

EBA/CP/2025/05

14/03/2025

Consultation Paper

Draft Regulatory Technical Standards

on the determination of the threshold referred to in Art. 54(5) of the CSDR and accompanying appropriate risk management and accompanying prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Art. 54(2a) of the CSDR.

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 16.06.2025. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

The Central Securities Depositories Regulation (CSDR) exempts from the application of the requirements set out in Art. 54(4) and 54(4a), if the designated credit institutions and designated CSDs, providing banking-type ancillary services to the designating CSD for the cash payments for all or part of a CSD's securities settlement systems (cash settlement), operate below an appropriate threshold.

The mandate set out in Art. 54(9) of the CSDR requires the EBA to (1) determine the threshold below which designated credit institutions and designated CSDs may not apply the requirements set out in Art. 54(4) as regards the former and 54(4a) as regards both, and (2) determine accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Article 54(2a). The CSDR also requires the EBA, when developing the RTS, to take into account:

- (a). the implications for the market stability that could derive from a change of risk profile of CSDs and their participants, including the systemic importance of CSDs for the functioning of securities markets;
- (b). the implications for the credit and liquidity risks for CSDs, for the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions that are not subject to the requirements set out in Art. 54(4);
- (c). the possibility for CSDs to settle cash payments in several currencies;
- (d). the need to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money and disincentives to the efforts of CSDs to settle in central bank money; and
- (e). the need to ensure a level playing field amongst CSDs in the Union.

The draft RTS proposed in this Consultation Paper develop the two parts of the mandate in conjunction, as the various aspects of set out in (a) to (e) may be better covered under (1) or (2) or both, depending on which tools are most appropriate.

The proposed approach for determining the threshold aims at being proportionate and risk sensitive, in that it considers how and to what extent the operativity undertaken below the threshold changes the risk profile of CSDs, their participants and the designated credit institutions providing the services.

In consideration of this, the approach presented in this Consultation Paper, set out:

- A formula to determine the threshold to exempt designated credit institutions and designated CSDs from the requirements set out in Art. 54(4) and 54(4a). Such a formula takes into account the liquidity of the currencies for which settlement is offered and the characteristics of the settlement agents.
- Some basic risk management and prudential requirements, applicable to all designated credit institutions exempted from the requirements of Art. 54(4), and some advanced risk management and prudential requirements, applicable to designated credit institutions exempted from the requirements of Art. 54(4) but operating above a certain level specified in the RTS.

Next steps

Following the feedback received from the consultation, the EBA will revise the draft RTS proposed for consultation, where appropriate, and send them in their final form to the European Commission for adoption.

3. Background and rationale

1. Regulation (EU) No 909/2014¹ (Central Securities Depositories Regulation – CSDR) entered into force in September 2014 and aimed at harmonising certain aspects of the settlement cycle and settlement discipline and to provide a set of common requirements for CSDs operating securities settlement systems across the EU. The CSDR introduced a distinction between CSDs offering banking-type ancillary services and licensed as credit institutions and those CSDs that are not permitted to offer banking-type ancillary services but can designate a credit institution to that effect.
2. In March 2022 the European Commission (EC) proposed changes to the CSDR. Co-legislators reached political agreement in June 2023, with Regulation (EU) 2023/2845² (CSDR Review) being published in December 2023. As part of the amendments to Art. 54 of the CSDR, the conditions under which CSDs can access banking services have been changed by broadening the range of providers for such services (i.e. CSDs authorised to provide banking-type ancillary services can now be designated by other CSDs to settle the cash leg of all or part of securities settlement system through their accounts) and amending the threshold for the application of specific requirements to such providers.

3.1 Provision of banking-type ancillary services under the previous CSDR framework

3. According to the CSDR, and in particular Section C of the Annex, the banking-type services directly related to core or ancillary services are the following:
 - (a). Providing cash accounts to, and accepting deposits from, participants in a securities settlement system and holders of securities accounts;
 - (b). Providing cash credit for reimbursement no later than the following business day, cash lending to pre-finance corporate actions and lending securities to holders of securities accounts;
 - (c). Payment services involving processing of cash and foreign exchange transactions;
 - (d). Guarantees and commitments related to securities lending and borrowing;
 - (e). Treasury activities involving foreign exchange and transferable securities related to managing participants' long balances.
4. According to the CSD register³ published by ESMA in accordance with Art. 21(3) and Art. 58(2) of the CSDR, at the moment there are 27 CSDs in the EEA authorized under Art. 16 of the CSDR. Among

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0909>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32023R2845>

³ https://www.esma.europa.eu/sites/default/files/library/esma70-155-11635_csd_register_-_art_21.pdf

them, 5 CSDs have been authorized under Art. 54 of the CSDR to provide the following banking-type ancillary services:

Table 1: CSDs authorised to provide banking-type ancillary services set out in Section C of the Annex to the CSDR in accordance with Article 54 of the CSDR

	(a)	(b)	(c)	(d)	(e)	Banking-type ancillary services allowed but not explicitly listed in Section C
Clearstream Banking (DE)	x	x	x			
Clearstream Banking (LU)	x	x	x	x		
Euroclear Bank (BE)	x	x	x	x	x	<ul style="list-style-type: none"> - Executed buy-ins in connection with securities lending and borrowing services - Managing the CSD's own investment book - Managing the CSD's own treasury book - Managing the CSD's own hedging book - Fx spot transactions (currencies swaps on behalf of clients)
KELER (HU)	x	x			x	
OeKB CSD (AT)	x					

5. In the context of the targeted review of CSDR, ESMA produced an assessment of the conditions under which banking-type ancillary services were provided under the old CSDR framework. The assessment was mainly based on the results of a survey on banking-type ancillary services in February 2021 to authorities and relevant market participants. The findings of that survey were presented in a report⁴ together with ESMA's proposals for the CSDR targeted review.
6. The main advantages and disadvantages in relation to the offering of banking services related to the settlement activity of CSDs reported by ESMA were the following:
 - *For CSDs' participants:* More services available to satisfy their needs is an advantage, in particular in relation to issuance/settlement in foreign currencies and access to credit lines which avoids pre-funding and allows for lower costs and faster settlement. However, the use of commercial bank money (CoBM) adds some risk to their set up as by definition it is riskier than the use of central bank money (CeBM).
 - *For CSDs:* More attractive offering of services to their clients is a competitive advantage compared to other CSDs but also with other market participants such as global custodians. The

⁴ https://www.esma.europa.eu/sites/default/files/library/esma70-156-4582_report_to_the_ec_-_cldr_banking_services.pdf

provision of a wider range of core CSD and intermediary services produces economies of scale. However, the high regulatory compliance costs limit the development of business cases.

- *For commercial banks providing CoBM services to non-banking⁵ CSDs:* The provision of banking services is not a profitable business in itself given the restricted client base and the limited range of services allowed. For a bank acting as a settlement bank, the ability to benefit from economies of scale is greatly reduced.
7. In relation to the conditions under which banking services could be provided under the previous CSDR framework, the most pressing issue reported by ESMA was the limited access by non-banking CSDs to CoBM, in particular to be able to offer settlement in foreign currencies to their participants, which limits their business development and competitiveness. On this issue, the ESMA report includes the following proposals to consider in the context of the CSDR Review:
- (a). Allowing banking CSDs⁶ to provide banking-type ancillary services to non-banking CSDs (with the additional risks to be appropriately addressed through additional credit and liquidity requirements to be defined at Level 2).
 - (b). Modifying the approach to access commercial banks set under Article 54(5) of the CSDR: rather than having a one-size-fits-all requirement included in Level 1, the suggestion would be to establish the principle of a risk-based, case-by-case approach in CSDR, with more details to be provided through Level 2 measures as to the criteria under which CSDs could use commercial banks and to the conditions relating to commercial banks providing such services. Dedicated supervisory convergence tools should be considered in order to ensure level playing field.
 - (c). Imposing less stringent requirements to non-banking CSDs offering only settlement in foreign currencies as banking-type services can also be investigated.
8. According to the information⁷ publicly provided by the European Central Securities Depositories Association (ECSDA), out of the 27 CSDs authorized under Art. 16 of the CSDR, in 2022 17 CSDs provided delivery versus payment (DvP) settlement in CeBM only, while 10 CSDs offered CoBM (8 of them offer CoBM in conjunction with CeBM and 2 CSDs offer CoBM only as settlement solution):

Table 2: CSDs offering of CeBM and CoBM

	CSD has banking licence and offers CoBM settlement	CSD settles in CeBM	CSD offers both CoBM and CeBM for settlement
ATHEX CSD (EL)			x
Central Securities Depository (BG)		x	
CSD Prague (CZ)			x

⁵ i.e. CSDs not authorised to provide banking-type ancillary services set out in Section C of the Annex to the CSDR in accordance with Article 54 of the CSDR

⁶ i.e. CSDs authorised to provide banking-type ancillary services set out in Section C of the Annex to the CSDR in accordance with Article 54 of the CSDR

⁷ <https://ecsda.eu/ecsda-members-database-2022>

	CSD has banking licence and offers CoBM settlement	CSD settles in CeBM	CSD offers both CoBM and CeBM for settlement
Centrálny depozitár cenných papierov SR (SK)		x	
Clearstream Banking (DE)			x
Clearstream Banking (LU)	x		
Depozitarul Central (RO)		x	
Euroclear Bank (BE)	x		
CIK (BE)		x	
Euroclear Finland (FI)		x	
Euroclear France (FR)		x	
Euroclear Nederland (NL)		x	
Euroclear Sweden (SE)		x	
Euronext Securities Oslo (NO)		x	
IBERCLEAR (ES)		x	
Interbolsa (PT)			x
KDD (SL)		x	
KDPW (PL)		x	
KELER (HU)			x
LuxCSD (LU)		x	
Malta Stock Exchange (MT)			x
Monte Titoli (IT)		x	
Nasdaq CSD SE (LV)			x
OeKB CSD (AT) ⁸		x	
SKDD/CDCC (HR)		x	
Verðbréfamiðstöð Íslands hf. (IS)		x	
VP Securities (DK)			x

3.1.1 Settlement in foreign currencies

9. Non-banking CSDs frequently face the requests to (initially) record an instrument in a foreign currency. Issuers in Europe generally issue in domestic currency but also regularly need to issue in foreign currencies.

10. As explained in the abovementioned ESMA report, under the previous CSDR framework, non-banking CSDs faced difficulties in addressing the demands of issuances in foreign currencies

⁸ According to ESMA register, OeKB CSD is authorized under Art. 54 of the CSDR to provide the banking-type ancillary service under point (a) of Section C of the Annex to CSDR, i.e. to provide cash accounts to, and accepting deposits from, participants in a securities settlement system and holders of securities accounts. However, in the ECSDA database the CSD is reported to provide only settlement in CeBM.

because of the CSDR requirements, as such regulation required EU CSDs to either have access to the relevant central bank, or obtain a banking license, or designate a limited-purpose credit institution, or settle in a regular commercial bank under the conditions set in Art. 54(5) of the CSDR. The previous CSDR framework, in Art. 54(5), stated that settlement in regular commercial banks may happen if the total value of such cash settlement through accounts opened with those banks, calculated over a one-year period, is less than one per cent of the total value of all securities transactions against cash settled in the books of the CSD and does not exceed a maximum of EUR 2,5 billion per year, with those amounts to be calculated in accordance with the indication provided by ESMA in its Q&A (CSD Question 7⁹).

11. This issue was also treated in the 2017 Report of the European Post Trade Forum (EPTF)¹⁰. The report claimed that the vast majority of CSDs operating in the EU settle in CeBM, i.e. CSDs offer securities accounts to their participants and cash settlement occurs on cash accounts maintained by CSD participants at the local central bank. If CSD participants nonetheless wish to settle in a different currency than the local currency on a DvP basis, they have limited options. In some rare cases, a CSD can offer CeBM in another currency than the domestic currency, but this scenario is rare because CSDs are typically not eligible to open cash accounts at foreign central banks, and CSD participants themselves may not have or be eligible to obtain an account at the foreign central bank. In practice, foreign currency settlement typically occurs in CoBM, very often provided by commercial banks acting as settlement agents under the conditions set in Art. 54(5) of the CSDR. However, in some cases the thresholds set in Art. 54(5) of the previous CSDR framework were too restrictive compared to CSDs' needs (not only in terms of DvP instructions, but also in terms of cash distributions, which are bounded by the thresholds as well according to ESMA CSD Question 7). The report claimed that, in this context, too stringent regulatory requirements might have the following consequences: a. transactions will have to be processed free of payment (FoP) instead of DvP, increasing settlement risk and undermining the CSDR's objective of promoting DvP settlement; b. CSDs in multi-currency regions such as the Nordics will suffer more directly from the restrictions given that the volumes of DvP instructions in non-domestic currencies may exceed the threshold in Art. 54(5) of the CSDR; c. the decrease in foreign currency settlement at non-bank CSDs would constitute a step backwards if it results in the settlement of these transactions outside of the CSD infrastructure.

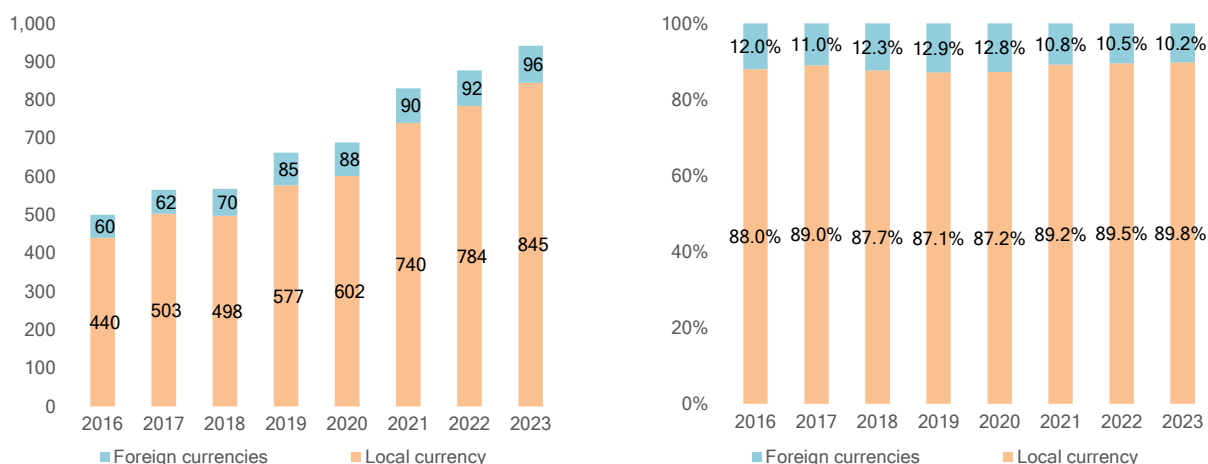
12. According to the information gathered by ESMA in the context of the determination of the most relevant currencies in which settlement takes place, under Article 12(1) of the CSDR and Article 2(1) of the RTS on CSD Requirements¹¹, since 2016 there has been a 9% yearly average increase in the value of the overall settlement activity, but while it has been observed an yearly average increase of 10% of the settlement activity in domestic currency, the settlement activity in foreign currency has grown only 7% on average per year. This is also reflected in a small decrease of the share of settlement activity in foreign currency over total settlement activity, which passes from 12% observed in 2016 to 10% observed in 2023.

⁹ https://ecsd.eu/wp-content/uploads/2018/03/2018_03_23_esma_updated_QA_on_CSDR.pdf

¹⁰ https://finance.ec.europa.eu/document/download/2b0b61c2-fee4-4224-88ae-35fa628fc15f_en?filename=170515-eptf-report_en.pdf

¹¹ Commission Delegated Regulation (EU) 2017/392

Yearly settlement activity in domestic and foreign currencies of all EEA CSDs

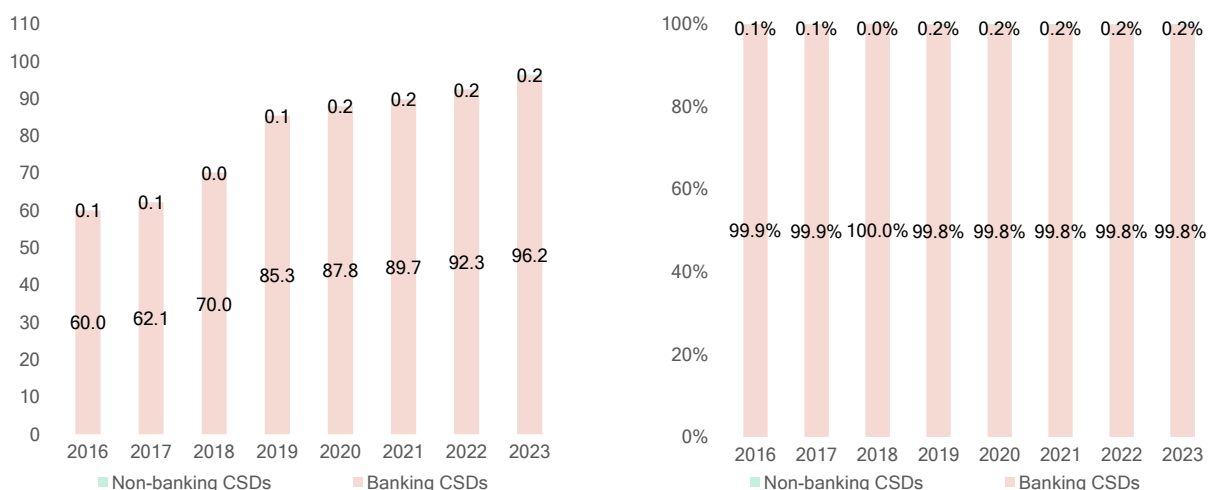


Yearly settlement activity of EEA CSDs broken down by local vs. foreign currencies, in EUR tn (left graph) and in % (right graph). Central Banks and no longer active CSDs are excluded. EEA States not included in 2017 and 2018 figures.

Sources: NCAs, ESMA.

13. In terms of type of EEA CSDs providing settlement in foreign currencies, it has been observed that the vast majority (over 99%) of it has been provided so far by banking CSDs.

Yearly settlement activity in foreign currencies of banking and non-banking EEA CSDs

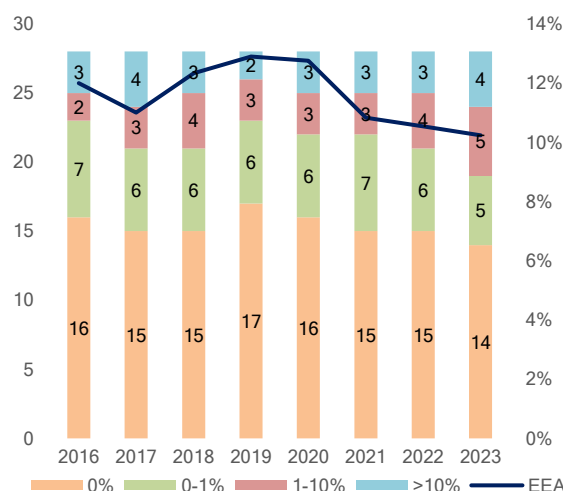


Yearly settlement activity of EEA CSDs in foreign currencies broken down by banking CSDs vs. non-banking CSDs, in EUR tn (left graph) and in % (right graph). Central Banks and no longer active CSDs are excluded. EEA States not included in 2017 and 2018 figures.

Sources: NCAs, ESMA.

14. In terms of distribution, 14 EEA CSDs have not reported any settlement activity in foreign currency in 2023, 5 EEA CSDs have reported only minor activity (i.e. below 1%), while 9 have reported activity in foreign currency above 1% (4 of which have reported activity above 10%).

Number of EEA CSDs by bucket of share of yearly settlement activity in foreign currencies



Number of EEA CSDs by bucket of share of yearly settlement activity in foreign currencies. EEA-level share reported in % on the right-hand side. Central Banks and no longer active CSDs are excluded. EEA States not included in 2017 and 2018 figures. Sources: NCAs, ESMA.

3.2 Banking-type ancillary services under the CSDR review

15. The co-legislators acknowledged ESMA's suggestions and introduced targeted amendments to the CSDR text on the provision of banking-type ancillary services and settlement in foreign currency. On the latter, the new CSDR text recognises the case where a CSD does not meet the conditions to open an account with a central bank other than that of its home Member State as one of the cases where settlement in CeBM is not practical and available. Consequently CSDR now gives the possibility to settle the cash payments in a foreign currency through accounts opened not only with a credit institutions, but also with a CSD authorised to provide banking-type ancillary services.

16. According to the new CSDR text, an authorisation to designate banking CSDs or credit institutions should only be used for the settlement of the cash payments for all or part of the securities settlement systems of the CSD seeking to use the banking services. It should not be used for the purposes of carrying out any other activities.

3.3 EBA mandate and development of the RTS

17. The new CSDR text allows for CSDs that are not authorised to provide banking-type ancillary services to settle the cash payments through accounts opened with CSDs authorised to provide

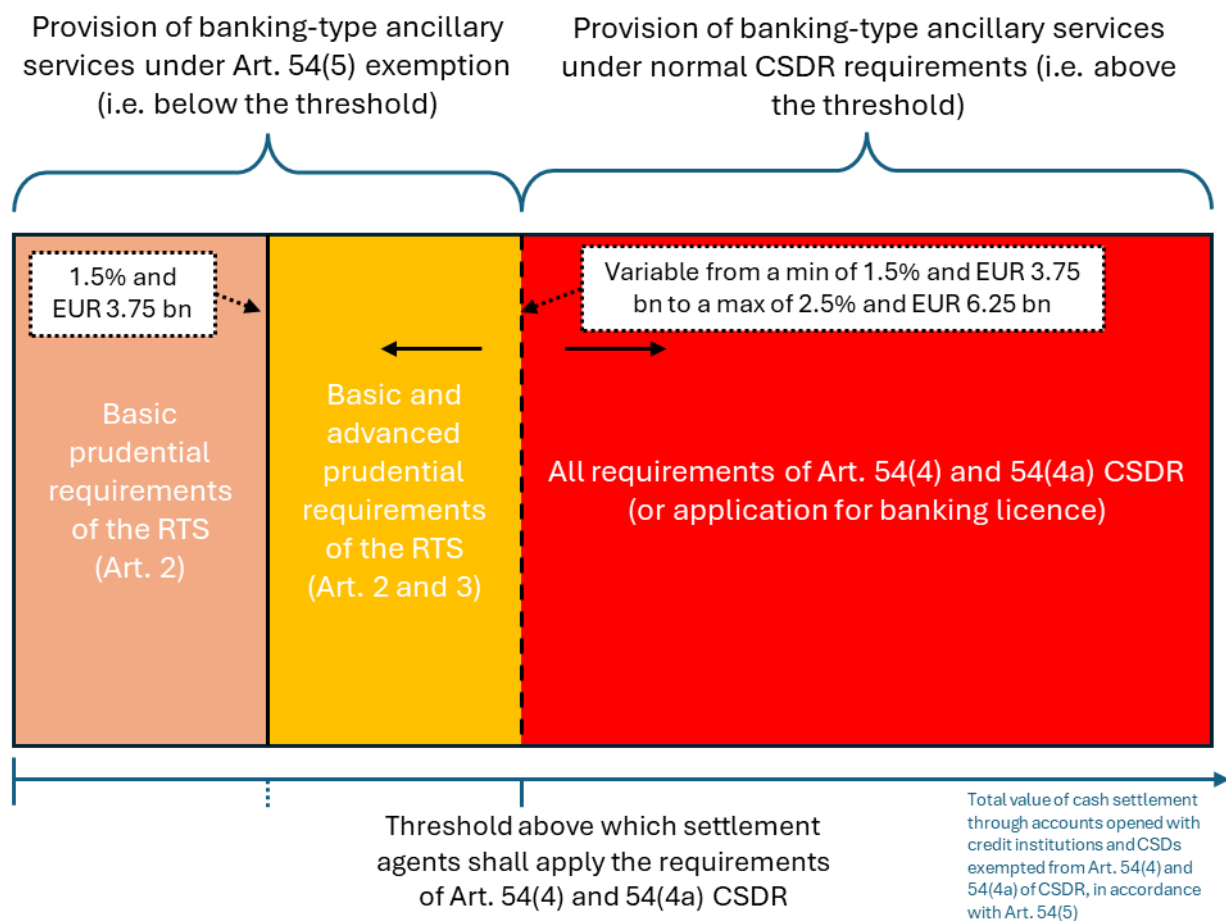
banking-type ancillary services in accordance with the CSDR and through accounts opened with any credit institution, in any currency, below some appropriate threshold.

18. Recital 37 of the CSDR review specifies that such a threshold should consist of a maximum aggregate amount for that settlement of cash payments. In addition, the threshold should be calibrated in a way that promotes efficiency of settlement and allows CSDs to reach a level of cash settlement beyond which requiring a banking authorisation under Directive 2013/36/EU or connecting to a central bank of issue becomes relevant, while ensuring financial stability and limiting risk implications that result from the derogations applicable under that threshold.
19. The calibration of the threshold should take into account the need for a CSD to be able to settle payments in different currencies, especially for the most liquid currencies, while setting an appropriate limit that would be applicable to the CSD as a whole. In calibrating the threshold the need to avoid an unintended shift away from settlement in CeBM should be taken into account.
20. Considering EBA's experience regarding banking and credit risk matters, the Authority is entrusted with the development of draft regulatory technical standards to set the appropriate threshold and to specify any appropriate risk management and prudential requirements related thereto.
21. The mandate set out in Art. 54(9) of the CSDR requires the EBA to (1) determine the threshold referred to in Art. 54(5) of the CSDR, i.e. the thresholds below which designated credit institutions and designated CSDs do not have to apply the requirements set out in Art. 54(4) and 54(4a), and (2) determine accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Article 54(2a).
22. The CSDR also requires the EBA, when developing the RTS, to take into account:
 - (a). the implications for the market stability that could derive from a change of risk profile of CSDs and their participants, including the systemic importance of CSDs for the functioning of securities markets;
 - (b). the implications for the credit and liquidity risks for CSDs, for the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions that are not subject to the requirements set out in Art. 54(4);
 - (c). the possibility for CSDs to settle cash payments in several currencies;
 - (d). the need to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money and to avoid disincentivising the efforts of CSDs to settle in central bank money; and
 - (e). the need to ensure a level playing field amongst CSDs in the Union.

23. The EBA is of the view that the two parts of the mandate, i.e. (1) and (2), should be developed in conjunction, as the various aspects set out in paragraph 20 points (a) to (e) may be better covered under (1) or (2) or both, depending on which tools are most appropriate.
24. Article 54(5) of CSDR previously outlined an exemption to credit institutions to meet the requirements of 54(4) when providing BTA services, if the total value of the such cash settlement through accounts opened with those credit institutions, calculated over a one year period is less than one percent of the total value of such cash settlement over a one-year period, is less than 1% of the total values of all securities transactions against cash settled in the books of the CSD and does not exceed a minimum of EUR 2.5 billion per year.
25. In reflection of the promotion of greater settlement efficiency, the EBA proposes to increase the absolute threshold from EUR 2.5 billion per year to EUR 6.25 billion. This threshold should be no more than 2.5% of the total value of cash settlement in the books of the CSD. EBA will use the data received through the data collection exercise included in this consultation to ensure that the increase to the threshold does not result in an unintended shift away from settlement in CeBM nor impact the level playing field amongst CSDs in the Union. It strongly encourages CSDs to respond to the data collection.
26. In addition, the EBA understands that a one-size-fits-all approach, as set out in the old CSDR framework, may not be suited to account for different needs that different CSDs face in undertaking their activities. In addition, the EBA is of the view that the approach should be proportionate and risk sensitive, in that it should consider how and to what extent operations taken below the threshold changes the risk profile of CSDs, their participants and the designated credit institutions providing the services. To avoid a cliff-effect for non-banking CSDs while still adequately mitigating the risks of providing banking-type ancillary services, EBA proposes a stepped approach to increasing prudential requirements based on a more dynamic threshold reflecting entity specific risks.
27. In consideration of this, the approach developed by the EBA and presented in this Consultation Paper, sets out:
- A formula to determine the threshold below which designated credit institutions and designated CSDs may not apply the requirements set out in Art. 54(4) and 54(4a). Such a formula, takes into account the following elements:
 - the volume and liquidity of the currencies for which CoBM settlement is offered;
 - the number of settlement agents providing CoBM settlement to the designating CSD ie. the threshold incentives the use of more diversified settlement agents
 - the other roles that the settlement agents may have vis-à-vis the designating CSD (i.e. participants to the SSSs operated by the CSD). The threshold incentives minimising the number of settlement agents who also participate in the SSS operated by the CSD
 - the creditworthiness of the settlement agents.

- Some basic risk management and prudential requirements, applicable to all designated credit institutions operating below the threshold.
- Some advanced risk management and prudential requirements, applicable to designated credit institutions operating below the threshold but above a certain level (1.5% and EUR 3.75 bn).

28. The approach is summarized in the figure below, and further explained in the next subsections.



3.3.1 Determination of the threshold referred to in Art. 54(5) of the CSDR

29. The formula to determine the threshold below which designated credit institutions and designated CSDs may not apply the requirements set out in Art. 54(4) and 54(4a) is the following:

$$threshold = \min(x_1 \cdot V_1, x_2)$$

where x_1 is equal to $(y_1 + y_{1_liq_fx} + y_{1_SA})$ and is a percentage of the total value of all securities transactions against cash settled in the books of the CSD, calculated over a one-year period, V_1 is the total value of all securities transactions against cash settled in the books of the CSD, and x_2 is

equal to $(y_2 + y_{2_liq_fx} + y_{2_SA})$. The parameter y_1 is set at the level of 1.5% and y_2 is equal to EUR 3.75 billion per year for the consultation.

30. The parameters $y_{1_liq_fx}$ and $y_{2_liq_fx}$ account for the liquidity of the currencies for which CoBM settlement is offered, and are calculated as follows:

$$y_{1_liq_fx} = \frac{\text{Cash settlement in liquid currencies}}{\text{Cash settlement}} \cdot 0.5\%$$

and

$$y_{2_liq_fx} = \frac{\text{Cash settlement in liquid currencies}}{\text{Cash settlement}} \cdot \text{EUR 1.25 billion per year}$$

where ‘cash settlement in liquid currencies’ is the total value of cash settlement through accounts opened with credit institutions and CSDs exempted from applying Article 54(4) and Article 54(4a) of the CSDR, that is in one or more of the currencies listed in Annex I to the Commission Delegated Regulation (EU) 2022/2058, and ‘cash settlement’ is the total value of cash settlement through accounts opened with credit institutions and CSDs exempted from applying Article 54(4) and Article 54(4a) of the CSDR in accordance with Article 54(5).

31. The parameters y_{1_SA} and y_{2_SA} account for the number and creditworthiness of the credit institutions and CSDs providing CoBM settlement to the designating CSD, as well as the other roles that those settlement agents may have vis-à-vis the designating CSD, and are calculated as follows:

$$y_{1_SA} = y_{1_n_SA} + y_{1_SA_type}$$

and

$$y_{2_SA} = y_{2_n_SA} + y_{2_SA_type}$$

where $y_{1_n_SA}$ and $y_{2_n_SA}$ are equal to the values set out in below:

		Number of credit institutions and CSDs designated in accordance with Article 54(2a) of the CSDR and exempted from applying Article 54(4) in accordance with Article 54(5), that are participants in the securities settlement systems operated by the designating CSD				
		0	1	2	3	4 or more
Number of credit institutions and CSDs designated in accordance with Article 54(2a) of the CSDR and exempted from applying Article 54(4) in accordance with Article 54(5), that are not partici-	0	0% and EUR 0 bn per year	0% and EUR 0 bn per year	0.05% and EUR 0.125 bn per year	0.075% and EUR 0.1875 bn per year	0.1% and EUR 0.25 bn per year
	1	0% and EUR 0 bn per year	0.075% and EUR 0.1875 bn per year	0.1% and EUR 0.25 bn per year	0.15% and EUR 0.375 bn per year	0.3% and EUR 0.75 bn per year
	2	0.1% and EUR 0.25 bn per year	0.15% and EUR 0.375 bn per year	0.2% and EUR 0.5 bn per year	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year
	3	0.2% and EUR 0.5 bn per year	0.25% and EUR 0.625 bn per year	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year

pants in the securities settlement systems operated by the designating CSD	4 or more	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year	0.3% and EUR 0.75 bn per year
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and $y_{1_SA_type}$ and $y_{2_SA_type}$ are equal to 0.2% and EUR 0.5 billion per year, respectively, if at least half (rounded up to the next integer) of the designated settlement agents exempted from applying Article 54(4) of the CSDR are assigned with at least one credit assessment by an external credit assessment institution (ECAI) with credit quality step 1, and 0 otherwise.

3.3.2 Accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Art. 54(2a) of the CSDR

Basic risk management and prudential requirements

32. The credit institutions designated in accordance with Article 54(2a) of Regulation (EU) No 909/2014 and exempted from applying Article 54(4) of that Regulation in accordance with Article 54(5) of that Regulation, shall comply with the following basic requirements:

- the credit institutions shall be assigned with at least one credit assessment by an ECAI, with credit quality step 1 or 2, or the designating CSD can demonstrate that the credit institution is an issuer with low credit risk based upon its own internal assessment employing a defined and objective methodology, also taking into account the country risk of the credit institution;
- the credit institutions, when operating as settlement agent, shall not cause an increase in the rate of settlement fails, as referred to in Art. 6(3) of the CSDR;
- the credit institutions shall operate consistently with the business continuity policy and disaster recovery plan set out by the designating CSD in accordance with Art. 45(3) of the CSDR;
- the designated credit institution shall submit to the competent authority an adequate recovery plan to ensure continuity of its critical operations, including in situations where liquidity or credit risk materialises as a result of the provision of banking-type ancillary services;
- the credit institutions shall provide to the designating CSD the documentation related to the strategies, policies, processes and systems for the identification, measurement, management and monitoring of liquidity risk referred to in Art. 86 of the CRD, and such strategies, policies, processes and systems shall adequately include the assessment of the provision of the banking-type ancillary services listed in Section C of the Annex to the CSDR, in particular in relation to the effects produced on their intra-day liquidity risk profile.

Advanced risk management and prudential requirements

33. The designated credit institutions exempted from applying Article 54(4) of the CSDR in accordance with Article 54(5), shall comply with advanced risk management and prudential requirements, if the total value of cash settlement through accounts opened with designated credit institutions and CSDs is equal to or greater than 1.5% of the total value of all securities transactions against cash settled in the books of the CSD, calculated over a one-year period, or it exceeds EUR 3.75 billion per year.

34. The proposed advanced requirements are the following:

- the credit institutions meet the prudential requirements laid down in Article 59(1), (3) and (4) and the supervisory requirements laid down in Article 60 of the CSDR, as set out in Article 54(4)(a);
- the credit institutions are subject to an additional capital surcharge that reflects the risks, including credit risk, resulting from the provision of intra-day credit, inter alia, to the participants in a securities settlement system or other users of CSD services, as set out in Article 54(4)(d) of the CSDR;
- the credit institutions report at least monthly to the competent authority and disclose to the public annually as a part of its public disclosure as required under Part Eight of the CRR on the extent and management of intra-day liquidity risk, as set out in Article 54(4)(e) of the CSDR.

3.4 Ad-hoc data collection

35. As part of this consultation, the EBA is undertaking a data collection on the provision of banking-type ancillary services by CSDs and settlement of securities transactions in foreign currencies. The purpose of the data collection is to perform a quantitative analysis around the calibration of the threshold level. The EBA will treat all individual institution's data collected as part of this consultation as strictly confidential and will not attribute them to individual CSDs. The data collection template can be found in the accompanying documents to this consultation paper (Section 5.3).

4. Draft regulatory technical standards

In between the text of the draft RTS that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on the determination of the threshold referred to in Article 54(5) of Regulation (EU) No 909/2014 and accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Article 54(2a) of Regulation (EU) No 909/2014

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) n° 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012¹², and in particular to Article 54(9) third subparagraph thereof,

Whereas:

- (1) Credit institutions that provide banking-type ancillary services to central securities depositories (CSDs) below an appropriate threshold, along with other banking activities, such as proprietary trading or significant maturity transformation services, are subject to a different risk profile compared to those that, operating above the threshold, provide solely the activities set out in Section C of the Annex of Regulation (EU) No 909/2014. To adequately subject CSDs and the designated credit institutions to the requirements set out in Article 54(4) of Regulation (EU) No 909/2014, respecting also the proportionality principle, the calculation of the threshold should be case-specific and reflect in particular the risk profile of the concerned credit institution, of the other credit institutions providing banking-type ancillary services below the threshold to the same CSD and relevant credit and liquidity risk metrics associated with the settlement activities.
- (2) Credit institutions that undertake banking activities other than those listed in Section C of the Annex of that Regulation may already have a significant level of connection with

¹² OJ L [number], [dd.mm.yyyy], [p.].

the financial system, which will further increase if they also act as settlement agents for one or several CSDs, requiring particular attention in relation to the financial stability objective. Such credit institutions may, however, have a more diversified resource base, which may include bank deposits, than a credit institution not carrying out activities other than the provision of banking-type ancillary services, as required under point (c) of Article 54(4) of that Regulation. These aspects should be considered when analysing the implications for the credit and liquidity risks in relation to the CSDs, the designated credit institutions and the other CSD participants relevant for the determination of the threshold of Article 54(5) of that Regulation.

- (3) In the determination of the threshold referred to in Article 54(5) of Regulation (EU) No 909/2014, the settlement of cash payments in different currencies may be of significant importance for the CSDs and the participants in the securities settlement systems which it operates. Nevertheless, the liquidity of the currencies in which settlement is offered may affect the liquidity risk profile of the CSDs. As a result, a preferential treatment for most liquid currencies should be considered in the determination of the threshold, considering that settlement in such currencies is typically requested by CSDs' participants and that such currencies entail a different level of liquidity risk.
- (4) The threshold referred to in Article 54(5) of Regulation (EU) No 909/2014 should be calibrated in a way that promotes efficiency of settlement and allows CSDs to reach a level of cash settlement beyond which requiring a banking authorisation under Directive 2013/36/EU or connecting to a central bank of issue becomes relevant. For this reason, an increase of the threshold level should be considered compared to the existing level before the entry into force of Regulation (EU) 2023/2845 of the European Parliament and the Council¹³. However, in order to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money and disincentives to the efforts of CSDs to settle in central bank money, such an increase should be limited and appropriate risk management and prudential requirements should be set out to mitigate the risk implications that result from operating under that threshold.
- (5) Appropriate risk management and prudential requirements should be set out to mitigate risks in relation to the designated credit institutions which meet the condition set out in Article 54(5). Those risk management and prudential requirements should be proportionate to the risks associated with the provision of banking-type ancillary services below the appropriate threshold, while comparable with the requirements set out in Article 59 of Regulation (EU) No 909/2014, which provides for risk management and prudential requirements to mitigate the risks inherent to the cash settlement and banking-type ancillary activities as set out in Annex C of Regulation (EU) No 909/2014, stemming from the designation of a credit institution operating as a settlement agent above the appropriate threshold.
- (6) Where the total value of cash settlements through accounts opened with credit institutions exempted under Article 54(5) of Regulation (EU) No 909/2014 represents a significant percentage of the total cash settlement value of a CSD, while still being below the appropriate threshold, the basic risk management and prudential requirements that need to apply below the threshold may not adequately address the risk exposure of

¹³ Regulation (EU) 2023/2845 of the European Parliament and the Council of 13 December 2023 amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third-country central securities depositories and amending Regulation (EU) No 236/2012

the CSD. In order to mitigate the risks to which the CSD is exposed in such cases, while considering also that the risk associated with the designation is of a gradual significance and proportionate to the total amount of such settlements through exempted institutions, a gradual and proportionate approach needs to be adopted. Accordingly, some of the requirements set out in Article 59 of Regulation (EU) No 909/2014 need to apply, where the volume of such cash settlements is above a certain level. Those requirements should in particular address the credit and liquidity risks inherent to the provision of cash settlement services.

- (7) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (8) The European Banking Authority has worked in close cooperation with the European System of Central Banks (ESCB) and the European Securities and Markets Authority (ESMA) before submitting the draft regulatory technical standards on which this Regulation is based. The European Banking Authority has also conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁴,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

DETERMINATION OF THE THRESHOLD REFERRED TO IN ARTICLE 54(5) OF REGULATION (EU) NO 909/2014

Article 1

Threshold level to determine the exemptions under Article 54(5) of Regulation (EU) No 909/2014

1. The threshold referred to in Article 54(5) of Regulation (EU) No 909/2014 shall be determined as follows:

threshold = $\min(x_1 \cdot V_1, x_2)$ where

x_1 shall be equal to $(y_1 + y_{1_liq_fx} + y_{1_SA})$ per cent of the total value of all securities transactions against cash settled in the books of the CSD, calculated over a one-year period;

V_1 shall be the total value of all securities transactions against cash settled in the books of the CSD;

¹⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

x_2 shall be equal to $(y_2 + y_{2_liq_fx} + y_{2_SA})$;

y_1 equals to 1.5 per cent of the total value of all securities transactions against cash settled in the books of the CSD, calculated over a one-year period;

y_2 equals to EUR 3.75 billion per year;

$y_{1_liq_fx}$ and $y_{2_liq_fx}$ are determined in accordance with paragraph 2; and

y_{1_SA} and y_{2_SA} are determined in accordance with paragraph 3.

2. For the purpose of paragraph 1, $y_{1_liq_fx}$ and $y_{2_liq_fx}$ shall be calculated as follows:

$$y_{1_liq_fx} = \frac{\text{Cash settlement in liquid currencies}}{\text{Cash settlement}} \cdot 0.5\%$$

and

$$y_{2_liq_fx} = \frac{\text{Cash settlement in liquid currencies}}{\text{Cash settlement}} \cdot \text{EUR 1.25 billion per year}$$

where

‘cash settlement in liquid currencies’ is the total value of cash settlement through accounts opened with credit institutions and CSDs exempted from applying Article 54(4) and Article 54(4a) of Regulation (EU) No 909/2014 in accordance with Article 54(5) of that Regulation, that is in one or more of the currencies listed in Annex I to Commission Delegated Regulation (EU) No 2022/2058¹⁵;

and

‘cash settlement’ is the total value of cash settlement through accounts opened with credit institutions and CSDs exempted from applying Article 54(4) and Article 54(4a) of Regulation (EU) No 909/2014 in accordance with Article 54(5) of that Regulation.

3. For the purpose of paragraph 1, y_{1_SA} and y_{2_SA} shall be calculated as follows:

$$y_{1_SA} = y_{1_n_SA} + y_{1_SA_type}$$

and

$$y_{2_SA} = y_{2_n_SA} + y_{2_SA_type}$$

where

$y_{1_n_SA}$ and $y_{2_n_SA}$ are equal to the values set out in the Annex;

$y_{1_SA_type}$ and $y_{2_SA_type}$ are equal to 0.2% and EUR 0.5 billion per year, respectively, if at least half (rounded up to the next integer) of the credit institutions and CSDs designated in accordance with Article 54(2a) of Regulation (EU) No 909/2014 and exempted from applying Article 54(4) of that Regulation in accordance with Article 54(5) of that Regulation are all assigned with at least one credit assessment by an external credit assessment institution (ECAI), as defined in Article 4(1)(98) of Regulation (EU) No 575/2013, with credit quality step 1, and 0 otherwise.

¹⁵ Commission Delegated Regulation (EU) 2022/2058 of 28 February 2022 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards on liquidity horizons for the alternative internal model approach, as referred to in Article 325bd(7)

Explanatory box for consultation:

The formula to determine the threshold below which designated credit institutions and designated CSDs may not apply the requirements set out in Art. 54(4) and 54(4a), takes into account the following elements:

- the liquidity of the currencies for which CoBM settlement is offered;
- the number of settlement agents providing CoBM settlement to the designating CSD;
- the other roles that the settlement agents may have vis-à-vis the designating CSD (e.g. participants to the SSSs);
- the creditworthiness of the settlement agents.

Depending on the liquidity of the currencies and on the characteristics of the settlement agents, the threshold can range from a minimum of 1.5% of the total value of all securities transactions against cash settled in the books of the CSD, calculated over a one-year period, and EUR 3.75 bn, to a maximum of 2.5% and EUR 6.25 bn.

Questions

Q1. Do you agree with the proposed approach for determining the threshold referred to in Art. 54(5) of the CSDR?

Q2. Do you think that other elements should be taken into account in the proposed approach? If yes, which ones?

Q3. Do you agree with the proposed levels set out in the proposed approach for the different parameters?

CHAPTER 2
APPROPRIATE RISK MANAGEMENT AND PRUDENTIAL REQUIREMENTS TO
MITIGATE RISKS IN RELATION TO THE DESIGNATION OF CREDIT INSTITUTIONS
IN ACCORDANCE WITH ARTICLE 54(2A) OF REGULATION (EU) NO 909/2014

Article 2

Basic risk management and prudential requirements

The risk management and prudential requirements for the designation of credit institutions in accordance with Article 54(2a) Regulation (EU) No 909/2014 that are exempted under Article 54(5) of that Regulation, shall be the following:

- (a) the designated credit institution shall have been assigned with at least one credit assessment by an external credit assessment institution, as defined in Article 4(1)(98) of Regulation (EU) No 575/2013, with credit quality step 1 or 2, or the designating CSD shall be able to demonstrate that the designated credit institution has low credit risk based upon its own internal assessment employing a defined and objective methodology that takes into consideration the country risk of the particular country where the credit institution is established;
- (b) the designation of the credit institutions as settlement agent shall not cause an increase in the rate of settlement fails, as referred to in Article 6(3) of Regulation (EU) No 909/2014;
- (c) the designated credit institution shall operate consistently with the business continuity policy and disaster recovery plan set out by the designating CSD in accordance with Article 45(3) of Regulation (EU) No 909/2014;
- (d) the designated credit institution shall submit to the competent authority an adequate recovery plan to ensure continuity of its critical operations, including in situations where liquidity or credit risk crystallises as a result of the provision of banking-type ancillary services, as set out in Article 54(4)(f) of that Regulation;
- (e) upon CSD request, the designated credit institution shall provide to the designating CSD the documentation to ensure that the provision of the banking-type ancillary services listed in Section C of the Annex to Regulation (EU) No 909/2014 is part of the strategies, policies, processes and systems for the identification, measurement, management and monitoring of liquidity risk referred to in Article 86 of Directive 2013/36/EU, in particular in relation to the effects produced on the intra-day liquidity risk profile.

Explanatory box for consultation:

Art. 2 of the RTS set out some basic requirements applicable to all designated credit institutions which operate below the thresholds and, as such, are exempted from applying the requirements of Art. 54(4) of the CSDR.

The proposed basic requirements are the following:

- the credit institution shall be assigned with at least one credit assessment by an ECAI, with credit quality step 1 or 2;
- the credit institution, when operating as settlement agent, shall not cause an increase in the rate of settlement fails, as referred to in Art. 6(3) of the CSDR;
- the credit institution shall operate consistently with the business continuity policy and disaster recovery plan set out by the designating CSD in accordance with Art. 45(3) of the CSDR;
- the credit institution shall have submitted to the competent authority the recovery plan to ensure continuity of the critical operations, and such a recovery plan shall adequately include the assessment of the provision of the banking-type ancillary services listed in Section C of the Annex to the CSDR, including in situations where liquidity or credit risk crystallises as a result of the provision of banking-type ancillary services;
- the credit institution shall have included the assessment of the provision of the banking-type ancillary services listed in Section C of the Annex to the CSDR as part of the strategies, policies, processes and systems for the identification, measurement, management and monitoring of

liquidity risk referred to in Art. 86 of Directive 2013/36/EU (CRD), in particular in relation to the effects produced on the intra-day liquidity risk profile.

Question

Q4. Do you agree with the proposed basic risk management and prudential requirements? If no, please provide rationale and an alternative proposal.

Article 3

Advanced risk management and prudential requirements

Where the annual value of cash settlements through accounts opened with designated credit institutions exempted under Article 54(5) of Regulation (EU) No 909/2014 equals or exceeds 1.5% of the total annual value of cash payments for all the securities settlement systems of the CSD or the amount of EUR 3.75 billion, the risk management and prudential requirements shall, in addition to those set out in Article 2, be the following:

- (a) the designated credit institutions shall comply with Article 59(1), (3) and (4) and the supervisory requirements laid down in Article 60 of that Regulation
- (b) the designated credit institutions shall be subject to an additional capital surcharge that reflects the risks, including credit and liquidity risks, resulting from the provision of intra-day credit, inter alia, to the participants in a securities settlement system or other users of CSD services, in accordance with Article 54(4), point (d), of that Regulation;
- (c) the designated credit institutions shall disclose to the public annually as a part of the public disclosure as required under Part Eight of Regulation (EU) No 575/2013 on the extent and management of intra-day liquidity risk in accordance with Article 59(4), point (j), of Regulation (EU) No 909/2014.

Explanatory box for consultation:

The advanced requirements set out in Art. 3 of the draft RTS are intended to apply when the activity of the designated credit institutions is, albeit below, close to the threshold set out in Art. 1 of the draft RTS. The activity of the designated credit institutions is considered close to the threshold set out in Art. 1 when a certain level is exceeded, which is identified as 1.5% of the total value of all securities transactions against cash settled in the books of the CSD over one year, and EUR 3.75 billion per year. The proposed level represents a 50%-increase from the actual CSDR threshold. It means that CSDs currently operating under Art. 54(5) can expand their settlement in non-domestic currencies in CoBM by 50%, with a marginal increase in the

prudential requirements (i.e. application of Art 2 of the draft RTS – basic requirements). Between this level and the level set out in Art. 1, settlement in non-domestic currencies in CoBM can be further expanded, with additional increase in the prudential requirements (i.e. application of Art. 4 of the draft RTS – advanced requirements).

Question

Q5. Do you agree with the proposed level of settlement activity, which determines whether only basic or both basic and advanced risk management and prudential requirements are applied?

The proposed advanced requirements are the following:

- the credit institution meets the prudential requirements laid down in Article 59(1), (3) and (4) and the supervisory requirements laid down in Article 60 of the CSDR, as set out in Article 54(4)(a);
- the credit institution is subject to an additional capital surcharge that reflects the risks, including credit risk, resulting from the provision of intra-day credit, inter alia, to the participants in a securities settlement system or other users of CSD services, as set out in Article 54(4)(d) of the CSDR;
- the credit institution reports at least monthly to the competent authority and discloses to the public annually as a part of its public disclosure as required under Part Eight of the CRR on the extent and management of intra-day liquidity risk, as set out in Article 54(4)(e) of the CSDR.

Question

Q6. Do you agree with the proposed advanced risk management and prudential requirements? If no, please provide rationale and an alternative proposal.

Article 4

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.

Done at Brussels,

*For the Commission
The President*

ANNEX

The values of $y_{1,n,SA}$ and $y_{2,n,SA}$ are determined according to the following table:

		Number of credit institutions and CSDs designated in accordance with Article 54(2a) of Regulation (EU) No 909/2014 and exempted from applying Article 54(4) of that Regulation in accordance with Article 54(5) of that Regulation, that are participants in the securities settlement systems operated by the designating CSD				
		0	1	2	3	4 or more
Number of credit institutions and CSDs designated in accordance with Article 54(2a) of Regulation (EU) No 909/2014 and exempted from applying Article 54(4) of that Regulation in accordance with Article 54(5) of that Regulation, that are not participants in the securities settlement systems operated by the designating CSD	0	$y_{1,n,SA} = 0\%$ and $y_{2,n,SA} =$ EUR 0 billion per year		$y_{1,n,SA} = 0.05\%$ and $y_{2,n,SA} =$ EUR 0.125 billion per year	$y_{1,n,SA} = 0.075\%$ and $y_{2,n,SA} =$ EUR 0.1875 billion per year	$y_{1,n,SA} = 0.1\%$ and $y_{2,n,SA} =$ EUR 0.25 billion per year
	1	$y_{1,n,SA} = 0\%$ and $y_{2,n,SA} =$ EUR 0 billion per year	$y_{1,n,SA} = 0.075\%$ and $y_{2,n,SA} =$ EUR 0.1875 billion per year	$y_{1,n,SA} = 0.1\%$ and $y_{2,n,SA} =$ EUR 0.25 billion per year	$y_{1,n,SA} = 0.15\%$ and $y_{2,n,SA} =$ EUR 0.375 billion per year	$y_{1,n,SA} = 0.3\%$ and $y_{2,n,SA} =$ EUR 0.75 billion per year
	2	$y_{1,n,SA} = 0.1\%$ and $y_{2,n,SA} =$ EUR 0.25 billion per year	$y_{1,n,SA} = 0.15\%$ and $y_{2,n,SA} =$ EUR 0.375 billion per year	$y_{1,n,SA} = 0.2\%$ and $y_{2,n,SA} =$ EUR 0.5 billion per year	$y_{1,n,SA} = 0.3\%$ and $y_{2,n,SA} =$ EUR 0.75 billion per year	
	3	$y_{1,n,SA} = 0.2\%$ and $y_{2,n,SA} =$ EUR 0.5 billion per year	$y_{1,n,SA} = 0.25\%$ and $y_{2,n,SA} =$ EUR 0.625 billion per year	$y_{1,n,SA} = 0.3\%$ and $y_{2,n,SA} =$ EUR 0.75 billion per year		
	4 or more	$y_{1,n,SA} = 0.3\%$ and $y_{2,n,SA} =$ EUR 0.75 billion per year				

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

Article 54(9) of the CSDR mandates the EBA to develop draft RTS to determine the threshold referred to in Art. 54(5) of the CSDR and accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Article 54(2a) of the CSDR.

Article 10(1) of Regulation (EU) No 1093/2010 (EBA Regulation) provides that any RTS developed by the EBA should be accompanied by an analysis of the potential related costs and benefits. This analysis should provide an overview of the findings regarding the problem to be dealt with, the options proposed and the potential impact of these options.

This section presents the cost-benefit analysis of the main policy options included in the draft RTS. The analysis is high level and of a qualitative nature.

A. Background and Problem identification

In its Report¹⁶ to the European Parliament and the Council under Article 75 of the CSDR, the European Commission analysed concerns raised on the implementation of specific rules of the CSDR, as published in the Official Journal in 2014. These concerns included access to commercial bank money (CoBM), where further action may be required to achieve CSDR's objectives in a more proportionate, effective and efficient manner.

In order to avoid settlement risks due to the insolvency of a settlement agent, the CSDR encourages settlement in central bank money (CeBM). However, CSDs' access to non-domestic central banks is subject to strict conditions and, therefore, in practice quite limited. To address this difficulty, CSDR also allows settlement using CoBM under certain conditions.

CoBM can be provided by the CSD itself if it is licensed to provide banking-type ancillary services or from a credit institution. CSDs providing banking-type ancillary services need to comply with additional requirements due to significant credit and liquidity risks for the CSD and its participants. When using a bank, the 2014 CSDR required CSDs to designate as settlement agent a limited-licence bank, i.e. a credit institution providing services only to CSDs and that has to comply with additional requirements to mitigate the risks. Otherwise, commercial credit institutions can be designated, but only if their settlement activity do not exceed certain thresholds. In some cases, those requirements proved to be too restrictive and costly (evidenced by the fact that only four CSDs

¹⁶ https://ec.europa.eu/finance/docs/policy/210701-csdr-report_en.pdf

have been authorised so far under CSDR to provide banking-type ancillary services and that no designated limited-licence bank exist).

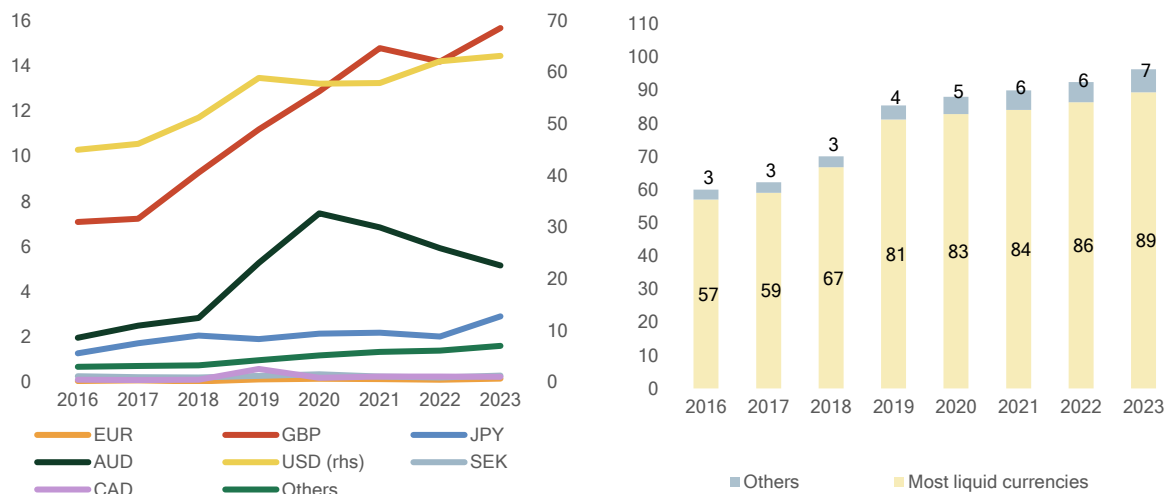
As a consequence, certain aspects of those rules were reviewed as part of the CSDR Refit legislative initiative, concluded with the publication of the amending regulation in the Official Journal in December 2023. In particular, as part of the measures set out to better support the efficiency of the settlement market, deepen capital markets and enhance cross-border settlement, the CSDR Refit introduced the following:

- The possibility for a CSD authorised to provide banking-type ancillary services (whose relevant risks are already monitored in accordance with the CSDR requirements) to offer services pertaining to the settlement of the cash payments to CSDs that are not authorised to provide such services, in a currency other than that of the country where the CSD seeking to use those services is established, irrespective of whether they are part of the same group of companies;
- The revision of the threshold below which CSDs that are not authorised to provide banking-type ancillary services should be able to settle the cash payments through accounts opened with CSDs authorised to provide banking-type ancillary services and through accounts opened with any credit institution, in any currency.

In relation to the second point, the CSDR Refit indicates that the EBA, in close cooperation with the members of the ESCB and with ESMA, should be entrusted with the revision of the threshold, which should consist of a maximum aggregate amount for such settlement of cash payments. The threshold should be calibrated in a way that promotes efficiency of settlement and allows CSDs to reach a level of cash settlement beyond which requiring a banking authorization or connecting to a central bank of issue becomes relevant, while ensuring financial stability and limiting risk implications that result from the derogations applicable under that threshold. The calibration of the threshold should take into account the need for a CSD to be able to settle payments in different currencies, especially for the most liquid currencies (identified¹⁷ as EUR, USD, GBP, JPY, AUD, SEK and CAD, see the figures below) while setting an appropriate limit that would be applicable to the CSD as a whole. The calibration of the threshold should also take into account the need to avoid an unintended shift away from settlement in CeBM.

¹⁷ In line with the list of most liquid currencies included in Annex I to the Commission Delegated Regulation (EU) 2022/2058.

Yearly settlement activity in foreign currencies of EEA CSDs, for selected (most liquid) currencies



Yearly settlement activity of EEA CSDs for selected (most liquid) foreign currencies, in EUR tn, split by currency (left graph) and on aggregate (right graph). Central Banks and no longer active CSDs are excluded. EEA States not included in 2017 and 2018 figures. In the left graph, left axes is for all currencies but USD and right axes is for USD only.

Sources: NCAs, ESMA.

B. Baseline scenario

According to the 2014 CSDR, Article 54(4) of the CSDR shall not apply to credit institutions that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions, calculated over a one-year period, is less than 1% of the total value of all securities transactions against cash settled in the books of the CSD and does not exceed a maximum of EUR 2,5 billion per year.

According to the information publicly provided by ECSDA and reported in paragraph 8 of the background section, six EU/EEA CSDs¹⁸ without banking license offer CoBM in conjunction with CeBM. Considering that no designated limited-licence bank exist at the moment, it is EBA understanding that those CSDs are providing CoBM, using commercial banks or CSDs with banking license operating as settlement agents, under the threshold set out in the 2014 CSDR (i.e. 1% of the total value of all securities transactions against cash settled in the books of the CSD and EUR 2,5 billion, per year).

¹⁸ ATHEX CSD, CSD Prague, Interbolsa, Malta Stock Exchange, Nasdaq CSD SE and Verðbréfamiðstöð Íslands hf..

C. Policy objectives

The specific objectives of these draft RTS are to determine the threshold referred to in Article 54(5) of the CSDR, i.e. the thresholds below which designated credit institutions and designated CSDs may not apply the requirements set out in Art. 54(4) and 54(4a), and to determine accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Article 54(2a).

Generally, these draft RTS aim to expand the possibility for CSDs to settle cash payments in several currencies. However, the threshold and the accompanying appropriate risk management and prudential requirements should be calibrated to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money and disincentives to the efforts of CSDs to settle in central bank money. In addition, the draft RTS should also take into consideration the implications for the market stability that could derive from a change of risk profile of CSDs and their participants. The accompanying appropriate risk management and prudential requirements should also consider the implications in terms of credit and liquidity risks for the CSDs, for the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions that are not subject to the requirements of Article 54(4) of the CSDR. The level playing field amongst CSDs in the Union should also be ensured.

D. Options considered, Cost-Benefit Analysis, Preferred option

Minimum level of the threshold

The current level of the threshold - below which designating non-banking CSDs (i.e. CSDs that are not authorized to provide banking-type ancillary services) should be able to settle the cash payments through accounts opened with designated banking CSDs (i.e. CSDs authorized to provide banking-type ancillary services) and through accounts opened with any designated credit institution with no obligation for them to apply the requirements set out in article 54(4) and 54(4a) of the CSDR – is set in the old CSDR Article 54(5) as the minimum of (i) one per cent of the total value of all securities transactions against cash settled in the books of the designating CSD over a one-year period and (ii) EUR 2,5 billion per year. With regards to the threshold level, the EBA considered two options.

Option 1a: Keeping the same threshold level as in the old CSDR

Option 1b: Increasing the minimum threshold level (minimum of (i) one and a half per cent of the total value of all securities transactions against cash settled in the books of the designating CSD over a one-year period and (ii) EUR 3,75 billion per year)

Keeping the same threshold level as in the old CSDR would have the benefit of not increasing the risks as this would not increase the overall settlement activity performed under this threshold. On the other hand, increasing the values of the threshold would have the benefit of allowing more

CSDs to address demands of issuances in foreign currencies and this could in fine support the development of the issuance markets. On the cost side, increasing the threshold would allow non-banking CSDs to provide more services with less costs as they would not be obliged to be authorized nor to apply for a banking license and neither to ensure the fulfilment of the requirements of Article 54(4) CSDR by their designated settlement agents. Nevertheless, in order not to increase significantly the risks and to ensure a level playing field across banking and non-banking CSDs, contrary to the old CSDR framework where banks operating below the threshold were exempted from meeting any requirement, the increase of the thresholds foreseen in option 1b would be accompanied by a requirement for banks to comply with - even if lower than full requirements of Article 54(4) of the CSDR - appropriate risk management and prudential requirements to mitigate risks.

Based on the above, **the Option 1b has been chosen as the preferred option** and the draft RTS increase the minimum threshold level (minimum of (i) one and a half per cent of the total value of all securities transactions against cash settled in the books of the designating CSD over a one-year period and (ii) EUR 3,75 billion per year).

Parameters of the threshold

As mentioned above, the current CSDR threshold – below which designating non-banking CSDs should be able to settle the cash payments through accounts opened with designated banking CSDs and through accounts opened with any credit institution with no obligation for them to apply the requirements set out in article 54(4) and 54(4a) of the CSDR – is the minimum of two parameters (i.e. one percent and EUR 2.5 billion, cf first option). With regards to the new threshold parameters, the EBA considered two options.

Option 2a: Keeping the type of parameters of the old CSDR threshold (i.e. one based on the total value of all securities transactions against cash settled in the books of the designating CSD and one being a fixed number)

Option 2b: Adding new parameters to the existing type of parameters of the old CSDR threshold

Option 1a would obviously give the benefit of simplicity for the designating CSD that would use the threshold and for competent authorities that would have to monitor the use of the threshold's related exemptions as, even though the level would change, the type of parameters would be similar to the current framework. This option would trigger no additional direct costs. On the other hand, adding variable parameters to the existing ones would also have benefits. Indeed, these parameters will allow for the threshold level to be case-specific as the formula for determining the threshold can take into account some risk elements of the designating non-banking CSD by adding parameters related to the proportion of settlement in liquid currencies and to the number of designated settlement agents. This tailoring will increase the level of the threshold proportionately to the decrease of the designating CSD settlement risk. Additionally, as stated in the first option

paragraph, the increase of the threshold would decrease some costs of compliance for the designating CSD.

Based on the above, **the Option 2b has been chosen as the preferred option** and the draft RTS add new parameters to the existing type of parameters of the old CSDR threshold.

Number of set of prudential requirements applicable to all institutions below the thresholds

The increase of the thresholds foreseen in option 1b would be accompanied by a requirement for designated banks operating below the threshold to comply with - even if lower than full requirements of Article 54(4) of the CSDR - appropriate risk management and prudential requirements to mitigate risks. With regards to these risk management and prudential requirements, the EBA considered two options.

Option 3a: Applying the same accompanying risk management and prudential requirements to all designated agents operating below the threshold

Option 3b: Applying different accompanying risk management and prudential requirements depending on the additional parameters described in the option 2 paragraph

Applying the same risk management and prudential requirements to all designated credit institutions operating below the threshold would have the benefit of simplicity. On the other hand, another possibility would be to further differentiate the accompanying risk management and prudential requirements on the basis of the amount of settlement activity operated below the threshold, by considering whether the activity is below the minimum level that the threshold can assume (i.e. one and a half per cent of the total value of all securities transactions against cash settled in the books of the designating CSD over a one-year period and EUR 3,75 billion per year) or the activity is above that minimum level.

More comprehensive risk management and prudential requirements ('advanced risk management and prudential requirements') would be applied to designated credit institutions that operate below the threshold but above the minimum level, thanks to the fact that the designating CSD would benefit from the additional parameters (i.e. the proportion of settlement in liquid currencies and to the number of designated settlement agents), and this would produce the benefit of mitigating the increase of the threshold linked to the addition of those two parameters. Similarly, lower risk management and prudential requirements ('basic prudential requirements') will be applied to designated agents that operate below the threshold with additional parameters being nil (i.e. below the minimum level that the threshold can assume, as described above). These two sets of accompanying risk management and prudential requirements would insert some proportionality in the incurred costs and ensure a level playing field across banking and non-banking CSDs.

Based on the above, **the Option 3b has been chosen as the preferred option** and the draft RTS apply different risk management and prudential requirements depending on whether the determination of the threshold level benefits from the use of the additional parameters described in option 2.

E. Conclusion

The draft RTS will determine the threshold referred to in Article 54(5) of the CSDR, i.e. the thresholds below which designated credit institutions and designated CSDs may not apply the requirements set out in Art. 54(4) and 54(4a), and to determine accompanying appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with Article 54(2a). For the stakeholders, the draft RTS are not expected to trigger significant costs. Overall, the impact assessment on the draft RTS suggests that the expected benefits are higher than the incurred expected costs.

5.2 Overview of questions for consultation

Q1. Do you agree with the proposed approach for determining the threshold referred to in Art. 54(5) of the CSDR?

Q2. Do you think that other elements should be taken into account in the proposed approach? If yes, which ones?

Q3. Do you agree with the proposed levels set out in the proposed approach for the different parameters?

Q4. Do you agree with the proposed basic risk management and prudential requirements? If no, please provide rationale and an alternative proposal.

Q5. Do you agree with the proposed level of settlement activity, which determines whether only basic or both basic and advanced risk management and prudential requirements are applied?

Q6. Do you agree with the proposed advanced risk management and prudential requirements? If no, please provide rationale and an alternative proposal.

5.3 Ad-hoc data collection template

In what follows, the template data fields are described, and instructions are provided on how to fill them in. Participation in this data collection is voluntary. CSDs should fill in all worksheets on a best effort basis. Where information is not available or not applicable, the corresponding cell should preferably be filled with “NA” or left empty. Also, CSDs must not fill in any arbitrary numbers to avoid error messages or warnings.

5.3.1 Banking activity of the CSD

Panel A - Banking-type ancillary services provided

Year	Banking-type ancillary service provided	CSD's exposure stemming from the provision of such a service on average per year	CSD's maximum exposure stemming from the provision of such a service per year	Revenue from the provision of such a service per year	Revenue from the provision of such a service per year, expressed as % of the total revenue of the CSD's overall activities (including banking services) per year
(one row per service and per year)	(one row per service and per year)	(in euros) (one row per service and per year)	(in euros) (one row per service and per year)	(in euros) (one row per service and per year)	(one row per service and per year)
[blank space]	[services explicitly listed in Section C of CSDR Annex + other]	[blank space]	[blank space]	[blank space]	[blank space]

Panel B1 - Cash settlement (in CSD own accounts)

Year	Type: - Settlement Instructions that are eligible to be included in the calculations of the indicators for the determination of the most relevant currencies pursuant to Article 12(1)(b) of CSDR or - Cash Distributions (e.g. cash dividend, interest payment)	Total value of cash settlement settled directly by the CSD through its own accounts in accordance with Article 40(2) of the CSDR	Total value of cash settlement settled directly by the CSD through its own accounts in accordance with Article 40(2) of the CSDR, expressed as % of the total value of cash settlement of all securities transactions settled against cash in the books of the CSD
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(one row per type and per year)	(one row per type and per year)	(in euros) (one row per type and per year)	(one row per type and per year)
[blank space]	[SI / CD]	[blank space]	[blank space]

Panel B2 - Cash settlement (via designated credit institution or designated banking CSD)

Year	Type: - Settlement Instructions that are eligible to be included in the calculations of the indicators for the determination of the most relevant currencies pursuant to Article 12(1)(b) of CSDR or - Cash Distributions (e.g. cash dividend, interest payment)	Designated credit institution or designated CSDs authorised to provide banking-type ancillary services pursuant to Article 54(3) of the CSDR	Total value of cash settlement settled through settlement agents (i.e. credit institutions and CSDs authorised to provide banking-type ancillary services pursuant to Article 54(3) of the CSDR)	Total value of cash settlement settled through settlement agents (i.e. credit institutions and CSDs authorised to provide banking-type ancillary services pursuant to Article 54(3) of the CSDR), expressed as % of the total value of cash settlement of all securities transactions settled against cash in the books of the CSD
(one row per credit institution/CSD, per type and per year)	(one row per credit institution/CSD, per type and per year)	(one row per credit institution/CSD, per type and per year)	(in euros) (one row per credit institution/CSD, per type and per year)	(one row per credit institution/CSD, per type and per year)
[blank space]	[SI / CD]	[blank space]	[blank space]	[blank space]

Panel C - CSD as provider/user of banking-type ancillary services

Would you provide banking-type ancillary services to other CSDs that request these services on an open and non-discriminatory basis?	If you are ready to provide banking-type ancillary services to other CSDs, how would you prevent a conflict of interest, in accordance with Art. 26(2) of the CSDR, taking into account that banking-type ancillary services would be provided for the CSD's own business as well as for the business of the other CSD?	Would you be interested in becoming a user of the banking-type ancillary services of other CSD(s) which have been authorized to provide banking-type ancillary services under the CSDR?	If you are interested in becoming a user of a designated banking CSD, do you think that there would be any new issues/risks to take into account?
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[Y/N] If Yes, please indicate whether you are ready from a business, operational and a risk perspective, and provide details on what banking-type ancillary services would your CSD consider adequate to provide to the other CSDs.	[blank space]	[Y/N] If Yes, please indicate whether you are interested in becoming user of a designated banking CSD in order to be able to expand your services in foreign currencies beyond the threshold defined in the CSDR, and provide details on what banking-type ancillary services your CSD would consider adequate to be offered from the designated banking CSDs.	[Y/N] If Yes, please provide details.
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5.3.2 Settlement in foreign ccy(s)

Panel A - Current settlement in foreign currencies

Year	Foreign currency used to settle securities transactions in your SSS	Specify whether settlement is provided in central bank money (CeBM) or commercial bank money (CoBM)	If settlement is provided in CoBM, indicate whether this choice of providing settlement in CoBM is based on accessibility, influenced by cost and/or due to other reasons.	If settlement is provided in CoBM, have there been unsuccessful attempts to access the relevant central bank(s) of issue?	Total value of settlement in instructions against payment settled in the systems of the CSD	Total value of cash distributions (e.g. cash dividend, interest payment)
(one row per currency and per year)	(one row per currency and per year)	(one row per currency and per year)	(one row per currency and per year)	(one row per currency and per year)	(in euros) (one row per currency and per year)	(in euros) (one row per service and per year)

[blank space]	[blank space]	[CeBM / CoBM] If CoBM, please indicate whether the cash settlement is provided through your own account, via a designated credit institution(s) acting as settlement agent(s) (please specify the name(s)) or via a banking CSD(s) acting as settlement agent(s) (please specify the name(s))	Please provide details and indicate the reasons.	[Y/N] If Yes, please provide details and indicate the reasons.	[blank space]	[blank space]
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Panel B - Envisaged future settlement in foreign currencies

Foreign currency	Do you have any plans to increase the offer of settlement in this currency to your participants in the next 3-5 years?	Specify whether settlement will be provided in central bank money (CeBM) or commercial bank money (CoBM) for this currency	If settlement will be provided in CoBM, would the threshold level set out in the old CSDR framework (i.e. 1% and EUR 2,5 billion) allow you to address your envisaged needs in commercial bank money for this currency?	If settlement will be provided in CoBM, will you need a settlement agent (i.e. a designated credit institution or designated CSDs) for the sole purpose of obtaining a cash account to allow you to process corporate actions/events in this foreign currency?	If settlement will be provided in CoBM via a designated banking CSD, which banking-type ancillary services will you use and which safeguards will you implement (in relation to new issues/risks that should be taken into account)?	Do you think that there are other limitations beyond the threshold level set out in Art. 54(5) of the CSDR, which may hamper the development of the business related to settlement in this foreign currency?
(one row per currency)	(one row per currency)	(one row per currency and per year)	(one row per currency)	(one row per currency)	(one row per currency)	(one row per currency)

[blank space]	[Y/N] If Yes, please provide details and indicate an estimated annual volume/value of such transactions in aggregate form in euro.	[CeBM / CoBM] If CoBM, please indicate whether the cash settlement is provided through your own account, via a designated credit institution(s) acting as settlement agent(s) (please specify the name(s)) or via a banking CSD(s) acting as settlement agent(s) (please specify the name(s))	[Y/N] If No, which thresholds/ratios would appropriately address your envisaged needs in commercial bank money? Please justify your answer.	[Y/N] If Yes, please provide details.	[blank space]	[Y/N] If Yes, please provide details and indicate what you consider the most efficient ways to remove those limitations.
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