSD's critical operations, any substantive changes to its recovery plan, the results of stress scenarios, the recovery triggers and the recovery tools of the CSD;
- (l) information on any formal complaints received by the CSD during the review period including information on the following elements:
 - (i) the nature of the complaint;
 - (ii) how the complaint was handled, including the outcome of the complaint;
 - (iii) the date when the treatment of the complaint ended;

- (m) information concerning the cases where the CSD denied access to its services to any existing or potential participant, any issuer, another CSD or third-country CSD or another market infrastructure in accordance with Articles 33(3), 49(3), 52(2) and 53(3) of Regulation (EU) No 909/2014;
- (n) a report on changes affecting any CSD links established by the CSD, including changes to the mechanisms and procedures used for the settlement in those CSD links;
- (o) information concerning all cases of identified conflicts of interests that materialised during the review period, including the description of how they were managed;
- (p) information concerning internal controls and audits performed by the CSD during the review period;
- (q) information concerning any identified infringement of Regulation (EU) No 909/2014, including those identified through the reporting channel referred to in Article 26(5) of Regulation (EU) No 909/2014;
- (r) ~~detailed information concerning any disciplinary actions taken by the CSD, including any cases of suspension of participants in accordance with Article 7(9) of Regulation (EU) No 909/2014 with a specification of the period of suspension and the reason for suspension;~~
- (s) the general business strategy of the CSD covering a period of at least three years after the last review and evaluation and a detailed business plan for the services provided by the CSD covering at least a period of one year after the last review and evaluation.

Article 42

Statistical data to be delivered for each review and evaluation

1. For each review period, the CSD shall provide the competent authority with the following statistical data:
 - ...
 - ~~(i) the number and value of buy-in transactions referred to in Article 7(3) of Regulation (EU) No 909/2014;~~
 - ~~(j) the number and amount of penalties referred to in Article 7(2) of Regulation (EU) No 909/2014 per participant;~~
 - ...

2. The market value referred to in paragraph 1 shall be calculated on the last day of the review period as follows:
 - (a) for financial instruments referred to in Article 3(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council ⁽⁷⁾ admitted to trading on a UK trading venue ~~within the Union~~, the market value shall be the closing price of the most relevant market in terms of liquidity referred to in Article 4(6)(b) of that Regulation;
 - (b) for financial instruments admitted to trading on a UK trading venue ~~within the Union~~ other than those referred to in point (a), the market value shall be the closing price derived from the UK trading venue ~~within the Union~~ with the highest turnover;
 - (c) for financial instruments other than those referred to in points (a) and (b) the market value shall be determined on the basis of a price calculated using a pre-determined methodology that refers to criteria related to market data, such as market prices available across trading venues or investment firms.

3. The CSD shall provide the values referred to in paragraph 1 in the currency in which the securities are denominated, settled or in which credit is extended. The competent authority may request the CSD to provide these values in GBP ~~the currency of the home Member State of the CSD or in euro~~.

4. For the purposes of statistical reporting by a CSD, the competent authority may determine algorithms or principles for data aggregation.

Article 46

Content of the application

1. An application for recognition shall include the information set out in Annex I.
2. An application for recognition shall:
 - (a) be provided in a durable medium;
 - (b) be submitted in both paper form and electronic form, the latter using open source formats that may be read easily;
 - (c) be submitted in English ~~a language customary in the sphere of international finance~~, including translations therein where the original documents are not drawn up in English ~~a language customary in the sphere of international finance~~;
 - (d) be provided with a unique reference number for each document included.
3. The applicant CSD shall provide evidence certifying the information included in Annex I.

Article 47

Risk monitoring tools of CSDs

1. A CSD shall establish, as part of its governance arrangements, documented policies, procedures and systems that identify, measure, monitor, manage and enable reporting on the risks that the CSD may be exposed to and the risks that the CSD poses to any other entities including its participants and their clients, as well as linked CSDs and third-country CSDs, CCPs, trading venues, payment systems, settlement banks, liquidity providers and investors.

The CSD shall structure the policies, procedures and systems referred to in the first subparagraph so as to ensure that users and, where relevant, their clients properly manage and address the risks they pose to the CSD.

2. For the purposes of paragraph 1, the governance arrangements of the CSD shall include the following:
 - (a) the composition, role, responsibilities, procedures for appointment, performance assessment and accountability of the management body and of its risk monitoring committees;
 - (b) the structure, role, responsibilities, procedures for appointment and performance assessment of the senior management;
 - (c) the reporting lines between the senior management and the management body;

The governance arrangements referred to in the first subparagraph shall be clearly specified and well documented.

3. A CSD shall establish and specify the tasks of the following functions:
 - (a) a risk-management function;
 - (b) a technology function;
 - (c) a compliance and internal control function;
 - (d) an internal audit function.

Each function shall have a well-documented description of its tasks, the necessary authority, resources, expertise and access to all relevant information to carry out those tasks.

Each function shall operate independently from the other functions of the CSD.

Article 51

Audit methods

1. The internal audit function of a CSD shall ensure the following:
 - (a) establish, implement and maintain an all-encompassing audit plan to examine and evaluate the adequacy and effectiveness of the CSD's systems, risk-management processes, internal control mechanisms, remuneration policies, governance arrangements, activities and operations, including outsourced activities;
 - (b) review and report the audit plan to the competent authority at least annually;
 - (c) establish a comprehensive risk-based audit;
 - (d) issue recommendations based on the result of work carried out in accordance with point (a) and verify compliance with those recommendations;
 - (e) report internal audit matters to the management body;
 - (f) be independent from the senior management and report directly to the management body;
 - (g) ensure that special audits may be performed at short notice on an event-driven basis.
2. Where the CSD belongs to a group, the internal audit function may be carried out at group level provided that the following requirements are complied with:
 - (a) it is separate and independent from other functions and activities of the group;
 - (b) it has a direct reporting line to the management body of the CSD;
 - (c) the arrangement concerning the operation of the internal audit function does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those functions.
3. The CSD shall assess the internal audit function.

Internal audit assessments shall include an on-going monitoring of the performance of the internal audit activity and periodic reviews performed through self-assessment carried out by the audit committee or by other persons within the CSD or the group with sufficient knowledge of internal audit practices.

An external assessment of the internal audit function shall be conducted by a qualified and independent assessor from outside the CSD and its group structure at least once every five years.

4. A CSD's operations, risk-management processes, internal control mechanisms and records shall be subject to regular internal or external audits.

The frequency of the audits shall be determined on the basis of a documented risk assessment. Audits referred to in the first subparagraph shall be carried out at least every two years.

5. A CSD's financial statement shall be prepared on an annual basis and be audited by statutory auditors or audit firms eligible for appointment as a statutory auditor, within the meaning of section 1212 of the Companies Act 2006~~approved in accordance with Directive 2006/43/EC.~~

[**Note:** Article 54 of Regulation 2017/392 does not form part of domestic law on and after exit day by virtue of section 3 of the Act]

Article 55

Position (Stock) records

1. A CSD shall keep records of positions corresponding to all securities accounts that it maintains. Separate records shall be held for each account kept in accordance with Article 38 of Regulation (EU) No 909/2014.
2. A CSD shall keep records of the following information:
 - (a) identifier of each issuer for which the CSD provides the core service referred to in point 1 or 2 of Section A of the Annex to Regulation (EU) No 909/2014;
 - (b) identifier of each securities issue for which the CSD provides the core services referred to in

- point 1 or 2 of Section A of the Annex to of Regulation (EU) No 909/2014, the law under which the securities recorded by the CSD are constituted and the country of incorporation of the issuers of each securities issue;
- (c) identifier of each securities issue recorded in securities accounts not centrally maintained by the CSD, the law under which the securities recorded by the CSD are constituted and the country of incorporation of the issuers of each securities issue;
 - (d) identifier of the issuer CSD or of the relevant third country entity performing similar functions to an issuer CSD for each securities issue referred to in point (c);
 - (e) issuers' securities accounts identifiers, in the case of issuer CSDs;
 - (f) issuers' cash accounts identifiers, in the case of issuer CSDs;
 - (g) identifiers of settlement banks used by each issuer, in the case of issuer CSDs;
 - (h) participants' identifiers;
 - (i) participants' country of incorporation;
 - (j) participants' securities accounts identifiers;
 - (k) participants' cash accounts identifiers;
 - (l) identifiers of settlement banks used by each participant;
 - (m) country of incorporation of settlement banks used by each participant.
3. At the end of each business day, a CSD shall record for each position the following details to the extent that they are relevant for the position:
- (a) identifiers of participants and of other account holders;
 - (b) type of securities accounts according to whether a securities account belongs to a participant ('participant's own account'), to one of its clients ('individual client segregation') or to several of its clients ('omnibus client segregation');
 - (c) for each securities issue identifier (ISIN), end-of-day balances of securities accounts covering the number of securities;
 - (d) for each securities account and ISIN under point (c), the number of securities subject to settlement restrictions, type of the restrictions and the identity of the beneficiary of restrictions at the end of day.
4. ~~A CSD shall keep records of settlement fails and the measures adopted by the CSD and its participants to prevent and address settlement fails in accordance with Articles 6 and 7 of Regulation (EU) No 909/2014.~~

Article 57

Business Records

1. A CSD shall maintain adequate and orderly records of activities related to its business and internal organisation.
2. The records referred to in paragraph 1 shall reflect any substantive changes in the documents held by the CSD and shall include the following:
 - (a) the organisational charts for the management body, senior management, relevant committees, operational units and all other units or divisions of the CSD;
 - (b) the identities of the shareholders, whether natural or legal persons, that exercise direct or indirect control over the management of the CSD or that have participations in the capital of the CSD and the amounts of those holdings;
 - (c) participations of the CSD in the capital of other legal entities;
 - (d) the documents attesting the policies, procedures and processes required under the CSD's organisational requirements and in relation to the services provided by the CSD;

- (e) the minutes of management body meetings and of meetings of senior management committees and other committees;
- (f) the minutes of meetings of the user committees;
- (g) the minutes of consultation groups with participants and clients, if any;
- (h) internal and external audit reports, risk-management reports, internal control and compliance reports, including responses from the senior management to the reports;
- (i) all outsourcing contracts;
- (j) business continuity policy and disaster recovery plan;
- (k) records reflecting all assets, liabilities and capital accounts of the CSD;
- (l) records reflecting all costs and revenues, including costs and revenues which are accounted separately in accordance with Article 34(6) of Regulation (EU) No 909/2014;
- (m) formal complaints received, including information on the complainant's name and address; the date when the complaint was received; the name of all persons identified in the complaint; a description of the nature and content of the complaint; and the date when the complaint was resolved;
- (n) records of any interruption of services or dysfunction, including a detailed report on the timing, effects and remedial actions of that interruption or dysfunction;
- (o) records of the results of the back and stress tests performed by the CSDs providing banking-type ancillary services;
- (p) written communications with the competent authority, ~~ESMA and relevant authorities~~;
- (q) legal opinions received in accordance with the relevant provisions on organisational requirements in accordance with Chapter VII of this Regulation;
- (r) documentation regarding link arrangements in accordance with Chapter XII of this Regulation;
- (s) tariffs and fees applied to the different services, including any discount or rebate.

Article 65

Problems related to reconciliation

1. A CSD shall analyse any mismatches and inconsistencies resulting from the reconciliation process and endeavour to solve them before the beginning of settlement on the following business day.
2. Where the reconciliation process reveals an undue creation or deletion of securities, and the CSD fails to solve this problem by the end of the following business day, the CSD shall suspend the securities issue for settlement until the undue creation or deletion of securities has been remedied.
3. In the event of suspension of the settlement, the CSD shall inform without undue delay its participants, competent authority, ~~relevant authorities~~ and all other entities involved in the reconciliation process referred to in Articles 61, 62 and 63.
4. The CSD shall take without undue delay all the necessary measures to remedy the undue creation or deletion of securities and shall inform its competent authority ~~and relevant authorities~~ with regard to the measures taken.
5. The CSD shall inform without undue delay its participants, competent authority, ~~relevant authorities~~ and the other entities involved in the reconciliation process that are referred to in Articles 61, 62 and 63, when the undue creation or deletion of securities has been remedied.
- ~~6. Where a securities issue is suspended from settlement, the settlement discipline measures set out in Article 7 of Regulation (EU) No 909/2014 shall not apply in relation to that securities issue for the period of suspension.~~
7. The CSD shall resume settlement as soon as the undue creation or deletion of securities has been remedied.

8. Where the number of instances of undue creation or deletion of securities referred to in paragraph 2 is higher than five per month, the CSD shall send within one month the competent authority ~~and the relevant authorities~~ a proposed plan of measures for mitigating the occurrence of similar instances. The CSD shall update the plan and shall provide a report on its implementation to the competent authority ~~and the relevant authorities~~ on a monthly basis, until the number of instances referred to in paragraph 2 falls below five per month.

Article 69

Operational risks that may be posed by other CSDs or market infrastructures

1. A CSD shall ensure that its systems and communication arrangements with other CSDs, third-country CSDs or market infrastructures are reliable, secure and designed to minimise operational risks.
2. Any arrangement that a CSD enters into with another CSD or another market infrastructures shall provide that:
 - (a) the other CSD or other financial market infrastructure discloses to the CSD any critical service provider on which the other CSD or market infrastructure relies;
 - (b) the governance arrangements and management processes in the other CSD or other market infrastructure do not affect the smooth provision of services by the CSD, including the risk-management arrangements and the non-discriminatory access conditions.

Article 71

Integration of and compliance with the operational and enterprise risk-management system

1. A CSD shall ensure that its operational risk-management system is part of its day-to-day risk-management processes and that their results are taken into account in the process of determining, monitoring and controlling the CSD's operational risk profile.
2. A CSD shall have in place mechanisms for regular reporting to the senior management of operational risk exposures and losses experienced from operational risks, and procedures for taking appropriate corrective action to mitigate those exposures and losses.
3. A CSD shall have in place procedures for ensuring compliance with the operational risk-management system, including internal rules on the treatment of failures in the application of that system.
4. A CSD shall have comprehensive and well-documented procedures to record, monitor and resolve all operational incidents, including:
 - (a) a system to classify the incidents taking into account their impact on the smooth provision of services by the CSD;
 - (b) a system for reporting material operational incidents to the senior management, the management body and the competent authority;
 - (c) a 'post-incident' review after any material disruption in the CSD's activities, to identify the causes and required improvements to the operations or business continuity policy and disaster recovery plan, including to the policies and plans of the users of the CSD. The result of that review shall be communicated to the competent authority ~~and relevant authorities~~ without delay.

Article 75

IT tools

1. A CSD shall ensure that its information technology (IT) systems are well-documented and that they are designed to cover the CSD's operational needs and the operational risks that the CSD faces.

The CSD IT systems shall be:

- (a) resilient, including in stressed market conditions;
- (b) have sufficient capacity to process additional information as a result of increasing settlement volumes;
- (c) achieve the service level objectives of the CSD.

2. A CSD systems shall have sufficient capacity to process all transactions before the end of the day even in circumstances where a major disruption occurs.

A CSD shall have procedures for ensuring sufficient capacity of its IT systems, including in the case of the introduction of new technology.

3. A CSD shall base its IT systems on internationally recognised technical standards and industry best practices.

4. A CSD's IT systems shall ensure that any data at the disposal of the CSD is protected from loss, leakage, unauthorised access, poor administration, inadequate record-keeping, and other processing risks.

5. A CSD's information security framework shall outline the mechanisms that the CSD have in place to detect and prevent cyber-attacks. The framework shall also outline the CSD's plan in response to cyber-attacks.

6. The CSD shall subject its IT systems to stringent testing by simulating stressed conditions before those systems are used for the first time, after making significant changes to the systems and after a major operational disruption has occurred. A CSD shall, as appropriate, involve in the design and conduct of these tests:

- (a) users;
- (b) critical utilities and critical service providers;
- (c) other CSDs and third-country CSDs;
- (d) other market infrastructures;
- (e) any other institutions with which interdependencies have been identified in the business continuity policy.

7. The information security framework shall include:

- (a) access controls to the system;
- (b) adequate safeguards against intrusions and data misuse;
- (c) specific devices to preserve data authenticity and integrity, including cryptographic techniques;
- (d) reliable networks and procedures for accurate and prompt data transmission without major disruptions; and
- (e) audit trails.

8. The CSD shall have arrangements for the selection and substitution of IT third party service providers, CSD's timely access to all necessary information, as well as proper controls and monitoring tools.

9. The CSD shall ensure that the IT systems and the information security framework concerning the CSD's core services are reviewed at least annually and are subject to audit assessments. The results of the assessments shall be reported to the CSD's management body and to the competent authority.

SECTION 4

Business continuity

Article 76

Strategy and policy

1. A CSD shall have a business continuity policy and associated disaster recovery plan that is:
 - (a) approved by the management body;
 - (b) subject to audit reviews that shall be reported to the management body.
2. A CSD shall ensure that the business continuity policy:
 - (a) identifies all its critical operations and IT systems and provides for a minimum service level to be maintained for those operations;
 - (b) includes the CSD's strategy and objectives to ensure the continuity of operations and systems referred to in point (a);
 - (c) takes into account any links and interdependencies to at least:
 - (i) users;
 - (ii) critical utilities and critical service providers;
 - (iii) other CSDs and third-country CSDs;
 - (iv) other market infrastructures;
 - (d) defines and documents the arrangements to be applied in the event of a business continuity emergency or major disruption of the CSD's operations in order to ensure a minimum service level of critical functions of the CSD;
 - (e) identifies the maximum acceptable period of time which critical functions and IT systems may be out of use.
3. A CSD shall take all reasonable steps to ensure that settlement is completed by the end of the business day even in case of a disruption, and that all the users' positions at the time of the disruption are identified with certainty in a timely manner.

Article 79

Testing and monitoring

A CSD shall monitor its business continuity policy and disaster recovery plan and test them at least annually. The CSD shall also test its business continuity policy and disaster recovery plan after substantive changes to the systems or related operations in order to ensure that the systems and operations achieve the CSD objectives. The CSD shall plan and document these tests, which shall include:

- (a) scenarios of large scale disasters;
- (b) switchovers between the primary processing site and secondary processing site;
- (c) the participation of, as appropriate:
 - (i) users of the CSD;
 - (ii) critical utilities and critical service providers;
 - (iii) other CSDs and third-country CSDs;
 - (iv) other market infrastructures;
 - (v) any other institution with which interdependencies have been identified in the business continuity policy.

Article 83

Concentration limits to individual entities

1. For the purposes of Article 46(5) of Regulation (EU) No 909/2014, a CSD shall hold its financial assets in diversified institutions referred to in Article 46(1) of that Regulation ~~authorised credit institutions or authorised CSDs~~ in order to remain within acceptable concentration limits.

2. For the purposes of Article 46(5) of Regulation (EU) No 909/2014, acceptable concentration limits shall be determined based on the following:

- (a) the geographic distribution of the entities with which the CSD holds its financial assets;
- (b) the interdependency relationships that the entity holding the financial assets or entities of its group may have with the CSD;
- (c) the level of credit risk of the entity holding the financial assets.

CHAPTER XII

CSD LINKS

(Article 48(3), (5), (6) and (7) of Regulation (EU) No 909/2014)

Article 84

Conditions for the adequate protection of linked CSDs and of their participants

A1. In this Chapter:

- (a) 'requesting CSD' means the CSD or third-country CSD which requests access to the services of a CSD or third-country CSD through a CSD link; and
- (b) 'receiving CSD' means the CSD or third-country CSD which receives the request of another CSD or third-country CSD to have access to its services through a CSD link.

1. A CSD link shall be established and maintained under the following conditions:

- (a) the requesting CSD shall meet the requirements of the receiving CSD's participation rules;
- (b) where a request is made by a CSD to a third-country CSD, the requesting CSD shall conduct an analysis of the receiving third-country CSD's financial soundness, governance arrangements, processing capacity, operational reliability and any reliance on a third party critical service provider;
- (c) where a request is made by a CSD to a third-country CSD, the requesting CSD shall take all necessary measures to monitor and manage the risks that are identified following the analysis referred to in point (b);
- (d) where a request is made by a CSD, the requesting CSD shall make the legal and operational terms and conditions of the link arrangement available to its participants allowing them to assess and manage the risks involved;
- (e) where a request is made by a CSD to a third-country CSD, before the establishment of a CSD link with a third-country CSD, the requesting CSD shall perform an assessment of the local legislation applicable to the receiving CSD;
- (f) the linked CSDs shall ensure the confidentiality of information in connection to the operation of the link. The ability to ensure confidentiality shall be evidenced by the information provided by the CSDs, including any relevant legal opinions or arrangements;
- (g) the linked CSDs shall agree on aligned standards and procedures concerning operational issues and communication in accordance with Article 35 of Regulation (EU) No 909/2014;
- (h) before the link becomes operational, the requesting and receiving CSDs shall:
 - (i) conduct end-to-end tests;
 - (ii) establish an emergency plan, as part of the business continuity plans of the respective CSDs, identifying the situations where the securities settlement systems of the two CSDs malfunction or break down, and provide for the remedial actions planned if those situations occur;
- (i) all link arrangements shall be reviewed at least annually by the receiving CSD and the requesting CSD taking into account all relevant developments, including market and IT

developments, as well as any developments in local legislation referred to in point (e);

- (j) for CSD links that do not provide for DVP settlement, the annual review referred to in point (i) shall also include an assessment of any developments that may allow supporting DVP settlement.

For the purposes of point (e), in performing the assessment, the CSD shall ensure that the securities maintained in the ~~SSS~~ securities settlement system operated by the receiving CSD benefit from a level of asset protection comparable to the one ensured by the rules applicable to the securities settlement system operated by the requesting CSD. The requesting CSD shall require from the third-country CSD a legal assessment addressing the following issues:

- (i) the entitlement of the requesting CSD to the securities, including the law applicable to proprietary aspects, the nature of the rights of the requesting CSD on the securities, the possibility of encumbering the securities;
- (ii) the impact of insolvency proceedings opened against the receiving third- country CSD on the requesting CSD regarding the segregation requirements, settlement finality, procedures and time limits to claim the securities in the relevant third country.

2. In addition to the conditions referred to in paragraph 1, a CSD link providing for DVP settlement shall be established and maintained under the following conditions:

- (a) where a request is made by a CSD, the requesting CSD shall assess and mitigate the additional risks resulting from the settlement of cash;
- (b) a CSD that is not authorised to provide banking-type ancillary services in accordance with Article 54 of Regulation (EU) No 909/2014, and which is involved in the execution of cash settlement on behalf of its participants, shall not receive credit and shall use prefunding mechanisms covered by its participants in relation to the DVP settlements to be processed through the link;
- (c) a CSD that uses an intermediary for the cash settlement shall ensure that the intermediary performs that settlement efficiently. The CSD shall conduct yearly reviews of the arrangements with that intermediary.

3. In addition to the conditions referred to in paragraphs 1 and 2, an interoperable link shall be established and maintained under the following conditions:

- (a) the linked CSDs shall agree on equivalent standards concerning reconciliation, opening hours for the processing of the settlement and of corporate actions and cut-off times;
- (b) the linked CSDs shall establish equivalent procedures and mechanisms for transmission of settlement instructions to ensure a proper, secure and straight through processing of settlement instructions;
- (c) where an interoperable link supports DVP settlement, the linked CSDs shall reflect at least daily and without undue delay the results of the settlement in their books;
- (d) the linked CSDs shall agree on equivalent risk-management models;
- (e) the linked CSDs shall agree on equivalent contingency and default rules and procedures referred to in Article 41 of Regulation (EU) No 909/2014.

Article 85

Monitoring and management of additional risks resulting from the use of indirect links or intermediaries to operate CSD links

1. In addition to complying with the requirements under Article 84, where a CSD is a requesting CSD that uses an indirect link or an intermediary to operate a CSD link, it shall ensure that:

- (a) the intermediary is one of the following:
 - (i) a credit institution authorised to accept deposits under Part 4A of the Financial Services and Markets Act 2000 as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 that complies with the following requirements:

- it complies with Article 38(5) and (6) of Regulation (EU) No 909/2014 or with segregation and disclosure requirements at least equivalent to those laid down in Article 38(5) and (6) of Regulation (EU) No 909/2014 where the link is established with a third- country CSD,
 - it ensures prompt access by the requesting CSD to the securities of the requesting CSD when required,
 - it has low credit risk, which shall be established in an internal assessment by the requesting CSD by employing a defined and objective methodology that does not exclusively rely on external opinions;
- (ii) a third-country financial institution that complies with the following requirements:
- it is subject to and complies with prudential rules at least equivalent to those laid down in Regulation (EU) No 575/2013,
 - it has robust accounting practices, safekeeping procedures, and internal controls,
 - it complies with Article 38(5) and (6) of Regulation (EU) No 909/2014 or with segregation and disclosure requirements at least equivalent to those laid down in Article 38(5) and (6) of Regulation (EU) No 909/2014 where the link is established with a third- country CSD,
 - it ensures prompt access by the requesting CSD to the securities of the requesting CSD when required,
 - it has low credit risk, based upon an internal assessment by the requesting CSD by employing a defined and objective methodology that does not exclusively rely on external opinions;
- (b) the intermediary complies with the rules and requirements of the requesting CSD, as evidenced by the information provided by that intermediary, including any relevant legal opinions or arrangements;
- (c) the intermediary ensures the confidentiality of information concerning the operation of the CSD link, as evidenced by the information provided by that intermediary, including any relevant legal opinions or arrangements;
- (d) the intermediary has the operational capacity and systems for:
- (i) handling the services provided to the requesting CSD;
 - (ii) sending the CSD any information relevant to the services provided in relation to the CSD link in a timely manner;
 - (iii) complying with the reconciliation measures in accordance with Article 86 and Chapter IX;
- (e) the intermediary adheres to and complies with the risk-management policies and procedures of the requesting CSD and it has an appropriate risk-management expertise;
- (f) the intermediary has put in place measures that include business continuity policies and associated business continuity and disaster recovery plans, to ensure the continuity of its services, the timely recovery of its operations and the fulfilment of its obligations in events that pose a significant risk of disrupting its operations;
- (g) the intermediary holds sufficient financial resources to fulfil its obligations towards the requesting CSD and to cover any losses for which it may be held liable;
- (h) an individually segregated account at the receiving CSD is used for the operations of the CSD link;
- (i) the condition referred to in point (e) of Article 84(1) is fulfilled;
- (j) the requesting CSD is informed of the continuity arrangements between the intermediary and the receiving CSD;
- (k) the proceeds from settlement are promptly transferred to the requesting CSD.

For the purposes of the first indent in point (a)(i), the third indent in point (a)(ii) and point (h), the requesting CSD shall ensure that it can have access to the securities held in the individually segregated account at any point in time. Where an individually segregated account at the receiving CSD is however not available for the operations of a CSD link established with a third-country CSD, the requesting CSD shall inform its competent authority about the reasons justifying the unavailability of individually segregated accounts and shall provide it with the details on the risks resulting from the unavailability of individually segregated accounts. The requesting CSD shall in any case ensure an adequate level of protection of its assets held with the third-country CSD.

2. In addition to complying with the requirements under paragraph 1, when a requesting CSD uses an intermediary to operate a CSD link and that intermediary operates the securities accounts of the requesting CSD on its behalf in the books of the receiving CSD, the requesting CSD shall ensure that:

- (a) the intermediary does not have any entitlement to the securities held;
 - (b) the account in the books of the receiving CSD is opened in the name of the requesting CSD and the liabilities and obligations as regards the registration, transfer and custody of securities are only enforceable between both CSDs;
 - (c) the requesting CSD is able to immediately access the securities held with the receiving CSD, including in the event of a change or insolvency of the intermediary.
3. Requesting CSDs referred to in paragraphs 1 and 2 shall perform a yearly due diligence to ensure that the conditions referred to therein are fulfilled.

Article 86

Reconciliation procedures for linked CSDs

1. The reconciliation procedures referred to in Article 48(6) of Regulation (EU) No 909/2014 shall include the following measures:

- (a) the receiving CSD shall transmit to the requesting CSD daily statements with information specifying the following, per securities account and per securities issue:
 - (i) the aggregated opening balance;
 - (ii) the individual movements during the day;
 - (iii) the aggregated closing balance;
- (b) the requesting CSD shall conduct a daily comparison of the opening balance and the closing balance communicated to it by the receiving CSD or by the intermediary with the records maintained by the requesting CSD itself.

In the case of an indirect link, the daily statements referred to in point (a) of the first subparagraph shall be transmitted through the intermediary referred to point (a) of Article 85(1).

2. Where a CSD or third-country CSD suspends a securities issue for settlement in accordance with Article 65(2), all CSDs that are participants of or have an indirect link with that CSD or third-country CSD, including in the case of interoperable links, shall subsequently suspend the securities issue for settlement.

Where intermediaries are involved in the operation of CSD links, those intermediaries shall establish appropriate contractual arrangements with the CSDs concerned in order to ensure compliance with the first subparagraph.

3. In the event of a corporate action that reduces the balances of securities accounts held by an investor CSD with another CSD or third-country CSD, settlement instructions in the relevant securities issues shall not be processed by the investor CSD until the corporate action has been fully processed by the other CSD or third-country CSD.

In the event of a corporate action that reduces the balances of securities accounts held by an investor CSD with another CSD or third-country CSD, the investor CSD shall not update the securities accounts that it maintains to reflect the corporate action until the corporate action has been fully processed by the other CSD or third-country CSD.

An issuer CSD shall ensure the timely transmission to all its participants, including investor CSDs, of information on the processing of corporate actions for a specific securities issue. The investor CSDs shall in turn transmit the information to their participants. That transmission shall include all necessary information for investor CSDs to adequately reflect the outcome of those corporate actions in the securities accounts they maintain.

Article 87

DVP settlement through CSD links

Delivery versus payment (DVP) settlement shall be regarded as practical and feasible where:

- (a) there is a market demand for DVP settlement evidenced through a request from any of the user committees of one of the linked CSDs;
- (b) the linked CSDs may charge a reasonable commercial fee for the provision of DVP settlement, on a cost-plus basis, unless otherwise agreed by the linked CSDs;
- (c) there is a safe and efficient access to cash in the currencies used by the receiving CSD for settlement of securities transactions of the requesting CSD and its participants.

CHAPTER XIII

ACCESS TO A CSD

(Articles 33(5), 49(5), 52(3) and 53(4) of Regulation (EU) No 909/2014)

Article 88

Receiving and requesting parties

A1. For the purposes of this Chapter:

- (a) references to a CSD in relation to a request from an issuer in accordance with Articles 49(1) or 49(2) of Regulation (EU) No 909/2014 shall include a third-country CSD recognised under Article 25 of that Regulation; and
- (b) references to the competent authority of such a CSD shall be read as references to the competent authority responsible for recognition under Article 25; and
- (c) references to a securities settlement system operated by such a CSD shall be read as references to an SSS as defined in point (10A) of Article 2(1) of Regulation (EU) No 909/2014.

1. For the purposes of this Chapter, a receiving party shall include one of the following entities:

- (a) a receiving CSD as defined in point (5) of Article 2(1) of Regulation (EU) No 909/2014, in respect of paragraphs 1, 4, 9, 13 and 14 of Article 89 and Article 90 of this Regulation;
- (b) a CSD which receives a request from a participant, an issuer, a central counterparty (CCP) or a trading venue to have access to its services in accordance with Articles 33(2), 49(2) and 53(1) of Regulation (EU) No 909/2014 in respect of paragraphs 1 to 3, 5 to 8 and 10 to 14 of Article 89 and Article 90 of this Regulation;
- (c) a CCP which receives a request from a CSD or third-country CSD to have access to its transaction feeds in accordance with Article 53(1) of Regulation (EU) No 909/2014 in respect of Article 90 of this Regulation;
- (d) a trading venue which receives a request from a CSD or third-country CSD to have access to its transaction feeds in accordance with Article 53(1) of Regulation (EU) No 909/2014 in respect of Article 90 of this Regulation.

2. For the purposes of this Chapter, a requesting party shall include one of the following entities:

- (a) a requesting CSD as defined in point (6) of Article 2(1) of Regulation (EU) No 909/2014 in respect of paragraphs 1, 4, 9 and 13 of Article 89 and Article 90 of this Regulation;
- (b) a participant, an issuer, a CCP or a trading venue which requests access to the securities settlement system operated by a CSD or to other services provided by a CSD in accordance with Articles 33(2), 49(2) and 53(1) of Regulation (EU) No 909/2014 in respect of paragraphs 1 to 3, 5 to 8 and 10 to 14 of Article 89 and Article 90 of this Regulation;
- (c) a CSD or third-country CSD which requests access to the transaction feeds of a CCP in accordance with Article 53(1) of Regulation (EU) No 909/2014 in respect of Article 90 of this Regulation;
- (d) a CSD or third-country CSD which requests access to the transaction feeds of a trading venue in accordance with Article 53(1) of Regulation (EU) No 909/2014 in respect of Article 90 of this Regulation.

SECTION 1

Criteria justifying refusal of access

(Articles 33(3), 49(3), 52(2) and 53(3) of Regulation (EU) No 909/2014)

Article 89

Risks to be taken into account by CSDs and competent authorities

1. Where, in accordance with Articles 33(3), 49(3), 52(2) or 53(3) of Regulation (EU) No 909/2014, a CSD carries out a comprehensive risk assessment following a request for access by a requesting participant, an issuer, a requesting CSD, a CCP or a trading venue, as well as where a competent authority assesses the reasons for refusal by the CSD to provide services, they shall take into account the following risks resulting from access to the services of the CSD:
 - (a) legal risks;
 - (b) financial risks;
 - (c) operational risks.
2. When assessing legal risks following a request for access by a requesting participant, a CSD and its competent authority shall take into account the following criteria:
 - (a) the requesting participant is not able to comply with the legal requirements for participation in the securities settlement system operated by the CSD, or does not provide the CSD with the information necessary for the CSD to assess the compliance, including any required legal opinions or legal arrangements;
 - (b) the requesting participant is not able to ensure, in accordance with the rules applicable in the ~~home Member State of the CSD~~ United Kingdom, the confidentiality of the information provided through the securities settlement system, or does not provide the CSD with the information necessary for the CSD to assess its ability to comply with those rules on confidentiality, including any required legal opinions or legal arrangements;
 - (c) where a requesting participant is established in a third country, either of the following:
 - (i) the requesting participant is not subject to a regulatory and supervisory framework comparable to the regulatory and supervisory framework that would be applicable to the requesting participant if it were established in the ~~Union~~ United Kingdom;
 - (ii) the rules of the CSD concerning settlement finality referred to in Article 39 of Regulation (EU) No 909/2014 are not enforceable in the jurisdiction of the requesting participant.
3. When assessing legal risks following an issuer's request for recording its securities in the CSD in accordance with Article 49(1) or (1A) of Regulation (EU) No 909/2014, the CSD and its competent authority shall take into account the following criteria:
 - (a) the issuer is not able to comply with the legal requirements for the provision of services by the CSD;

- (b) the issuer is not able to guarantee that the securities have been issued in a manner that enables the CSD to ensure the integrity of the issue in accordance with Article 37 of Regulation (EU) No 909/2014.
4. When assessing legal risks following a request for access by a requesting CSD, the receiving CSD and its competent authority shall take into account the criteria set out in points (a), (b) and (c) of paragraph 2.
5. When assessing legal risks following a request for access by a CCP, a CSD and its competent authority shall take into account the criteria set out in points (a), (b) and (c) of paragraph 2.
6. When assessing legal risks following a request for access by a trading venue, a CSD and its competent authority shall take into account the following criteria:
- (a) the criteria set out in point (b) of paragraph 2;
- (b) where a trading venue is established in a third country, the requesting trading venue is not subject to a regulatory and supervisory framework comparable to the regulatory and supervisory framework applicable to a trading venue in the ~~Union~~ United Kingdom;
7. When assessing financial risks following a request for access by a requesting participant, a CSD and its competent authority shall take into account whether the requesting participant holds sufficient financial resources to fulfil its contractual obligations towards the CSD.
8. When assessing financial risks following an issuer's request for recording its securities in the CSD in accordance with Article 49(1) or (1A) of Regulation (EU) No 909/2014, a CSD and its competent authority shall take into account the criterion set out in paragraph 7.
9. When assessing financial risks following a request for access by a requesting CSD, the receiving CSD and its competent authority shall take into account the criterion set out in paragraph 7.
10. When assessing financial risks following a request for access by a CCP or a trading venue, a CSD and its competent authority shall take into account the criterion set out in paragraph 7.
11. When assessing operational risks following a request for access by a requesting participant, a CSD and its competent authority shall take into account the following criteria:
- (a) the requesting participant does not have the operational capacity to participate in the CSD;
- (b) the requesting participant does not comply with the risk-management rules of the receiving CSD, or it lacks the necessary expertise in that regard;
- (c) the requesting participant has not put in place business continuity policies or disaster recovery plans;
- (d) the granting of access requires the receiving CSD to undertake significant changes of its operations affecting its risk-management procedures and endangering the smooth functioning of the securities settlement system operated by the receiving CSD, including the implementation of ongoing manual processing by the CSD.
12. When assessing operational risks following an issuer's request for recording its securities in the CSD in accordance with Article 49(1) or (1A) of Regulation (EU) No 909/2014, a CSD and its competent authority shall take into account the following criteria:
- (a) the criterion set out in point (d) of paragraph 11;
- (b) the securities settlement system operated by the CSD cannot process the currencies requested by the issuer.
13. When assessing operational risks following a request for access by a requesting CSD, or a CCP, the receiving CSD and its competent authority shall take into account the criteria set out in paragraph 11.
14. When assessing the operational risks following a request for access by a trading venue, the receiving CSD and its competent authority shall take into account at least the criteria set out in point (d) of paragraph 11.

SECTION 2
Procedure for refusal of access
(Articles 33(3), 49(4), 52(2) and 53(3) of Regulation (EU) No 909/2014)

Article 90

Procedure

1. In the event of a refusal of access, the requesting party shall have the right to complain within one month from the receipt of the refusal to the competent authority of the receiving CSD, CCP or trading venue that has refused access to it in accordance with Articles 33(3), 49(4), 52(2) or 53(3) of Regulation (EU) No 909/2014.

2. The competent authority referred to in paragraph 1 may request additional information concerning the refusal of access from the requesting and receiving parties.

The responses to the request for information referred to in the first subparagraph shall be sent to the competent authority within two weeks from the date of the receipt of the request.

~~In accordance with Article 53(3) of Regulation (EU) No 909/2014, within two business days from the date of the receipt of the complaint referred to in paragraph 1, the competent authority of the receiving party shall transmit the complaint to the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 from the Member State of the place of establishment of the receiving party.~~

~~3. The competent authority referred to in paragraph 1 shall consult the following authorities on its initial assessment of the complaint within two months from the date of the receipt of the complaint, as appropriate:~~

~~(a) the competent authority of the place of establishment of the requesting participant in accordance with Article 33(3) of Regulation (EU) No 909/2014;~~

~~(b) the competent authority of the place of establishment of the requesting issuer in accordance with Article 49(4) of Regulation (EU) No 909/2014;~~

~~(c) the competent authority of the requesting CSD and the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 responsible for the oversight of the securities settlement system operated by the requesting CSD in accordance with Articles 52(2) and 53(3) of Regulation (EU) No 909/2014;~~

~~(d) the competent authority of the requesting CCP or trading venue in accordance with Article 53(3) of Regulation (EU) No 909/2014 and the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 responsible for the oversight of the securities settlement systems in the Member State where the requesting CCP and trading venues are established in accordance with Article 53(3) of Regulation (EU) No 909/2014.~~

~~4. The authorities referred to in points (a) to (d) of paragraph 3 shall respond within one month from the date of the request for consultation specified in paragraph 3. Where an authority referred to in points (a) to (d) of paragraph 3 does not provide its opinion within that time limit, it shall be deemed to have a positive opinion on the assessment provided by the competent authority referred to in paragraph 3.~~

~~5. The competent authority referred to in paragraph 1 shall inform the authorities referred to in points (a) to (d) of paragraph 3 of its final assessment of the complaint within two weeks from the time limit provided in paragraph 4.~~

~~6. Where one of the authorities referred to in points (a) to (d) of paragraph 3 disagrees with the assessment provided by the competent authority referred to in paragraph 1, any of them may refer the matter to ESMA within two weeks from the date when the competent authority referred to in paragraph 1 provides the information concerning its final assessment of the complaint in accordance with paragraph 5.~~

~~7. When the matter has not been referred to ESMA, ~~t~~The competent authority referred to in paragraph 1 shall send a reasoned reply to the requesting party within three months of the date of the receipt of the complaint ~~two working days from the time limit provided in paragraph 6.~~~~

The competent authority referred to in paragraph 1 shall also inform the receiving party ~~and the authorities referred to in points (a) to (d) of paragraph 3~~ of the reasoned reply referred to in the first subparagraph of this paragraph within two working days from the date where it sends the reasoned reply to the requesting party.

~~8. In the event of a referral to ESMA referred to in paragraph 6, the competent authority referred to in paragraph 1 shall inform the requesting party and the receiving party of the referral within two working days from the date where the referral has been made.~~

9. Where the refusal by the receiving party to grant access to the requesting party is deemed to be unjustified following the procedure provided for in paragraphs 1 to 7, the competent authority referred to in paragraph 1 shall, within two weeks from the time limit specified in paragraph 7, issue an order requiring that receiving party to grant access to the requesting party within three months from the date when the order enters into force.

The time limit referred to in the first subparagraph shall be extended to eight months in case of customised links that require significant development of IT tools, unless otherwise agreed by the requesting and receiving CSDs.

The order shall include the reasons why the competent authority referred to in paragraph 1 concluded that the refusal by the receiving party to grant access was unjustified.

The order shall be sent to ~~ESMA, the authorities referred to in points (a) to (d) of paragraph 3,~~ the requesting party and the receiving party within two working days after the date when it enters into force.

10. The procedure referred to in paragraphs 1 to 9 shall also apply when the receiving party intends to withdraw access to a requesting party to whom it already provides its services.

Article 92

CSDs offering banking-type ancillary services through a designated credit institution

An application for authorisation in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014 shall contain the following information:

- (a) a copy of the decision of the management body of the applicant CSD to apply for authorisation and the minutes from the meeting where the management body approved the content of the application file and its submission;
- (b) the contact details of the person responsible for the application for authorisation, where the person is not the same person as the one submitting the application for authorisation referred to in Article 17 of Regulation (EU) No 909/2014;
- (c) the corporate name of the credit institution to be designated in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014, its legal status and registered address ~~in the Union~~;
- (d) evidence that the credit institution referred to in point (c) has obtained an authorisation referred to in point (a) of Article 54(4) of Regulation (EU) No 909/2014;
- (e) the articles of incorporation and other relevant statutory documentation of the designated credit institution;
- (f) the ownership structure of the designated credit institution, including the identity of its shareholders;
- (g) the identification of any common shareholders of the applicant CSD and the designated credit institution and any participations between the applicant CSD and the designated credit institution;
- (h) evidence that the designated credit institution meets the prudential requirements referred to in Article 59(1), (3) and (4) of Regulation (EU) No 909/2014 and the supervisory requirements referred to in Article 60 of that Regulation;
- (i) evidence, including a memorandum of association, financial statements, audit reports, reports from risk committees, or other documents, which proves that the designated credit institution complies with point (e) of Article 54(4) of Regulation (EU) No 909/2014;
- (j) the details of the recovery plan referred to in point (g) of Article 54(4) of Regulation (EU) No 909/2014;
- (k) a programme of operations that fulfils the following conditions:
 - (i) it includes a list of the banking-type ancillary services referred to in Section C of the Annex to Regulation (EU) No 909/2014 that the designated credit institution intends to provide;
 - (ii) it includes an explanation of how the banking-type ancillary services referred to in Section C of the Annex to Regulation (EU) No 909/2014 are directly related to any core or ancillary services referred to in Sections A and B of the Annex to Regulation (EU) No 909/2014 that the applicant CSD is authorised to provide;
 - (iii) it is structured following the list of banking-type ancillary services referred to in Section C of the Annex to Regulation (EU) No 909/2014;
- (l) evidence supporting the reasons for not settling the cash payments of the CSD's securities settlement system through accounts opened with a central bank of issue of the currency of the country where the settlement takes place;
- (m) detailed information concerning the following aspects of the relation between the CSD and the designated credit institution:
 - (i) the IT platform used for the settlement of the cash leg of securities transactions, including an overview of the IT organisation and an analysis of the related risks and how they are mitigated;
 - (ii) the applicable rules and procedures that ensure compliance with the requirements concerning settlement finality referred to in Article 39 of Regulation (EU) No 909/2014;

- (iii) the operation and the legal arrangements of the DVP process, including the procedures used to address the credit risk resulting from the cash leg of a securities transaction;
- (iv) the selection, monitoring and management of the interconnections with any other third parties involved in the process of cash transfers, in particular the relevant arrangements with third parties involved in the process of cash transfers;
- (v) the service level agreement establishing the details of functions to be outsourced by the CSD to the designated credit institution or from the designated credit institution to the CSD and any evidence that demonstrates compliance with the outsourcing requirements set out in Article 30 of Regulation (EU) No 909/2014;
- (vi) the detailed analysis contained in the recovery plan of the applicant CSD about any impact of the provision of banking-type ancillary services on the provision of core CSD services;
- (vii) the disclosure of possible conflicts of interests in the governance arrangements resulting from the banking-type ancillary services, and the measures taken to address them;
- (viii) evidence that demonstrates that the credit institution has the necessary contractual and operational ability to have prompt access to the securities collateral located in the CSD and related to the provision of intraday credit and, as the case may be, short-term credit.

CHAPTER XV FINAL PROVISIONS

Article 95

Transitional provisions

- ~~1. Information referred to in Article 17(2) of this Regulation, shall be provided to the competent authority at the latest six months before the date referred to in Article 96(2).~~
- ~~2. Information referred to in Article 24(2) of this Regulation shall be provided to the competent authority at the latest six months before the date referred to in Article 96(2).~~
3. Information referred to in points (j) and (r) of Article 41 and in points (d), (f), (h), (i), and (j) of Article 42(1) of this Regulation shall be provided from 13 September 2020 ~~the date referred to in Article 96(2).~~

Article 96

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~2. Article 54 shall apply from the date of entry into force of the delegated acts adopted by the Commission pursuant to Articles 6(5) and 7(15) of Regulation (EU) No 909/2014, whichever is the later.~~

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

ANNEX I

Details to be included in the application for recognition of third-country CSDs

(Article 25(12) of Regulation (EU) No 909/2014)

General information

Items of information	Free text
Date of application	
Corporate name of the legal entity	
Registered address	
Name of the person assuming the responsibility for the application	
Contact details of the person assuming the responsibility for the application	
Name of other person(s) responsible for the compliance of the third-country CSD with Regulation (EU) No 909/2014	
Contact details of the person(s) responsible for the compliance of the third-country CSD with Regulation (EU) No 909/2014	
Identities of the shareholders or members that hold participations in the capital of the third-country CSD	
Identification of the group structure, including any subsidiary and parent company of the third-country CSD	
List of the Member States in which the third-country CSD intends to provide services	
Information regarding core services listed in Section A of the Annex to Regulation (EU) No 909/2014 that the third-country CSD intends to provide in the Union per Member State <u>United Kingdom</u>	
Information regarding ancillary services listed in Section B of the Annex to Regulation (EU) No 909/2014 that the third-country CSD intends to provide in the Union per Member State <u>United Kingdom</u>	
Information regarding any other services permitted under, but not explicitly listed in Section B of the Annex to Regulation (EU) No 909/2014 that the third-country CSD intends to provide in the Union per Member State <u>United Kingdom</u>	
Currency or currencies that the third-country CSD processes or intends to process	
Statistical data regarding the services that the third-country CSD intends to provide in the Union per Member State <u>United Kingdom</u>	
Assessment of the measures that the third-country CSD intends to take to allow its users to comply with any specific national laws of the Member State(s) in which the third-country CSD intends to provide its services <u>United Kingdom or any part of the United Kingdom</u>	
Where the third country CSD intends to provide the core services referred to in points (1) and (2) of Section A of the Annex to Regulation (EU) No 909/2014, a description of the measures that the third-country CSD intends to take to allow its users to comply with the relevant law of the Member State in which the third-country CSD intends to provide such services <u>United Kingdom or any part of the United Kingdom</u> as referred to in point (d) of Article 25(4) of Regulation (EU) No 909/2014.	
Rules and procedures that facilitate the settlement of transactions in financial instruments on the intended settlement date	

Third-country CSD's financial resources, form and methods in which they are maintained and arrangements to secure them	
Evidence that rules and procedures of the third-country CSD are fully compliant with the requirements applicable in the third country where it is established, including the rules concerning prudential, organisational, business continuity, disaster recovery and conduct of business aspects	
Details of any outsourcing arrangements	
Rules governing the finality of transfers of securities and cash	
Information regarding the participation in the securities settlement system operated by the third-country CSD, including the criteria for participation and the procedures for the suspension and orderly exit of participants that no longer meet its criteria	
Rules and procedures for ensuring the integrity of the securities issues	
Information on mechanisms established to ensure the protection of participants' and their clients' securities	
Information on third-country CSD links and links with other market infrastructures and on how the related risks are monitored and managed	
Information on rules and procedures put in place to manage the default of a participant	
Recovery plan	
Investment policy of the third-country CSD	
Information on procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in case of the CSD's default	
Information on all pending judicial or extrajudicial proceedings, including administrative, civil or arbitration proceedings, which may cause significant financial and other costs to the third-country CSD	
Information on any final decisions resulting from the proceedings referred to above	
Information regarding the handling of conflicts of interest by the third-country CSD	
Information to be published on the <u>ESMA</u> competent authority website in accordance with Article 21(3) of Regulation (EU) No 909/2014, as regards Article 25 of that Regulation	

ANNEX III

Templates for application by a CSD to designate a credit institution or to provide banking-type ancillary services

(Article 55 of Regulation (EU) No 909/2014)

Template 1

Where a CSD is applying to provide banking-type ancillary services in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014, the following information shall be provided:

The scope of information to be submitted in accordance	Unique reference number of the document	Title of the document	Chapter or section or page of the document where the information is provided
(1) the corporate name of the applicant CSD, its legal status and legal			

address in the Union United Kingdom			
(2)a copy of the decision of the management body of the applicant CSD to apply for authorisation and the minutes from the meeting where the management body approved the content of the application file and its submission			
...			

:

Template 2

Where a CSD is applying to designate a separate credit institution to provide banking-type ancillary services in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014:

The scope of information to be submitted	Unique reference number of the document	Title of the document	Chapter or section or page of the document where the information is provided
(1)the corporate name of the applicant CSD, its legal status and legal address in the Union United Kingdom			
(2)a copy of the decision of the management body of the applicant CSD to apply for authorisation and the minutes from the meeting where the management body approved the content of the application file and its submission			
(3)the contact details of the person responsible for the application for authorisation, where the person is not the same person as the one submitting the application for authorisation referred to in Article 17 of Regulation (EU) No 909/2014			
(4)the corporate name of the credit institution to be designated in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014, its legal status and legal address in the Union United Kingdom			
(5)evidence that the credit institution referred to in point (4) has obtained an authorisation referred to in point (a) of Article 54(4) of Regulation (EU) No 909/2014			
...			

Annex E

Templates and Procedures for Reporting on Internalised Settlements

5 MODIFICATIONS TO REGULATION 2017/393

- 5.1 In this Annex new text is underlined and deleted text is struck through.
- 5.2 Regulation 2017/393 of 11 November 2016 laying down implementing technical standards with regard to the templates and procedures for the reporting and transmission of information on internalised settlements in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

1. A settlement internaliser shall use the template set out in Annex I to this Regulation when it reports to the competent authority in accordance with the first subparagraph of Article 9(1) of Regulation (EU) No 909/2014. That report shall be submitted within 10 working days from the end of each quarter of a calendar year.

The first report under the first subparagraph shall be submitted within 10 working days from the end of the first quarter following 10 March 2019.

~~2. The competent authority shall use the template set out in Annex I to this Regulation when it transmits to European Securities and Markets Authority (ESMA) the information received under the first subparagraph of Article 9(1) of Regulation (EU) No 909/2014. That information shall be transmitted within five working days from the date of receipt of each report referred to in paragraph 1 of this Article.~~

3. The template set out in Annex I shall be completed in accordance with the instructions set out in Annex II.

~~4. The competent authority shall use the template set out in Annex III when it informs ESMA of any potential risk resulting from internalised settlement activity. Information on any potential risk resulting from internalised settlement activity shall be submitted within 30 working days from the end of each quarter of a calendar year. The competent authority shall complete that template in accordance with the instructions set out in Annex IV.~~

5. The information referred to in paragraphs 1, ~~2~~ and ~~4~~ shall be provided in a machine readable format.

Article 2

This Regulation shall enter into force on 10 March 2019.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

ANNEX II

Instructions for completing the template for reporting and transmission of information on internalised settlement

The 'Cell Reference' column of the table below identifies the items to be reported by identifying the columns and lines as showed in the template in Annex I. Information in columns C0100-C0180, as well as in Rows R0270-R0460 shall be reported for each issuer CSD.

Information in columns C0020, C0040, C0060, C0110, C0130 and C0150 for aggregated volumes shall be reported as a whole number expressed using up to 20 numerical characters without decimal places.

Information in columns C0030, C0050, C0070, C0120, C0140 and C0160 for aggregate values shall be reported as a value expressed using up to 20 numerical characters including decimals. The decimal mark is not counted as a numerical character and at least one character before and two characters after the decimal mark shall be populated. A full stop shall be used as the decimal mark.

Information in columns C0080, C0090, C00170 and C00180 for rates shall be reported as a percentage value up to two decimal places.

Where no activity needs to be reported, information in columns C0020-C0090 and C0110-C0180 shall be completed with a zero value.

No.	Cell Reference	Item	Instruction
1	C0010, R0010	Country code	Identify the ISO 3166 2 character code of the place of establishment of the settlement internaliser.
2	C0010, R0020	Reporting timestamp	For reporting from the settlement internaliser to the competent authority, identify the ISO 8601 in UTC time format (YYYY-MM-DDThh:mm:ssZ) code of the date when the report from the settlement internaliser to the competent authority is made. For reporting from the competent authority to ESMA, identify the ISO 8601 in UTC time format (YYYY-MM-DDThh:mm:ssZ) code of the date when the report from the competent authority to ESMA is made.
3	C0010, R0030	Reporting period	Identify the ISO 8601 (YYYY-MM-DD) code of the date identifying the last day of the reporting period.
4	C0010, R0040	Settlement internaliser identifier	Insert identification code of the settlement internaliser, using a Legal Entity Identifier (LEI).
5	C0010, R0050	Name of person responsible	For reporting from the settlement internaliser to the competent authority, indicate the name of the person responsible for the report at the settlement internaliser. For reporting from the competent authority to ESMA, the name of the liaison at the competent authority.
6	C0010, R0060	Function of person responsible	For reporting from the settlement internaliser to the competent authority, the function of the person responsible for the report at the settlement internaliser. For reporting from the competent authority to ESMA, the function of the liaison at the competent authority.
7	C0010, R0070	Phone number	For reporting from the settlement internaliser to the competent authority, the phone number of the person responsible for the report at the settlement internaliser. For reporting from the competent authority to ESMA, the phone number of the liaison at the competent authority.
8	C0010, R0080	Email address	For reporting from the settlement internaliser to the competent authority, the email address of the person responsible for the report at the settlement internaliser. For reporting from the competent authority to ESMA, the email address of the liaison at the competent authority.
...

Annex F

Templates and Procedures for Authorisation, Supervision and Operational Requirements

6 MODIFICATIONS TO SPECIFIED ARTICLES OF REGULATION 2017/394

- 6.1 In this Annex new text is underlined and deleted text is struck through.
- 6.2 Regulation 2017/394 of 11 November 2016 laying down implementing technical standards with regard to standard forms, templates and procedures for authorisation, review and evaluation of central securities depositories, for the cooperation between authorities of the home Member State and the host Member State, for the consultation of authorities involved in the authorisation to provide banking-type ancillary services, for access involving central securities depositories, and with regard to the format of the records to be maintained by central securities depositories in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Standard forms, templates and procedures for application

1. A central securities depository applying for authorisation in accordance with Article 17 of Regulation (EU) No 909/2014 ('applicant CSD') shall submit its application in a durable medium as defined in point (g) of Article 1 of Commission Delegated Regulation (EU) 2017/392⁽⁴⁾, filling in the standard form and templates set out in Annex I.
2. The applicant CSD shall provide the competent authority with a list of all documents submitted as part of its application for authorisation which identifies the following information:
 - (a) the unique reference number of each document;
 - (b) the title of each document;
 - (c) the chapter, section or page of each document where the relevant information is provided.
3. All information shall be submitted in the language indicated by the competent authority. The competent authority may request the CSD to submit the same information in a language customary in the sphere of international finance.
- ~~4. An applicant CSD maintaining any of the relationships referred to in Article 17(6) of Regulation (EU) No 909/2014 shall provide the competent authority with the list of competent authorities to be consulted, including contact persons from those authorities.~~

[**Note:** Article 11(1) of Regulation 2017/394 does not form part of domestic law on and after exit day by virtue of section 3 of the Act]

Article 11

Format of records

...

10. Upon request, a CSD shall provide the competent authority with information referred to in ~~Articles 54 and 55~~ of Delegated Regulation (EU) 2017/392 by means of a direct data feed. A CSD shall be given sufficient time to implement the necessary measures to respond to such a request.

CHAPTER V

ACCESS

(Articles 33(6), 49(6), 52(4) and 53(5) of Regulation (EU) No 909/2014)

Article 12

Standard forms and templates for the access procedure

A1. For the purposes of this Chapter:

- (a) references to a CSD in relation to a request from an issuer in accordance with Articles 49(1) or 49(2) of Regulation (EU) No 909/2014 shall include a third-country CSD recognised under Article 25 of that Regulation; and
- (b) references to the competent authority of such a CSD shall be read as references to the competent authority responsible for recognition under Article 25; and
- (c) references to a securities settlement system operated by such a CSD shall be read as references to an SSS as defined in point (10A) of Article 2(1) of Regulation (EU) No 909/2014.

1. A requesting CSD and any other requesting party shall use the template provided in Table 1 of Annex V to this Regulation when submitting a request for access under Article 52(1) or under Article 53(2) of Regulation (EU) No 909/2014.

2. A receiving CSD and any other receiving party shall use the template provided in Table 2 of Annex V to this Regulation when granting access following a request for access under Article 52(1) or under Article 53(2) of Regulation (EU) No 909/2014.

3. A CSD shall use the template set out in Table 3 of Annex V to this Regulation when denying access in accordance with Article 33(3), 49(4), 52(2) or 53(3) of Regulation (EU) No 909/2014.

4. A CCP or a trading venue shall use the template in Table 4 of Annex V to this Regulation when denying access in accordance with Article 53(3) of Regulation (EU) No 909/2014.

5. A requesting party shall use the template in Table 5 of Annex V to this Regulation when submitting a complaint to the competent authority of the CSD that has denied access to it in accordance with Article 33(3), 49(4), 52(2) or 53(3) of Regulation (EU) No 909/2014.

6. A CSD shall use the template in Table 6 of Annex V to this Regulation when submitting a complaint to the competent authority of the CCP or the trading venue that has denied access to the CCP or the trading venue in accordance with Article 53(3) of Regulation (EU) No 909/2014.

~~7. The competent authorities referred to in paragraphs 5 and 6 shall use the template in Table 7 of Annex V to when consulting the following authorities on their assessment of the complaint, as appropriate:~~

~~(a) the competent authority of the place of establishment of the requesting participant in accordance with the fourth subparagraph of Article 33(3) of Regulation (EU) No 909/2014;~~

~~(b) the competent authority of the place of establishment of the requesting issuer in accordance with the fourth subparagraph of Article 49(4) of Regulation (EU) No 909/2014;~~

~~(c) the competent authority of the requesting CSD and the relevant authority of the requesting CSD referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 in accordance with the fifth subparagraph of Article 52(2) of that Regulation;~~

~~(d) the competent authority of the requesting CCP or trading venue in accordance with the fourth subparagraph of Article 53(3) of Regulation (EU) No 909/2014.~~

~~The authorities referred to in points (a) to (d) shall use the template in Table 8 of Annex V when responding to the consultation referred to in this paragraph.~~

~~8. The authorities referred to in points (a) to (d) of paragraph 7 shall use the template set out in Table 8 of Annex V to this Regulation if any of them decides to refer the matter to ESMA in accordance with the fourth subparagraph of Article 33(3), the fourth subparagraph of Article~~

~~49(4), the fifth subparagraph of Article 52(2) or the fourth subparagraph of Article 53(3) of Regulation (EU) No 909/2014.~~

9. The competent authorities referred to in paragraphs 5 and 6 shall provide the requesting party with a reasoned reply in the format set out in Table 9 of Annex V.

~~10. The authorities referred to paragraphs 7 and 8, and ESMA for the purposes of paragraph 9, shall agree on the working language for the communication referred to under paragraphs 7, 8, and 9. Where there is no agreement, the working language shall be a language customary in the sphere of international finance.~~

Article 17

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~Article 11(1) shall apply from the date of entry into force of the delegated acts adopted by the Commission pursuant to Articles 6(5) and 7(15) of Regulation (EU) No 909/2014, whichever is the latter.~~

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

ANNEX I

Forms and templates for the CSD application for authorisation

...

Table 2

Document References

The scope of information to be submitted in accordance with the specific requirement of the delegated act with regard to regulatory technical standards specifying the details of the application for authorisation of CSDs adopted pursuant to Article 17(9) of Regulation (EU) No 909/2014	Unique reference number of the document	Title of the document	Chapter or section or page of the document where the information is provided or reason why the information is not provided
A. General information on the applicant CSD (Articles 4-7 of Delegated Regulation (EU) 2017/392)			
<i>Identification and legal status of the CSD (Article 4 of Delegated Regulation (EU) 2017/392)</i>			
An application for authorisation submitted according to Article 17 of Regulation (EU) No 909/2014 shall clearly identify the entity applying the activities and services that it intends to carry out			
The corporate name of the applicant CSD, its LEI and legal address in the Union <u>United Kingdom</u>			
The memorandum and articles of association and other constitutional and statutory documentation			
An excerpt from the relevant commercial or court register, or other forms of certified evidence of the legal address and business activity of the applicant			

CSD that shall be valid at the date of the application			
The identification of the securities settlement systems that the applicant CSD operates or intends to operate			
A copy of the decision of the management body regarding the application and the minutes of the meeting in which the management body approved the application file and its submission			
The contact details of the person responsible for the application			
A chart showing the ownership links between the parent undertaking, subsidiaries and any other associated entities or branches; the entities shown in the chart shall be identified by their full company name, legal status, legal address, and tax numbers or company registration numbers			
A description of business activities of the applicant CSD's subsidiaries and other legal persons in which the applicant CSD holds a participation, including information on the level of participation			
A list containing: (i) the name of each person or entity who, directly or indirectly, holds 5 % or more of the applicant CSD's capital or voting rights; (ii) the name of each person or entity that could exercise a significant influence over the applicant CSD's management due to its holding in the applicant CSD's capital			
A list containing: (i) the name of each entity in which the applicant CSD holds 5 % or more of the entity's capital and voting rights; (ii) the name of each entity over whose management the applicant CSD exercises a significant influence, given the applicant CSD's holding of the entity's capital			
A list of core services listed in Section A of the Annex to Regulation (EU) No 909/2014 that the applicant CSD is providing or intends to provide			
A list of ancillary services explicitly listed in Section B of the Annex to Regulation (EU) No 909/2014 that the applicant CSD			

is providing or intends to provide			
A list of any other ancillary services permitted under, but not explicitly listed in Section B of the Annex to Regulation (EU) No 909/2014, that the applicant CSD is providing or intends to provide			
A list of investment services and activities subject to the UK law on markets in financial instruments as defined in Article 2(1)(49) of Regulation (EU) No. 909/2014/EU Directive 2014/65/EU of the European Parliament and of the Council ⁽⁴⁾ which are not explicitly listed in Section B of the Annex to Regulation (EU) No 909/2014 that the applicant CSD is providing or intends to provide			
A list of services the applicant CSD outsources or intends to outsource to a third party in accordance with Article 30 of Regulation (EU) No 909/2014			
The currency or currencies that the applicant CSD processes, or intends to process in connection with services the applicant CSD provides, irrespective of whether cash is settled on a central bank account, a CSD account, or an account at a designated credit institution;			
Information on any pending and final judicial or civil, administrative and arbitration or any other legal proceedings to which the applicant CSD is a party, and which may cause it financial or other costs.			
<i>Where the applicant CSD intends to provide core services or to set up a branch in accordance with Article 23(2) of Regulation (EU) No 909/2014, information shall be provided as follows:</i>			
The Member State(s) in which the applicant CSD intends to operate			
A programme of operations stating in particular the services which the applicant CSD provides or intends to provide in the host Member State			
The currency or currencies that the applicant CSD processes or intends to process in that host Member State(s)			
Where the services will be provided through a branch, the organisational structure of the branch and the names of the persons responsible for its management			
Where relevant, an assessment of the measures that the applicant CSD intends to take to allow its users to comply with			

the national laws referred to in Article 49(1) of Regulation (EU) No 909/2014			
Where relevant, a description of the services or activities the applicant CSD outsources to a third party in accordance with Article 30 of Regulation (EU) No 909/2014			
Policies and procedures for regulatory compliance (Article 5 of Delegated Regulation (EU) 2017/392)			
The job titles of the persons responsible for the approval and maintenance of the policies and procedures			
A description of the measures implementing and monitoring the compliance with, the policies and procedures			
A description of the procedures put in place by the applicant CSD in compliance with any mechanism established in accordance with Article 65 of Regulation (EU) No 909/2014			
CSD Services and activities (Article 6 of Delegated Regulation (EU) 2017/392)			
Detailed descriptions of the services and activities, and of procedures to be applied in the provision of the services and activities by the applicant CSD:			
Core services specified under Section A of the Annex to Regulation (EU) No 909/2014			
Ancillary services explicitly listed in section B of the Annex to Regulation (EU) No 909/2014			
Any other ancillary services permitted under, but not explicitly listed in Section B of the Annex to Regulation (EU) No 909/2014			
Investment services and activities subject to <u>the UK law on markets in financial instruments as defined in Article 2(1)(49) of Regulation (EU) No. 909/2014/EU Directive 2014/65/EU</u> referred to in the point above			
Information for groups (Article 7 of Delegated Regulation (EU) 2017/392)			
Policies and procedures referred to in Article 26(7) of Regulation (EU) No 909/2014			
Information on the composition of the senior management, management body, and shareholders structure of the parent undertaking or other group undertakings			
Services, as well as key individuals other than senior management holding			

functions that the applicant CSD shares with other undertakings in by the group			
Where the CSD has a parent undertaking, information shall be provided as follows:			
Identification of the legal address of the parent undertaking			
An indication of whether the parent undertaking is an entity that is authorised or registered and subject to supervision under Union United Kingdom or third country laws			
Where relevant, any relevant registration number and the name of the authority or authorities competent for the supervision of the parent undertaking			
Where the applicant CSD has an agreement with an undertaking within the group, which provides services related to services provided by a CSD, a description and a copy of such agreement			
B. Financial resources for the provision of services by the applicant CSD (Article 8 of Delegated Regulation (EU) 2017/392)			
<i>Financial reports, business plan and recovery plan (Article 8 of Delegated Regulation (EU) 2017/392)</i>			
Financial reports including a complete set of financial statements for the preceding three years, and the statutory audit report on the annual and consolidated financial statements within the meaning of <u>the law of the United Kingdom (or any part of it) which immediately before exit day implemented Directive 2006/43/EC of the European Parliament and of the Council ⁽²⁾, and its implementing measures, as that law has effect on exit day, for the preceding three years</u>			
The name and the national registration number of the external auditor			
A business plan, including a financial plan and an estimated budget, that foresees various business scenarios for the CSD services, over a reference period of at least three years			
Any plan for the establishment of subsidiaries and branches and their location			
A description of the business activities that the applicant CSD plans to carry out, including the activities of any subsidiaries or branches of the applicant CSD			
<i>Where historical financial information referred to above is not available an application for authorisation shall contain the following information about the applicant CSD:</i>			

Evidence that demonstrates sufficient financial resources during six months after the granting of an authorisation			
An interim financial report where the financial statements are not yet available for the requested period of time			
A statement concerning the financial situation of the applicant CSD, such as a balance sheet, income statement, changes in equity and of cash flows and a summary of accounting policies and other relevant explanatory notes			
Where applicable, audited annual financial statements of any parent undertaking for the three financial years preceding the date of the application			
A description of an adequate recovery plan including:			
A summary that provides an overview of the plan and its implementation			
An identification of the critical operations of the applicant CSD, stress scenarios and events triggering recovery, and a substantive description of recovery tools to be used by the applicant CSD			
Information about the assessment of any impacts of the recovery plan on various stakeholders that are likely to be affected by its implementation			
An assessment by the applicant CSD of the legal enforceability of the recovery plan that takes account of any legal constraints imposed by the Union, national or third country legislation			
C. Organisational requirements (Articles 9-17 of Delegated Regulation (EU) 2017/392)			
Organisational chart (Article 9 of Delegated Regulation (EU) 2017/392)			
Identity and tasks of the persons responsible for the following positions: (i) senior management; (ii) managers in charge of the operational roles; (iii) managers in charge of the activities of any branches of the applicant CSD; (iv) other significant roles in the operations of the applicant CSD.			
The number of staff members in each division and operational unit			
Staffing policies and procedures (Article 10 of Delegated Regulation (EU) 2017/392)			
A description of the remuneration policy, which includes information about the fixed			

and variable elements of the remuneration of the senior management, the members of the management body and the staff employed in the risk management and compliance and internal control, technology and internal audit functions of the applicant CSD			
The measures put in place by the applicant CSD to mitigate the risk of over-reliance on the responsibilities entrusted to any individual person			
<i>Risk monitoring tools and governance arrangements (Article 11 of Delegated Regulation (EU) 2017/392)</i>			
A description of the components of the governance arrangements of the applicant CSD			
The policies, procedures and systems that identify, measure, monitor, manage and report the risks that the applicant CSD may be exposed to and the risks that the applicant CSD poses to any other entities;			
A description of the composition, role and responsibilities of the members of the management body and senior management and any committees established in accordance with Delegated Regulation (EU) 2017/392			
A description of the processes concerning the selection, appointment, performance evaluation and removal of senior management and members of the management body			
A description of the procedure used by the applicant CSD to make its governance arrangements and the rules governing its activity available to the public			
<i>Where the applicant CSD adheres to a recognised corporate governance code of conduct:</i>			
The identification of the code of conduct (a copy of the code)			
An explanation for any situations where the applicant CSD deviates from the code			
<i>Compliance, internal control and internal audit functions (Article 12 of Delegated Regulation (EU) 2017/392)</i>			
A description of the procedures for the internal reporting of infringements referred to in Article 26(5) of Regulation (EU) No 909/2014			
<i>Information regarding its internal audit policies and procedures including the following:</i>			

A description of the monitoring and evaluation tools for the adequacy and effectiveness of the applicant CSD's internal control systems			
A description of the control and safeguard tools for the applicant CSD's information processing systems			
An explanation concerning the development and application of its internal audit methodology			
A work plan for three years following the date of application			
A description of the roles and qualifications of each individual who is responsible for internal audit			
<i>An application for authorisation shall contain the following information concerning the compliance and internal control function of the applicant CSD:</i>			
A description of the roles and qualifications of the individuals who are responsible for the compliance and internal control function and of any other staff involved in the assessments of compliance, including a description of the means to ensure the independence of the compliance and internal control function from the rest of the business units			
The policies and procedures of the compliance and internal control function including a description of the compliance role of the management body and senior management			
Where available, the most recent internal report prepared by the persons responsible for the compliance and internal control function or by any other staff involved in the assessments of compliance within the applicant CSD			
<i>Senior management, management body and shareholders (Article 13 of Delegated Regulation (EU) 2017/392)</i>			
For each member of the senior management and member of the management body, the following information:			
A copy of a curriculum vitae which sets out the experience and knowledge of each member			
Details regarding any criminal and administrative sanctions imposed on a member in connection with the provision of financial or data services or in relation to acts of fraud or misappropriation of funds in the form of an appropriate official certificate where available in the relevant Member State			

<p>A self-declaration of good repute in relation to the provision of a financial or data service, including all the statements indicated in Article 13(1)(c) of Delegated Regulation (EU) 2017/392</p>			
<p>Information regarding the management body of the applicant CSD</p>			
<p>An evidence of compliance with Article 27(2) of Regulation (EU) No 909/2014</p>			
<p>A description of the roles and responsibilities of the management body</p>			
<p>Information regarding the ownership structure and shareholders of the applicant CSD</p>			
<p>A description of the ownership structure of the applicant CSD, including a description of the identity and size of interests of any entities in a position to exercise control over the operation of the applicant CSD</p>			
<p>A list of the shareholders and persons who are in a position to exercise, directly or indirectly, control over the management of the applicant CSD</p>			
<p>Management of conflicts of interest (Article 14 of Delegated Regulation (EU) 2017/392)</p>			
<p>Policies and procedures put in place to identify and manage potential conflicts of interest by the applicant CSD:</p>			
<p>A description of the policies and procedures concerning the identification, management and disclosure to the competent authority of potential conflicts of interest and of the process used to ensure that the staff of the applicant CSD is informed of such policies and procedures</p>			
<p>A description of the controls and any other measures put in place to ensure that the requirements referred to in point (a) of Article 14(1) of Delegated Regulation (EU) 2017/392 on the management of conflicts of interest are met</p>			
<p>A description of:</p> <ul style="list-style-type: none"> (i) the roles and responsibilities of key personnel, especially where they also have responsibilities in other entities; (ii) arrangements ensuring that individuals who have a permanent conflict of interest are excluded from the decision making process and from the receipt of any relevant information concerning the matters affected by the permanent conflict of interest; (iii) an up-to-date register of existing 			

conflicts of interest at the time of the application and a description of how such conflicts of interest are managed.			
Where the applicant CSD is part of a group, the register referred to in point (c) (iii) of Article 14(1) of Delegated Regulation (EU) 2017/392 shall include a description of: (a) the conflicts of interest arising from other undertakings within the group in relation to any service provided by the applicant CSD; and (b) the arrangements put in place to manage those conflicts of interest.			
Confidentiality (Article 15 of Delegated Regulation (EU) 2017/392)			
Policies and procedures preventing the unauthorised use or disclosure of confidential information as defined in Article 15 of Delegated Regulation (EU) 2017/392			
Information concerning the access of staff to information held by the applicant CSD:			
The internal procedures concerning permissions of access of staff to information that ensure secured access to data			
A description of any restrictions on the use of data for reasons of confidentiality			
User committee (Article 16 of Delegated Regulation (EU) 2017/392)			
Documents or information on each user committee:			
The mandate of the user committee			
The governance arrangements of the user committee			
The operating procedures of the user committee			
The admission criteria and the election mechanism for the members of the user committee			
A list of the proposed members of the user committee and the indication of interests that they represent			
Record keeping (Article 17 of Delegated Regulation (EU) 2017/392)			
Description of record-keeping systems of the applicant CSD, policies and procedures			
Information referred to in Article 17(2) of Delegated Regulation (EU) 2017/392 before the date of application of Article 54 of Delegated Regulation (EU) 2017/392			
An analysis of the extent to which the applicant CSD's existing record-keeping			

systems, policies and procedures are compliant with the requirements under Article 54 of Delegated Regulation (EU) 2017/392			
An implementation plan detailing how the applicant CSD plans to be compliant with the requirements under Article 54 of Delegated Regulation (EU) 2017/392 by the required date			
D. Conduct of business rules (Articles 18-22 of Delegated Regulation (EU) 2017/392)			
Goals and objectives (Article 18 of Delegated Regulation (EU) 2017/392)			
A description of goals and objectives of the applicant CSD.			
Handling of complaints (Article 19 of Delegated Regulation (EU) 2017/392)			
The procedures established by the applicant CSD for the handling of complaints			
Requirements for participation (Article 20 of Delegated Regulation (EU) 2017/392)			
Information concerning the participation in the securities settlement system(s) operated by the applicant CSD:			
The criteria for participation that allow fair and open access for all legal persons that intend to become participants in the securities settlement system(s) operated by the applicant CSD			
The procedures for the application of disciplinary measures against the existing participants that do not comply with the criteria for participation			
Transparency (Article 21 of Delegated Regulation (EU) 2017/392)			
Information on the applicant CSD's pricing policy, including in particular the prices and fees for each core service provided by the applicant CSD and any existing discounts and rebates, as well as the conditions for such reductions			
A description of methods used to disclose the relevant information to clients and prospective clients in accordance with Article 34(1) to (5) of Regulation (EU) No 909/2014			
Information allowing the competent authority to assess how the CSD intends to comply with the requirements to account separately for costs and revenues in accordance with Article 34(7) of Regulation (EU) No 909/2014			
Communication procedures with participants and other market infrastructure (Article 22 of Delegated Regulation (EU) 2017/392)			
Relevant information concerning the use			

by the applicant CSD of international open communication procedures and standards for messaging and reference data in its communication procedures with participants and other market infrastructures			
E. Requirements for services provided by CSDs (Articles 23-30 of Delegated Regulation (EU) 2017/392)			
<i>Book-entry form (Article 23 of Delegated Regulation (EU) 2017/392)</i>			
Information concerning the processes that ensure the compliance of the applicant CSD with Article 3 of Regulation (EU) No 909/2014			
Intended settlement dates and measures for preventing and addressing settlement fails (Article 24 of Delegated Regulation (EU) 2017/392)			
Rules and procedures concerning the measures to prevent settlement fails			
Details of the measures to address settlement fails			
If the application is made before the entry into force of the delegated acts adopted by the Commission on the basis of regulatory technical standards referred to in Articles 6(5) and 7(15) of Regulation (EU) No 909/2014			
An analysis of the extent to which the applicant CSD's existing rules, procedures, mechanisms and measures comply with the requirements under the delegated acts adopted by the Commission on the basis of regulatory technical standards referred to in Articles 6(5) and 7(15) of Regulation (EU) No 909/2014.			
An implementation plan detailing how the CSD plans to be compliant with the requirements under the delegated acts adopted by the Commission on the basis of regulatory technical standards referred to in Articles 6(5) and 7(15) of Regulation (EU) No 909/2014 by the date of their entry into force			
<i>Integrity of the issue (Article 25 of Delegated Regulation (EU) 2017/392)</i>			
...			

ANNEX II

Templates for submission of information for the review and evaluation

...

Table 3
Statistical data

No	Type of data	Format
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...
9	Number and value of buy-in transactions referred to in Article 7(3) and (4) of Regulation (EU) No 909/2014	<p>Number of buy-in transactions: Up to 20 numerical characters reported as whole numbers without decimals.</p> <p>Value of buy-in transactions: Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark shall be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.</p>
10	Number and amount of penalties referred to in Article 7(2) of Regulation (EU) No 909/2014 per CSD participant	<p>For each CSD participant: Number of penalties: Up to 20 numerical characters reported as whole numbers without decimals.</p> <p>Amount of penalties: Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark shall be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.</p>
11	Total value of securities borrowing and lending operations processed by the CSD acting as an agent and as principal, as the case may be, divided per type of financial instruments referred to in point 4	<p>For each type of financial instruments (as referred to in point (4), the value of securities borrowing and lending operations processed by:</p> <p>a)CSD acting as an agent: Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark shall be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.</p> <p>b)CSD acting as principal: Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark shall be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.</p>
...

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ANNEX IV

Format of CSD records

(Article 29(4) of Regulation (EU) No 909/2014)

...

Table 2

Position (stock) records

No	Field	Format
...
19	Records of settlement fails, as well as of the measures adopted by the CSD and its participants to improve settlement efficiency, in accordance with the delegated acts adopted by the Commission on the basis of regulatory technical standards referred to in Articles 6(5) and 7(15) of Regulation (EU) No 909/2014	Files, documents

...

ANNEX V

Forms and templates for access procedures

(Articles 33(6), 49(6), 52(4) and 53(5) of Regulation (EU) No 909/2014)

Table 1

Template for the request to establish a CSD link or for the request for access between a CSD and a CCP or a trading venue

I. General information				
Sender: requesting party				
Addressee: receiving party				
Date of request for access				
Reference number given by the requesting party				
II. Identification of requesting party				
Corporate name of requesting party				
Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the request (name, function, phone number, email address)		Name	Function	Phone
				Email
III. Services that form the object of the request				
Types of services				
Description of services				
IV. Identification of authorities				
Name and contact details of the competent authority of the requesting party		Name	Function	Phone
				Email
Name and contact details of the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014		Name	Function	Phone
				Email
V. Any other relevant information and/or documents				

Table 2

Template for the response granting access following a request to establish a CSD link or a request for access between a CSD and a CCP or a trading venue

I. General information					
Sender: receiving party					
Addressee: requesting party					
Date of request for access					
Reference number given by the requesting party					
Date of receipt of the request for access					
Reference number given by the receiving party					
II. Identification of the receiving CSD					
Corporate name of receiving party					
Country of origin					
Legal address					
LEI					
Name and contact details of the person responsible for the assessment of the request (name, function, phone number, email address)		Name	Function	Phone	Email
III. Identification of the requesting party					
Corporate name of the requesting party					
Country of origin					
Legal address					
LEI					
Name and contact details of the person responsible for the request (name, function, phone number, email address)		Name	Function	Phone	Email
Access granted		YES			
IV. Identification of authorities					
Name and contact details of the competent authority of the receiving party (main liaison, name, function, phone number, email address)		Name	Function	Phone	Email
Name and contact details of the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 (main liaison, name, function, phone number, email address)		Name	Function	Phone	Email
V. Any other relevant information and/or documents					

Table 3

Template for the refusal of access to a CSD

I. General information	
Sender: receiving CSD	
Addressee: requesting party	

Date of request for access				
Reference number given by the requesting party				
Date of receipt of the request for access				
Reference number given by the receiving CSD				
II. Identification of the receiving CSD				
Corporate name of receiving CSD				
Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the assessment of the request for access	Name	Function	Phone	Email
III. Identification of the requesting party				
Corporate name of the requesting party				
Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the request for access	Name	Function	Phone	Email
IV. Risk analysis of the request for access				
Legal risks resulting from the provision of services				
Financial risks resulting from the provision of services				
Operational risks resulting from the provision of services				
V. Outcome of the risk analysis				
Access would affect the risk profile of the CSD	YES		NO	
Access would affect the smooth and orderly functioning of the financial markets	YES		NO	
Access would cause systemic risk	YES		NO	
In case of refusal of access, a summary of the reasons for such a refusal				
Deadline for complaint by the requesting party to the competent authority of the receiving CSD				
Access granted	NO			
VI. Identification of authorities				
Name and contact details of the competent authority of the receiving CSD	Name	Function	Phone	Email
Name and contact details of the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014	Name	Function	Phone	Email
VII. Any other relevant information and/or documents				

Table 4

Template for the refusal of access to the transaction feeds of a CCP or a trading venue

I. General information				
Sender: receiving party				
Addressee: requesting CSD				
Date of request for access				
Reference number given by the requesting CSD				
Date of receipt of the request for access				
Reference number given by the receiving party				
II. Identification of the receiving party				
Corporate name of receiving party				
Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the assessment of the request for access (name, function, phone number, email address)				
III. Identification of the requesting CSD				
Corporate name of the requesting CSD				
Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the request for access (name, function, phone number, email address)				
IV. Risk analysis of the request for access				
Risks resulting from the provision of services				
V. Outcome of the risk analysis				
Access would affect the smooth and orderly functioning of the financial markets		YES	NO	
Access would cause systemic risk		YES	NO	
A summary of the reasons for such a refusal				
Deadline for complaint by the requesting CSD to the competent authority of the receiving party				
Access granted		NO		
VI. Identification of authorities				
Name and contact details of the competent authority of the receiving party (main liaison, name, function, phone number, email address)		Name	Function	Phone
Name and contact details of the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 (main		Name	Function	Phone

liaison, name, function, phone number, email address)				
VII. Any other relevant information and/or documents				

...

Table 9

Template for the response to the complaint for refusal of access

I. General information				
Sender: competent authority of the receiving party				
Addressees:				
(a) requesting party;				
(b) receiving party;				
(c) the competent authority of the place of establishment of the requesting participant; or				
(d) the competent authority of the place of establishment of the requesting issuer; or				
(e) in case of CSD links, the competent authority of the requesting CSD and the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014; or				
(f) in case of access by a trading venue or a CCP, the competent authority of the requesting CCP or trading venue and the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014.				
Date of the request for access				
Reference number given by the requesting party				
Date of receipt of the request for access				
Reference number given by the receiving party				
Date of receipt of the complaint for refusal of access				
Reference number given by the competent authority of the receiving party				
Date of receipt of the assessment by the competent authority of the requesting party and, where applicable, of the relevant authority of the requesting party referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014				
Reference number given by the competent authority of the requesting party or, where applicable, of the relevant authority of the requesting party referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014				
II. Identification of the authority submitting the response to the complaint concerning a refusal of access				
Name and contact details of the competent authority of the receiving party		Name	Function	Phone
				Email
III. Identification of the requesting party				
Corporate name of requesting party				

Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the request for access (name, function, phone number, email address)				
IV. Identification of receiving party				
Corporate name of receiving party				
Country of origin				
Legal address				
LEI				
Name and contact details of the person responsible for the assessment of the request for access	Name	Function	Phone	Email
V. Assessment by the competent authority of the receiving party				
Comments concerning: (a) the reasons of the receiving party for refusal of access; (b) the arguments provided by the requesting party; (c) the reasons provided by the authority of the requesting party in support of its assessment.				
Where applicable, comments of the relevant authority of the receiving party referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014 concerning: (a) the reasons of the receiving party for refusal of access; (b) the arguments provided by the requesting party; (c) the reasons provided by the authority of the requesting party in support of its assessment.				
Refusal to grant access is deemed unjustified	YES		NO	
Reasons provided by the competent authority of the receiving party in support of its assessment				
VI. Order requiring the receiving party to grant access to the requesting party				
When the refusal to grant access is deemed unjustified, a copy of the order requiring the receiving party to grant access to the requesting party, including the applicable deadline for compliance.				
VII. Any other relevant information and/or documents				

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Annex G

Deletions

- 6.3 The following Articles and Annexes, as they form part of domestic law by virtue of section 3 of the Act, are deleted:
- 6.3.1 Articles 2 to 3, 24, and 44 to 45 of Regulation 2017/392
 - 6.3.2 Annex III and Annex IV of Regulation 2017/393
 - 6.3.3 Articles 4 to 10 and 13 to 16 of Regulation 2017/394
 - 6.3.4 Annex III of Regulation 2017/394
 - 6.3.5 Table 1 of Annex IV of Regulation 2017/394
 - 6.3.6 Tables 7 and 8 of Annex V of Regulation 2017/394
 - 6.3.7 Annex VI of Regulation 2017/394