

Final Report

Draft RTS on the conditions for extensions of authorisation and the list of documents for applications for initial authorisations and extensions of authorisation under EMIR (Articles 14(6), 15(3), 17a(5) and 15a(2) of EMIR)

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1 Executive Summary

Reasons for publication

Regulation (EU) No 2024/2987 of the European Parliament and of the Council of 27 November 2024 amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets (EMIR 3), which has amended Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 (EMIR), introduces several measures to make EU clearing services and EU CCPs more efficient and competitive, notably by streamlining and shortening supervisory procedures for initial authorisation and extension of authorisation. For extensions of services and activities, Articles 15, 15a, 17 and 17a of EMIR now distinguish between a “normal extension” of authorisation procedure, an accelerated procedure, and changes that can benefit from an exemption from authorisation.

In accordance with Article 14(6), 15(3), 17a(5) and 15a(2) of EMIR, ESMA is mandated to develop four draft Regulatory Technical Standards (RTS) specifying: the list of documents that are to accompany an application for authorisation and an application for an extension of authorisation; the conditions for the accelerated procedure referred to in Article 17a(1), points (a) to (e), of EMIR and also specifying the procedure for consulting ESMA and the college on whether or not those conditions are fulfilled; and the type of extension of services or activities that could benefit from an exemption from authorisation.

ESMA shall submit those draft RTS to the European Commission within 12 months from EMIR 3 entry into force, i.e. by 25 December 2025.

ESMA conducted a public consultation on the draft RTS from 7 February until 7 April 2025, and received six responses, one of which was confidential. The final draft RTS presented in this Final Report take into account the feedback received through the public consultation.

In accordance with Articles 14(6), 15(3), 17a(5) and 15a(2) of EMIR, the draft RTS have been developed in close cooperation with the members of the ESCB. ESMA also sought the advice from the Securities and Markets Stakeholder Group (MSG).

Contents

This Final Report presents the final draft RTS prepared by ESMA. Section 3 explains the background to ESMA’s proposals. Section 4 outlines ESMA’s proposal to specify the conditions for the accelerated procedure under Article 17a of EMIR and the typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure. Section 5 presents ESMA’s proposal for the procedure for consulting ESMA and the college on whether or not those conditions, under Article 17a of EMIR, are fulfilled. Section 6 sets out ESMA’s proposal for the type of extension that could benefit from the exemption from authorisation under Article 15a of EMIR. Section 7 covers ESMA’s proposal concerning the frequency of notification of exemptions under Article 15a of EMIR. Section 8 presents ESMA’s proposal with regard to the list of required documents and

information that are to accompany an application for initial authorisation of a CCP under Article 14 of EMIR, and an application for extension of authorisation under Article 17 of EMIR and under Article 17a of EMIR. Finally, Section 9 contains all the relevant annexes (Annex I provides the legislative mandate for the development of the draft RTS; Annex II contains the cost-benefit analysis; Annex III includes the advice of the Securities and Markets Stakeholder Group; Annex IV provides the list of respondents to the public consultation; and Annex V contains the final draft RTS).

Next Steps

This Final Report, including the final draft RTS presented in Annex V, will be submitted to the European Commission. The European Commission has three months to decide whether to adopt the RTS in the form of a Commission Delegated Regulation. Following the adoption, they are then subject to non-objection by the European Parliament and the Council.

2 Legislative references and abbreviations

AMLD	Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU
CCP	Central counterparty
Delegated Regulation 152/2013	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
Delegated Regulation 153/2013	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
EMIR	Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories
EMIR 3	Regulation (EU) No 2024/2987 of the European Parliament and of the Council of 27 November 2024 amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC
Implementing Regulation 1249/2012	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

ITS

Implementing Technical Standards

NCA

National competent authority

RTS

Regulatory Technical Standards

SFD

Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems

3 Introduction

1. Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024¹ (EMIR 3), which has amended Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012² (EMIR), introduces several measures to make EU clearing services and EU CCPs more efficient and competitive, notably by streamlining and shortening supervisory procedures for initial authorisations and extensions of authorisation, including:
 - a. An obligation for EU CCPs to submit all applications for initial authorisation (Article 14 of EMIR) and extension of authorisation (Article 15 of EMIR) via a CCP Central database set-up and maintained by ESMA pursuant to Article 17c of EMIR.
 - b. The introduction of revised and shortened timelines and procedures for these applications.
 - c. In relation to extensions of authorisation: the distinction between the normal procedure (under Article 17 of EMIR), an accelerated procedure (under Article 17a of EMIR), and changes that can benefit from an exemption from authorisation (Article 15a of EMIR).
2. In this context, ESMA has been empowered to prepare four draft Regulatory Technical Standards (RTS) further specifying the content of the different applications and the criteria for applying the different procedures:
 - a. Under Article 14(6) of EMIR, ESMA is mandated to develop draft RTS specifying the list of required documents that are to accompany an application for authorisation.
 - b. Under Article 15(3) of EMIR, ESMA is mandated to develop draft RTS further specifying the list of required documents that are to accompany an application for an extension of authorisation.
 - c. Under Article 17a(5) of EMIR, ESMA is mandated to develop draft RTS further specifying the conditions for the accelerated procedure referred to in Article 17a(1), points (a) to (e), of EMIR and also specifying the procedure for consulting ESMA and the college according to Article 17a(3) of EMIR on whether or not those conditions are met. ESMA is also mandated to specify whether there are typical extensions of services and activities that could be considered to fall under the accelerated procedure.

¹ Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024 amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets; OJ L, 2024/2987, 4.12.2024.

² Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories; OJ L 201, 27.7.2012, p. 1–59.

- d. Under Article 15a(2) of EMIR, ESMA is mandated to develop draft RTS specifying the type of extension of services or activities that could benefit from the exemption from authorisation and the frequency of notification of the exemption.
3. Having noted that all these mandates relate to content or conditions for the applications for initial authorisation and extension of authorisation, ESMA has deemed relevant to group such mandates under a single Consultation Paper and a single set of draft RTS.
4. For the avoidance of doubt, ESMA is also empowered under Articles 14(7) and 15(4) of EMIR to prepare draft Implementing Technical Standards (ITS) specifying the electronic format of respectively the application for initial authorisation and the application for extension of authorisation. However, these two mandates will be addressed in a separate Consultation Paper/Final Report.

4 RTS on the conditions for the accelerated procedure under Article 17a of EMIR

4.1 Conditions for applying the accelerated procedure

4.1.1 Condition (a) (Article 17a(1)(a)): Absence of significant adaptation of the CCP's operational structure

ESMA initial proposal

5. ESMA proposed that the parameters to consider when assessing whether the condition under Article 17a(1)(a) of EMIR is fulfilled (i.e. the extension does not result in the CCP needing to adapt significantly its operational structure, at any point in the contract cycle), would be:
 - a. the CCP does not intend to clear physically settled contracts where it currently only offers cash settlement for contracts with the same risk characteristics; and
 - b. the CCP intends to clear contracts that do not involve a change in the novation mechanism, from open offer to novation or vice versa, and from pre-funded to non-prefunded novation or vice versa.

Feedback from respondents

6. While not opposing the first parameter (a) on the change from cash to physical settlement, a majority of respondents expressed concerns with the reference to “contracts with the same characteristics”, arguing that it is too vague and open to interpretation. A number of respondents suggested aligning the definition with existing classifications, mentioning for example the ESMA public register on authorized CCPs.
7. Regarding parameter (b), there is a general disagreement among respondents that any change to the novation mechanisms should be considered a significant adaptation of a CCP's operational structure.
8. In fact, a majority of respondents argued a move from novation to open offer, which is considered as increasing the CCP's risk, should be captured under the accelerated procedure, while the opposite change would simply be exempted from extension of authorisation.
9. Finally, one respondent suggested that for the purpose of this condition, the draft RTS should consider including an extension of the CCP's clearing hours that would significantly impact the IT batches or the CCP's collateral management schedule.

ESMA assessment of feedback

10. ESMA has taken note of the concerns received in relation to condition (a). In particular, ESMA notes some concerns related to the reference to “contracts with the same characteristics”, when introducing a change from cash to physical settlement (point (a)).

11. ESMA is of the view that for derivatives referencing a given type of underlying asset, the introduction of physical settlement should be captured through the standard procedure, to take into account the difference in risk and operational management.
12. Therefore, to clarify the intention, ESMA suggests reformulating this condition by referring to a change from cash to physical settlement for derivatives referencing the same *type of underlying asset*.
13. In relation to point (b) referring to changes in the novation mechanisms, in order to alleviate the concerns expressed, ESMA suggests lowering the two proposed conditions by making them unidirectional, recognising the higher risks associated with one approach over the other. In other words, a change in the novation mechanism would need to go through the standard procedure where a CCP goes from novation to open offer, or from pre-funded to non-prefunded novation.

4.1.2 Condition (b) (Article 17a(1)(b)): Liquidated in the same manner as or together with contracts already cleared by the CCP

ESMA initial proposal

14. In its Consultation Paper, ESMA proposed that the parameters to consider when assessing whether the condition under Article 17a(1)(b) of EMIR is fulfilled (i.e. the extension does not include offering contracts that cannot be liquidated in the same manner as or together with contracts already cleared by the CCP) would be:
 - a. The CCP intends to clear contracts that do not necessitate the introduction of a new liquidation process; and
 - b. The CCP intends to clear contracts that do not involve the introduction of a new default fund or the segmentation or compartmentalisation of the existing default fund or the introduction of a new liquidation group within the existing default fund.

Feedback from respondents

15. Respondents expressed a number of concerns with the proposals made by ESMA in relation to condition (b).
16. First, two respondents argued that the use of “and” between the two parameters under Article 3(1), points (a) and (b), of the draft RTS would contradict the Level 1. They claim that the Level 1 intention would be better reflected with an “or” and that such stricter drafting would limit the use of the accelerated procedure.
17. In addition, a majority of respondents disagree with the drafting of point (b), arguing that (i) the introduction of a parameter linked to the default fund structure may go beyond the Level 1 mandate, and that (ii) the reference to liquidation groups may disincentivise CCPs to segregate their default fund and reduce incentives to launch products improving default management. Most respondents therefore suggest removing this parameter.

ESMA assessment of feedback

18. ESMA has taken note of the comments received on the proposed parameters to consider when assessing the condition set out under Article 17a(1)(b) of EMIR.
19. Regarding the introduction of a new liquidation process (point (a)), ESMA suggests further clarifying what could constitute the introduction of a new liquidation process, by modifying the list set out under paragraph 2. For the purpose of condition (b), a liquidation process should thus be understood as one of the following:
- a. The introduction of an auction mechanism, where no auction mechanism exists;
 - b. The introduction of direct sales, where direct sales mechanism does not exist;
 - c. The introduction of order book or Request For Quote mechanism, where neither exists;
 - d. The introduction of forced allocation where it currently does not exist.
20. Regarding point (b) on the introduction of a new default fund or of a new liquidation group within the existing default fund, ESMA is of the view that these elements form an inherent part of the liquidation process of a CCP by ensuring that the CCP has the financial resources to continue liquidating positions in an orderly manner, and, therefore, do not go beyond the Level 1 mandate. Furthermore, ESMA maintains that the inclusion of the introduction of a new liquidation group or default fund segment under this point is necessary to avoid any unlevel playing field between CCPs with different waterfall structures (i.e. CCPs with multiple default funds vs. CCPs with a single default fund), and thus to ensure equal treatment across EU CCPs. ESMA therefore proposes to leave point (b) unchanged.

4.1.3 Condition (c) (Article 17a(1)(c)): Absence of material new contract specifications

ESMA initial proposal

21. ESMA initially proposed that the parameters to consider when assessing whether the condition under Article 17a(1)(c) of EMIR is fulfilled (i.e. the extension does not result in the CCP needing to take into account material new contract specifications) would be the following:
- a. the CCP does not intend to clear contracts traded OTC where it currently only clears these contracts that are exchange traded, and vice versa;
 - b. The CCP does not intend to introduce a new type of derivative (i.e. futures, options, swaps and forwards) to existing contracts; and
 - c. The CCP intends to clear contracts that do not involve settlement in a new currency where the settlement in the new currency requires the introduction of new liquidity or payment arrangements.

Feedback from respondents

22. Most respondents welcomed ESMA's intention to clarify this condition but raised some targeted concerns.
23. A number of respondents noted the lack of clarity of the notion of "contracts" used throughout the text, and recommended that ESMA clarifies the interpretation of this term, for example by referring to the categories used by ESMA in its public register.
24. In relation to Article 4(1)(a) of the draft RTS, some respondents claimed that a change in respect of clearing contracts traded OTC where a CCP only clears exchange traded contracts, and vice versa, should not require a 'standard' extension of authorisation, or even an accelerated procedure. They suggested removing this parameter.
25. In relation to Article 4(1)(b) of the draft RTS, respondents argued that the current reference to "existing contracts" would unnecessarily require CCPs to go through the full extension of authorisation process when introducing for example options on a class of instruments for which the CCP already clears futures, while already also clearing options and futures on several different classes of financial instruments. Some respondents suggested clarifying this condition, for example by replacing "existing contracts" with "types of derivatives already cleared by the CCP".
26. Regarding Article 4(1)(c) of the draft RTS, some respondents asked for further clarification that the introduction of contracts involving settlement in a new currency but that do not require introduction of new liquidity or payment arrangements are considered as non-material.

ESMA assessment of feedback

27. ESMA has taken note of the comments received on the proposed parameters to consider when assessing the condition set out under Article 17a(1)(c) of EMIR.
28. First, ESMA proposes to clarify (under Article 4 of the draft RTS) that the introduction of (i) derivatives referencing a new type of underlying asset or (ii) a new type of non-derivatives instruments should be subject to the "standard" extension of authorisation procedure under Article 17 of EMIR.
29. As regards the introduction of derivatives referencing a new type of underlying asset, ESMA is of the view that the concept of a "type of underlying asset" in relation to derivatives is well known and already used as it is referred to in Article 2(6) of EMIR, which defines "class of derivatives" as *"a subset of derivatives sharing common and essential characteristics including at least the relationship with the underlying asset, the type of underlying asset, and currency of notional amount"*.
30. For non-derivatives instruments (i.e. financial instruments that are not derivatives and non-financial instruments), given the diversity of products that could be included, ESMA suggests introducing a more specific list of types of non-derivatives instruments, whereby the introduction of a new type would be subject to the standard extension of authorisation procedure under Article 17 of EMIR.
31. Regarding the change between exchange-traded contracts and OTC contracts, ESMA does not agree with the respondents that such a change should not require a "standard"

extension of authorisation under Article 17 of EMIR or even an accelerated extension of authorisation under Article 17a of EMIR. Indeed, ESMA is of the view that a change from exchange-traded contracts to OTC contracts, and vice versa, e.g. the introduction of swaps for a given type of derivative, where the CCP currently only clears futures on that type of derivative, constitutes material new contract specifications implying changes to the CCP's risk framework, and thus, such a change should be subject to the "standard" extension of authorisation procedure under Article 17 of EMIR.

32. In addition, ESMA understands the concerns expressed by respondents regarding the term "contracts". Therefore, in respect of derivatives, ESMA proposes to clarify that the point on OTC vs. non-OTC derivatives should apply at the level of derivatives referencing the same type of underlying asset.
33. Similarly, the move from OTC to non-OTC within a type of non-derivatives instruments set out in the list should trigger the standard extension of authorisation procedure.
34. Finally, as regards the new type of derivative (point (b)) and the settlement in a new currency (point (c)), ESMA has taken note of the respondents' concerns, and in order to reduce regulatory burden on CCPs, proposes deleting these two points.

4.1.4 Condition (d) (Article 17a(1)(d)): No material new risks nor significant increase of the CCP's risk profile

ESMA initial proposal

35. In its Consultation Paper, ESMA proposed that the parameters to consider when assessing whether the condition under Article 17a(1)(d) of EMIR is fulfilled (i.e. the extension does not result in the introduction of material new risks or significantly increase the CCP's risk profile) would be the following:
 - a. The CCP intends to clear contracts that do not reference underlyings issued by sovereign issuers, where it currently only clears contracts referencing underlyings issued by corporates, or vice versa, (e.g. CDS sovereigns where the CCP currently only clears CDS on corporates or vice versa);
 - b. The CCP intends to clear contracts that do not reference individual issuers where the CCP currently only clears contracts referencing indices;
 - c. The CCP does not intend to clear contracts that do reference a new risk factor type (i.e. volatility, dividends, correlation) as primary underlying;
 - d. The CCP intends to clear contracts that do not reference as underlyings new currencies involving de-pegging or convertibility risks, where the CCP does not already clear as underlying any currencies with the same risk; and
 - e. The CCP intends to clear contracts that do not involve accessing a new type of liquidity resource as referred to under Article 33(1) of Regulation (EU) 153/2013,

and do not involve new liquidity needs linked to exposure to a new category of entity as referred to under Article 32(4) of Regulation (EU) 153/2013.

Feedback from respondents

36. In relation to this condition (d), respondents generally insisted that only changes introducing material new risks to the CCP should be captured under the regular extension of authorisation procedure. As a result, respondents made a number of suggestions in relation to the proposed parameters for condition (d), highlighting the scenarios which in their views should be subject either to the accelerated procedure or to the exemption.
37. Regarding point (a), a few respondents argued that, for proportionality, the move from sovereign to corporates should be subject only to an accelerated procedure, while a move from corporates to sovereign contracts should be exempted in accordance with Article 15a of EMIR.
38. Regarding point (b), respondents claimed that an extension from single names to index should qualify for the accelerated procedure, while an extension from indices to single names should be exempted.
39. In relation to point (c), a few respondents argued that the introduction of a new risk factor to existing contracts should be subject only to the accelerated procedure.
40. With regard to point (d), a few respondents argued that the introduction of a new currency should not be considered by itself as a material change, in particular where it fits the existing framework, and does not introduce a new settlement risk. One respondent claimed that in fact the introduction of currencies that are freely convertible should qualify for the exempted procedure.
41. Finally, on point (e), most respondents argued that changes in liquidity resources should not require an extension of authorisation if they fit within the existing risk framework and do not introduce new risks. Respondents noted in particular that the liquidity resources set out under Article 33(1) of Delegated Regulation 153/2013 are permitted under EMIR, and therefore a change in their composition should not be submitted to any approval procedure.

ESMA assessment of feedback

42. ESMA has taken note of the comments received on the proposed parameters to consider when assessing the condition set out under Article 17a(1)(d) of EMIR.
43. With regard to point (a) on contracts referencing corporate issuers vs. sovereign issuers, ESMA is of the view that such an extension requires changes to the risk management framework of the CCP, to take into account new risks such as issuer risk. Therefore, ESMA maintains that the introduction of contracts referencing corporates where the CCP currently only clear contracts referencing sovereign issuers (e.g. introduction of CDS on corporates where the CCP currently only clears CDS on sovereigns) should be subject to the “standard” extension of authorisation procedure under Article 17 of EMIR, given the greater risks associated with the introduction of contracts referencing corporates.

44. However, ESMA proposes to modify the drafting of this Article to further clarify that this condition would cover:
- a. The clearing of corporate debt instruments, where in respect of debt instruments, the CCP currently only clears sovereign debts instruments;
 - b. The clearing of credit derivatives referencing corporates, where in respect of credit derivatives, the CCP currently only clears credit derivatives referencing sovereigns; and
 - c. The clearing of interest rate derivatives on corporates, where in respect of interest rate derivatives, the CCP currently only clears interest rate derivatives on sovereigns.
45. Having considered the objective to reduce the burden on CCPs, ESMA proposes that the introduction of contracts referencing sovereigns where the CCP currently only clears contracts referencing corporates (e.g. the introduction of CDS on sovereigns where the CCP currently only clears CDS on corporates) should be subject to the accelerated procedure under Article 17a of EMIR, provided that the other conditions for the accelerated procedure are fulfilled.
46. As regards point (b) on contracts referencing individual issuers vs indices (e.g. the introduction of single stock equity derivatives where the CCP currently only clears index derivatives), ESMA is of the view that such an extension also necessitates material changes to the risk management framework of the CCP, to take into account new risks such as issuer risks. Nevertheless, ESMA proposes to slightly modify the drafting to clarify that this condition should cover both:
- a. The clearing single-name credit derivatives, where, in respect of credit derivatives, the CCP currently only clears index credit derivatives; and
 - b. The clearing of single-stock equity derivatives, where, in respect of equity derivatives, the CCP currently only clears index equity derivatives.
47. As regards the introduction of (i) index credit derivatives where the CCP already clears single-name credit derivatives, and (ii) index equity derivatives where the CCP already clears single-stock equity derivatives, ESMA is of the view that such extensions should qualify for the exemption under Article 15a of EMIR.
48. Regarding points (c), (d) and (e), ESMA has taken note of the respondents' concerns, and in order to reduce regulatory burden on CCPs, proposes deleting these three points.

4.1.5 Condition (e) (Article 17a(1)(e)): No new settlement or delivery mechanism or service which involves establishing links with a different securities settlement system, CSD or payment system which the CCP did not previously use

ESMA initial proposal

49. ESMA initially proposed that the parameters to consider when assessing whether the condition under Article 17a(1)(e) of EMIR is fulfilled (i.e. the extension does not include offering a new settlement or delivery mechanism or service which involves establishing links with a different securities settlement system, CSD or payment system which the CCP did not previously use) would be the following:
- a. The CCP does not intend to establish a link (direct or indirect) with a new securities settlement system, CSD or payment system which the CCP does not already use; and
 - b. the CCP does not intend to introduce settlement or payment in commercial bank money where the CCP currently only uses central bank settlement or payment.

Feedback from respondents

50. Several respondents suggested that establishing a link with a new securities settlement system, CSD, or payment system should be subject to an accelerated procedure rather than a regular extension approval. One respondent suggested that such parameter be redrafted to refer to a new settlement system or process, rather than an individual CSD.
51. In addition, in respect of parameter (b), two respondents suggested that introducing settlement or payment in commercial bank money where the CCP currently uses central bank settlement or payment does not require a regular extension approval procedure under Article 17 of EMIR and should instead be subject to an accelerated procedure under Article 17a of EMIR.

ESMA assessment of feedback

52. While taking into consideration the concerns expressed in relation to parameter (a), ESMA notes that Article 17a(1)(e) leaves little flexibility, and explicitly refers to *“offering a new settlement or delivery mechanism or service which involves establishing links with a different securities settlement system, central securities depository or payment system which the CCP did not previously use”*. However, taking into account the objective to limit the burden on CCPs, ESMA proposes to limit parameter (a) to direct links only given the greater impact of direct links on operations of the CCP and the need to consider new liquidity providers and the associated risks.
53. In contrast, where the CCP establishes (i) an indirect link with a new securities settlement system, CSD or payment system or (ii) a direct link with a securities settlement system, CSD or payment system where in respect of the same securities settlement system, CSD or payment system the CCP already has an indirect link, such extension should be subject to the accelerated procedure under Article 17a of EMIR.
54. In relation to parameter (b), ESMA is of the view that the introduction of settlement or payment in commercial bank money where the CCP only relies on central bank settlement should be captured by a standard procedure, in order to cater for the different risk profile and operational arrangement, in particular where new currencies are cleared. Therefore, ESMA proposes to leave parameter (b) unchanged.

55. Conversely, where the CCP introduces central bank settlement, such extension should be subject to the accelerated procedure under Article 17a of EMIR.

4.2 Typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure

56. Under the empowerment set out under Article 17a(5) of EMIR, ESMA is tasked to list and specify whether there are typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure set out in Article 17a of EMIR.

ESMA initial proposal

57. In its Consultation Paper, ESMA established the following list of typical extensions that could be considered in principle to fall under the accelerated procedure:

- a. Clearing IRS in “currency A” when already clearing IRS in other currencies and already handling payments in “currency A”;
- b. Clearing electricity commodity derivatives in a non-European time zone in “currency B” when already clearing electricity commodity derivatives in Europe, and already clearing products in “currency B”;
- c. Clearing covered bonds, when already clearing corporate bonds in the same currency;
- d. Clearing equity futures in “currency C” when already clearing equity futures in other currencies, and already handling payments in “currency C”;
- e. Clearing equity options in “currency D” when already clearing equity options in other currencies, and already handling payments in “currency D”;
- f. Clearing American options on single stocks when already clearing European options on single stocks;
- g. Clearing foreign exchange futures on a new currency pair without pegging/convertibility risks and not generating payments in a new currency, when already clearing foreign exchange futures;
- h. Clearing non-deliverable foreign exchange forwards on a new currency pair without de-pegging/convertibility risk, when already clearing deliverable or non-deliverable foreign exchange forwards.

Feedback from respondents

58. Most respondents expressed concerns with the proposed list of typical extension that could be considered in principle to fall under the accelerated procedure. In fact, respondents argued that many if not all of the proposed examples should not fall under the accelerated procedure but should rather be considered as BaU activities that do not significantly impact the CCP’s risk profile.

59. As a result, most respondents suggested moving the examples provided under points (a) to (h) to Article 10 of the draft RTS. Some respondents included examples of what CCPs consider as extensions that should benefit from the accelerated procedure.

ESMA assessment of feedback

60. Having noted the feedback from the respondents to the consultation, and in light of the changes ESMA has made to the conditions for the accelerated procedure, ESMA has also revised the list of the typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure.

61. The revised list of typical extensions that could be considered in principle to fall under the accelerated procedure thus consists of:

- a. Clearing options, where in respect of derivatives referencing the same type of underlying asset, the CCP already clears futures;
- b. Establishing an indirect link with a new securities settlement system, CSD or payment system which the CCP does not already use;
- c. Establishing a direct link with a securities settlement system, CSD or payment system where in respect of the same securities settlement system, CSD or payment system the CCP already has an indirect link;
- d. Clearing instruments that involve settlement or payment in a new currency without establishing a direct link with a new settlement system, CSD or payment system and without introducing settlement or payment in commercial bank money where the CCP currently performs settlement or payment only in central bank money;
- e. Introducing central bank money settlement or payment where the CCP currently performs settlement or payment only in commercial bank money;
- f. Clearing instruments that involves accessing a new type of liquidity resource as referred to under Article 33(1) of Regulation (EU) 153/2013;
- g. Clearing sovereign debt instruments, where the CCP already clears corporate debt instruments;
- h. Clearing interest rate derivatives on sovereigns, where the CCP already clears interest rate derivatives on corporates; and
- i. Clearing credit derivatives on sovereigns, where the CCP already clears credit derivatives on corporates.

62. Furthermore, as suggested by the majority of the respondents to the consultation, most of the accelerated procedure cases set out in ESMA's initial proposal would now qualify for the exemption under Article 15a of EMIR (please see below).

5 RTS on the Procedure for consulting ESMA and the college under Article 17a of EMIR

63. In accordance with the mandate set out under Article 17a(5) of EMIR, the draft RTS should also specify the procedure for consulting ESMA and the college according to Article 17a(3) of EMIR on whether or not the conditions referred to in Article 17a(1) of EMIR are met.

ESMA initial proposal

64. ESMA proposed that the consultation procedure should follow the following principles:

65. Consultation of ESMA: Upon receipt of the CCP's application, ESMA should review the application for extension of authorisation against the conditions set out in Article 17a(1) of EMIR as further specified in the RTS, and indicate to the NCA whether it agrees that the application qualifies to be assessed under the accelerated procedure under Article 17a of EMIR within 12 working days of the acknowledgment of receipt of the application.

66. Consultation of the College:

a. Upon receipt of the CCP's application, the college members, including ESMA and the NCA, should similarly review the application for extension of authorisation against the conditions set out in Article 17a(1) of EMIR as further specified in the RTS, and submit their respective initial input to the co-chairs of the college and all other members of the college, within seven working days of the acknowledgment of receipt of the application, indicating whether they agree that the application qualifies to be assessed under the accelerated procedure under Article 17a of EMIR.

b. Where at least one college member, including ESMA or the NCA, disagrees that the application should be assessed under the accelerated procedure, the co-chairs of the college should endeavour to agree on a common view of the college (e.g. via a meeting, call or written procedure), no later than 12 working days of the acknowledgment of receipt of the application. Where a common view cannot be reached, the input from the college should be based on the majority view of the college members.

67. The NCA would then have three working days to finalise its assessment and decision, considering the input from both ESMA and the college. As provided under Article 17a(3) of EMIR, the final decision, on whether (i) the CCP's application qualifies or does not qualify to be assessed under the accelerated procedure, and (ii) whether to grant or refuse the extension of authorisation, rests with the NCA. ESMA considers that since the NCA is both a member of the CCPSC and a co-chair of the college, this timeline is sufficient as the NCA will have followed the discussions in both processes.

Feedback from respondents

68. Respondents generally agreed with the proposed procedure for consulting ESMA and the college, however noting that it may not address duplications in the supervisory approval

process or regulatory burden and encouraging ESMA to make sure that this consultation process is as effective and efficient as possible.

ESMA assessment of feedback

69. ESMA welcomes the overall support with the proposed procedure for consulting ESMA and the college. While noting the concerns related to the complexity of the procedure, ESMA notes that such procedure is mandatory as per the Level 1, and that the proposed steps will ensure that the views of all relevant stakeholders (ESMA, college, NCAs) are appropriately considered while respecting the restricted timelines introduced by EMIR 3.

70. ESMA therefore suggests leaving its initial proposal unchanged.

6 RTS on the type of extension that could benefit from the exemption from authorisation under Article 15a of EMIR

71. Article 15a of EMIR introduces the possibility for some extensions of a CCP's business to new activities or services to be exempted from both the procedures set out under Article 17 and Article 17a of EMIR, where such an extension would not *"have a material impact on the CCP's risk profile"*.
72. Article 15a(2) of EMIR further empowers ESMA to specify both the type of extension of clearing services or activities that could benefit from such exemption and the frequency of the CCP's reporting of the use of the exemption to the registered recipients via the central database.

ESMA initial proposal

73. ESMA suggested establishing a list of "conditions" to be met for extensions of services or activities to benefit from the exemption. It was proposed that an extension of services or activities should be eligible for the exemption under Article 15a of EMIR where it would meet all of the following conditions:
- a. It fulfils all of the conditions for the accelerated procedure, as set out in Article 17a(1) of EMIR and as further specified in the RTS under Article 17a(5) of EMIR; and
 - b. It does not introduce a new option exercise style (i.e. European, American and Bermudan) to equivalent existing derivative contracts; and
 - c. It does not involve clearing contracts referencing securities with different seniority or secured or securitisation characteristics (i.e. covered, collateralised, secured or unsecured, asset- or mortgage-backed); and
 - d. It does not imply an extension of the clearing services to new geographical zones outside the EU, nor a significant extension of the CCP's clearing hours; and
 - e. It does not generate payments in a new currency; and
 - f. It does not reference a new currency as underlying; and
 - g. It does not involve establishing a direct link with a securities settlement system, CSD or payment system where the CCP currently only uses an indirect link with that securities settlement system, CSD or payment system, and vice versa; and
 - h. It does not involve introducing central bank settlement or payment where the CCP currently only uses settlement or payment in commercial bank money, and vice-versa.

Feedback from respondents

74. As a general comment, most respondents found the proposed list of conditions for exemption to be too narrow and restrictive, and a number of respondents suggested loosening the conditions to include more extensions that they consider as BaU activities.

75. Most respondents suggested removing or modifying the conditions that are seen as unnecessarily restrictive or detailed, to make sure that a higher number of typical extensions can be considered as BaU and exempt from extension of authorisation.
76. In details, the main concerns related to the following conditions, where according to most respondents:
- a. Condition (b): introducing new option exercise styles should be considered BaU if the CCP already handles similar exercise styles.
 - b. Condition (c): changes in the seniority of collateralisation arrangement should not be subject to any approval process.
 - c. Condition (d): extensions to new geographical zones or clearing hours should be exempt if they do not materially impact the CCP's risk profile.
 - d. Condition (f): adding a new currency as underlying should be exempt if the CCP already handles payments in that currency.
 - e. Condition (g): establishing a direct link with a securities settlement system, CSD or payment system where the CCP currently only uses an indirect link with that securities settlement system, CSD or payment system should be exempted under Article 15a of EMIR, as it does not have a material negative impact on the CCP's risk profile.
 - f. Condition (h): introducing central bank settlement or payment should be exempt if the CCP already uses commercial bank money.
77. In addition, respondents provided examples of additional typical extensions that should be exempt, in their view, from authorisation as they claimed they do not materially impact the CCP's risk profile. This would include in particular:
- a. Combination of characteristics: extending clearing for new contracts that combine characteristics of other contracts already cleared.
 - b. Clearing new ISINs with the same characteristics as existing ones.
 - c. New tenor: adding more granularity or extending the maximum tenor to a class of financial instruments already covered by the CCP's authorisation.
 - d. Change of type of settlement: changing settlement from physical delivery to cash settlement, in a currency already cleared by the CCP.
 - e. Minor modifications: modifying existing clauses of contracts, such as contract size, unit of trading, currency, expiry day.

ESMA assessment of feedback

78. ESMA has taken note of the comments received on the proposed conditions for the exemption from extension of authorisation under Article 15a of EMIR.
79. First, in light of the comments received, ESMA has re-considered the mandate set out under Article 15a(2) of EMIR, which empowers ESMA to further specify “the type of

extension of clearing services or activities that would not have a material impact on a CCP's risk profile". In particular, ESMA has noted that the mandate does not refer to the definition of specific conditions for benefiting from the exemption, but rather to "typical extensions". Given the above, ESMA suggests reformulating the proposed text so that it corresponds to a list of clear-cut, easily identifiable cases of typical extensions of authorisations that could benefit from the exemption under Article 15a of EMIR, as follows:

- a. Clearing instruments referencing new ISINs or indices with the same characteristics as the instruments already cleared by the CCP on different ISINs or indices;
- b. Clearing derivatives denominated in a new currency, where the CCP already clears derivatives referencing the same type of underlying asset denominated in a different currency and settles payments in that new currency in relation to other instruments; ;
- c. Clearing non-derivatives instruments denominated in a new currency, where the CCP already clears that type of non-derivatives instruments denominated in a different currency and settles payments in that new currency in relation to other instruments;
- d. Clearing FX derivatives on a new currency pair, where the CCP already clears FX derivatives and settles payments in the settlement currency of the new FX derivatives;
- e. Extending the maximum tenor of derivatives, where the CCP already clears derivatives referencing the same type of underlying asset with a shorter tenor;
- f. Introducing cash settlement for derivatives, where in respect of derivatives referencing the same type of underlying asset, the CCP already offers physical settlement;
- g. Introducing a new option exercise style (European, American, Bermudan), where in respect of derivatives referencing the same type of underlying asset, the CCP already clears options with a different option exercise style;
- h. Clearing futures, where in respect of derivatives referencing the same type of underlying asset, the CCP already clears options;
- i. Clearing forwards, where in respect of derivatives referencing the same type of underlying asset, the CCP already clears swaps, or vice-versa;
- j. Changing novation mechanism from open offer to novation;
- k. Changing novation mechanism from non-prefunded novation to pre-funded novation;
- l. Clearing index credit derivatives, where the CCP already clears single-name credit derivatives;
- m. Clearing index equity derivatives, where the CCP already clears single-stock equity derivatives;
- n. Clearing covered bonds, where the CCP already clears corporate bonds in the same currency; and
- o. Offering existing clearing services in a new jurisdiction.

80. However, such cases are not considered in isolation; all other factors must remain unchanged for the CCP to benefit from the exemption under Article 15a of EMIR. For

instance, if the CCP proposes switching the novation mechanism from open offer to novation (point (j) above), this extension is exempt as long as it does not trigger the accelerated procedure under Article 17a or the standard procedure under Article 17 of EMIR (i.e. provided that the proposed extension does not introduce derivatives referencing a new type of underlying asset, the introduction of a new liquidation process, etc.).

81. For the avoidance of doubt, where the CCP's proposed extension qualifies for the exemption, (i) the CCP is not required to submit an application for an extension of authorisation pursuant to the procedure set out in Article 17 of EMIR or the procedure set out in Article 17a of EMIR, and (ii) no ex-ante checks or approvals by the NCA are required. Instead, such extensions only require an ex-post notification and review as per Articles 15a and 21 of EMIR.

7 RTS on the Frequency of notification under Article 15a of EMIR

82. The empowerment under Article 15a(2) of EMIR also requires ESMA to specify the frequency with which a CCP is required to notify the use of the exemption from authorisation, including the service or activity it intends to provide. This frequency is not to exceed once every three months.

ESMA initial proposal

83. In its Consultation Paper, ESMA proposed a three-month reporting frequency, having noted that it should be sufficiently flexible to allow the registered recipients to be informed of any non-material extension of services or activities on a regular basis, while limiting the burden on CCPs.

Feedback from respondents

84. Out of the four respondents who addressed this question, two expressed support to the proposed three-month frequency, while noting the limitations embedded in the Level 1 and the increased burden and costs for EU CCPs.

85. On the contrary, two respondents (including one industry association) strongly disagreed with the proposed reporting frequency. Both respondents expressed concerns in relation to the additional operational burden and increased compliance costs for CCPs, and suggested that a 12-month reporting frequency would be sufficient.

ESMA assessment of feedback

86. Having noted the concerns related to the burden and costs for CCPs, ESMA suggests slightly reducing the number of yearly reports to be provided from four to two, hence introducing a six-month frequency for the notification of changes that benefitted from the exemption from authorisation.

8 RTS on the list of required documents that are to accompany an application for authorisation of a CCP and an application for extension of an existing authorisation

8.1 Chapter I – General requirements

ESMA initial proposal

87. In this first chapter ESMA specified the language requirements applicable to all applications and the need to provide each document submitted for any application with a unique reference number. Given that all applications are centrally processed, they are required to be submitted in a language customary to international finance. Furthermore, ESMA proposed applications to be accompanied by a statement from the CCP's board certifying the accuracy and completeness of all submitted documents. Considering that in some Member States fees may apply when an entity applies for authorisation or extension of an existing authorisation and in some cases they must be paid before the authorisation or the extension thereof is granted, ESMA suggested that the applicant CCP provide a proof of payment of the fees related to the application.

Feedback from respondents

88. While language and fees provisions were broadly accepted, all respondents raised concerns primarily around the board certification requirement. Several respondents proposed alternative governance confirmations that, according to these respondents, would be less burdensome.
89. The key concerns raised in relation to the board certification requirement include the disproportionate burden, in particular for routine or technical changes, the misalignment with the role of boards, especially in two-tier board structures, and the risk of slowing down decision making processes for model changes.
90. Some respondents suggested that ESMA explores the possibility of requiring confirmation that internal governance procedures have been completed, including the date of approval. Others proposed that certification is signed by the executive management, the relevant internal committees, or senior officers, rather than the board.
91. In relation to the proposal to submit an index and a correspondence table, the feedback reflects broad consensus that this requirement is clear and appropriate.

ESMA assessment of feedback

92. ESMA has taken note of the comments raised regarding the requirement to have a document approved by the board of the applicant CCP certifying the accuracy and veracity of all the documents submitted.
93. However, ESMA considers it essential to ensure that the responsibility of the applicant CCP is assumed in relation to the complete application. In order to provide for more flexibility while keeping the spirit of the requirement and similarly to the proposal in the RTS

on model validation, ESMA suggests replacing the board by *“the chief executive officer, or other person within the governance of the applicant CCP occupying a senior managerial position and engaging the responsibility of the CCP regarding the accuracy and veracity of all the documents submitted”*.

8.2 Chapter II – specific documentation and informational requirements for initial authorisation

General information

ESMA initial proposal

94. ESMA initial proposal aimed at allowing national competent authorities, ESMA and the college to identify the applicant CCP and gain a better understanding of corporate aspects of the applicant CCP such as the group structure, key details covering the ownership structure and close links. ESMA proposal included the request for a three-year business plan.
95. As part of the documents covering general information, ESMA proposal suggested applicant CCP to provide documents on the capital requirements set out in EMIR and in Delegated Regulation (EU) 152/2013 as well as on the applicant CCP compliance with EU anti-money laundering rules. Finally, the applicant CCP would be requested to include evidence that it has been notified as a system under the Settlement Finality Directive (Directive 98/26/EC).

Feedback from respondents

96. There was a broad consensus among respondents that the documentation and information requested seemed appropriate to enable the identification of the applicant CCP and the understanding of competent authorities and ESMA about the CCP as a company. All respondents agreed that no further document would be necessary.
97. One respondent however indicated that telephone numbers of individuals should not be requested.
98. Several respondents requested that Article 19 do not refer to Directive (EU) 2015/849 because this Directive does not include CCPs in its scope of application.

ESMA assessment of feedback

ESMA has taken note of the comments received and has amended some aspects of its initial proposal, in particular the wording relating to AML provisions. However, considering other precedents, ESMA has not amended its proposal regarding the contact details of the person in charge of an application.

Organisational requirements

ESMA initial proposal

99. In order for applicant CCPs to show compliance with organisational requirements set out in EMIR and in Delegated Regulation (EU) 153/2013, ESMA's proposal requested documents related to the governance arrangements of the applicant CCP, the risk management frameworks, the compliance function, rules applying to the applicant CCP's board and senior management, the remuneration policy, ICT systems, business continuity, record keeping and outsourcing arrangements. The proposal also included documents allowing the identification of senior management and of members of the board to a confirmation of their good repute and their experience. In order to ensure proportionality, ESMA's proposal did not require applicant CCPs to provide all documents used to assess the suitability and the good repute of senior management and of members of the board (such as criminal records, documents related to the good repute and experience, CVs, etc.) but to keep them at the disposal of the competent authority. Regarding the identity and the suitability of members and shareholders with qualifying holdings, ESMA's proposal requires the applicant CCP to submit a document which allows NCAs, ESMA and the college to identify these shareholders and members, and that confirms that members and shareholders with qualifying holdings are suitable.

Feedback from respondents

100. All respondents agreed with the documents and information requested. One respondent suggested that more guidance should be included in relation to the actions that the Competent Authorities may undertake after analysing the documents used to assess the suitability and good repute of senior management and board members, as well as the materials to evaluate the suitability of members and shareholders with qualifying holdings.

ESMA assessment of feedback

101. ESMA took note of the feedback received and in particular of the broad agreement with the initial proposal. ESMA also notes that EMIR 3 does not provide the mandate for ESMA to define further the steps to be taken by NCAs in relation to the suitability of members and shareholders with qualifying holdings.

Conduct of business rules

ESMA initial proposal

102. ESMA's proposal includes documents that an applicant CCP should submit to allow competent authorities, ESMA and the college to assess if the requirements related to the conduct of a CCP business set out in EMIR and in Delegated Regulation (EU) 153/2013 are respected by the applicant CCP. Requirements of conduct of business concern in particular the criteria that the applicant CCP would require from entities willing to become clearing members, how transparency on fees and on risks associated with the applicant CCP's business would be ensured and communication protocols, among others.

Feedback from respondents

103. Although respondents broadly agreed with ESMA proposal on the documents and information required to assess conduct of business, some respondents required clarity and

proportionality in relation to documents aiming at showing how applicant CCPs comply with transparency requirements.

ESMA assessment of feedback

104. ESMA has noted respondents request for proportionality and clarity in relation to transparency requirements in EMIR. ESMA is currently working to fulfil its mandate in Article 38(10) as modified by EMIR 3, in doing this ESMA will take into consideration feedback received to ensure a clear and proportionate approach.

Prudential requirements

ESMA initial proposal

105. ESMA's initial proposal in relation to the documents needed to assess how an applicant CCP complies with prudential requirements covers essential aspects of a CCP's financial stability and resilience. These requirements aim at ensuring that the applicant CCP will be able to withstand market shocks and defaults and cover: exposure management, margin requirements, default fund, liquidity risk controls, default waterfall, collateral requirements, investment policy, default procedures, model review, stress testing, and back testing and settlement.

Feedback from respondents

106. Respondents broadly agreed with ESMA's proposal. One respondent suggested as an area for improvement where ESMA could provide more detailed guidelines is on the specific formats and templates for the documents.

ESMA assessment of feedback

107. ESMA will produce draft ITS according to its mandate in EMIR 3.

8.3 Chapter III – documents for extensions of authorisation

Procedure under Article 17 of EMIR

ESMA initial proposal

108. Concerning applications that follow the procedure for the extension of an authorisation under Article 17 of EMIR, ESMA's initial proposal required to provide a description of the new service and activity, an assessment of the compliance of the new service or activity with relevant requirements set out in EMIR and in Delegated Regulation 153/2013; and, the documents relevant to the new service or activity that would have been provided under an initial authorisation. The objective of this proposal is to allow competent authorities, ESMA and the college to produce a full assessment, involving a comprehensive documentation review, to ensure that the applicant CCP would continue complying with all relevant requirements (set out in EMIR, in Delegated Regulation 153/2013 and in Delegated Regulation 152/2013) following the extension of authorisation.

Feedback from respondents

109. All respondents opposed the proposed documentation requirements for extension of authorisation under Article 45 of the draft RTS, describing them as excessive, disproportionate, and counterproductive to the goals of EMIR 3. The draft was seen as imposing initial authorisation-level burdens even for routine extensions, contrary to principles of proportionality, risk-based supervision, and innovation encouragement.
110. Respondents argued the draft RTS treats extension applications as if they were new CCP authorisation requests, which contradicts the intent of EMIR Article 17a(3) and undermines efficiency. The burden was seen as likely to discourage innovation, delay market expansion, and lead to strategic decisions to avoid or postpone service extensions.
111. Concerning the request for a business plan, all respondents objected as this was viewed as proprietary, speculative, and not relevant to supervisory risk evaluation. Regarding the implementation timelines respondents argued that only high-level milestones should be required. Full implementation plans at application stage were considered unnecessary. On the full EMIR compliance assessment there was a strong consensus that only provisions impacted by the extension should be reviewed as a full compliance assessment would be duplicative with the annual assessment under Article 21 of EMIR. Respondents suggested that only documentation changed or newly impacted by the extension should be required.
112. In relation to the system designation under SFD, respondents unanimously agreed that this requirement should be removed. According to them, there is no mechanism under the SFD for partial designation extensions.

ESMA assessment of feedback

113. ESMA recognises the importance of ensuring that requirements are both effective and proportionate. In response to the feedback received regarding the business plan and timeline, ESMA has refined these elements to enhance clarity and streamline the process.
114. Concerning the document requested which would have been requested under initial authorisation, ESMA has also significantly simplified and introduced proportionality. This simplification has been introduced by focusing the requests for documents on the prudential requirements, which are those looking at the robustness of the CCP and its ability to stand market shocks. Therefore, in the case of prudential requirements, ESMA's proposal is to keep a similar level of detail as in its initial proposal with the caveat that if one document which has not changed has previously been submitted through the central database that document would not have to be submitted again. Furthermore, in relation to the assessment of compliance with EMIR requirements, ESMA confirms that this assessment should only be provided in the case of requirements which are impacted by the extension. Finally, concerning other documents, ESMA has amended its initial proposal

to request only those documents which would change as a result of the extension of authorisation.

115. ESMA has also simplified its initial proposal by deleting the request for proof that the CCP has been notified as a system under SFD in case of an extension of authorisation.

Procedure under Article 17a of EMIR (Accelerated procedure)

ESMA initial proposal

116. In relation to the procedure for the extension of an authorisation under Article 17a of EMIR (i.e. the accelerated procedure), ESMA initial proposal required a reduced number of documents that should allow competent authorities and ESMA to understand the new service or activity and the reasons why the application qualifies to be assessed under the accelerated procedure under Article 17a of EMIR. In the initial proposal ESMA also required the applicant CCP to provide a description of how it achieves compliance with relevant requirements being affected by the extension of the authorisation and a confirmation of what policies and procedures will change due to the extension of the authorisation and which ones will not change.

Feedback from respondents

117. All respondents expressed opposition in relation to the documentation requirements for the accelerated procedure under Article 17a of EMIR, citing them as excessive, disproportionate, and contrary to EMIR 3 goals. The proposed requirements were viewed as more burdensome than previous material extensions. Respondents stressed that the volume and detail of documentation required under the accelerated process undermines its purpose, i.e., fast-tracking low-risk changes.
118. All respondents recommended limiting the description of the extension to a basic description of the contracts or instruments involved. Business plans, market forecasts, and strategic rationales were deemed commercially sensitive and irrelevant to regulatory risk assessments. Furthermore, according to the majority of respondents, only high-level milestones should be required at submission.
119. Respondents argued that only EMIR requirements impacted by the extension should be assessed, with the rest covered through the annual review under Article 21 of EMIR. Furthermore, respondents also agreed that CCPs should only submit a list of policies impacted by the extension. The requirement to list policies that do not change was seen as unnecessary and burdensome. Several respondents suggested clarifying that the list should only include titles, not full policy content.

ESMA assessment of feedback

120. ESMA is cognizant of the need to streamline the requirements and avoid unnecessary burden. Like in the case of the normal procedure for an extension of authorisation, ESMA has simplified the request related to the business plan and the timeline. However, ESMA would like to stress that the initial proposal in the case of accelerated procedure was already substantially streamlined as compared to the normal procedure, by requiring mainly information that would allow to understand why the extension can be processed through the accelerated procedure and other information on how the extension of authorisation would impact the applicant CCP's ability to comply with requirements concerned. Furthermore, the initial proposal only required a list with the titles of policies and procedures which would change as a consequence of the extension of authorisation and a confirmation that other policies and procedure would not change.

9 Annexes

9.1 Annex I - Legislative mandate to develop technical standards

Article 17a of EMIR

5. ESMA, in close cooperation with the ESCB, shall develop draft regulatory technical standards to further specify the conditions referred to in paragraph 1, points (a) to (e) of this Article, and to specify the procedure for consulting ESMA and the college referred to in Article 18 in accordance with paragraph 3 of this Article on whether or not those conditions are fulfilled.

In further specifying the conditions pursuant to the first subparagraph, ESMA shall set the methodology to use and the parameters to apply for deciding when a condition is considered to have been fulfilled. ESMA shall also list and specify whether there are typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure set out in this Article.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 25 December 2025.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 15a of EMIR

2. ESMA, in close cooperation with the members of the ESCB, shall develop draft regulatory technical standards to further specify: (a) the type of extension of clearing services or activities that would not have a material impact on a CCP's risk profile; and (b) the frequency with which a CCP shall notify the use of the exemption referred to in paragraph 1, which shall not exceed once every three months.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 25 December 2025.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 14(6) of EMIR

6. ESMA, in close cooperation with the ESCB, shall develop draft regulatory technical standards to specify the list of required documents that are to accompany an application for authorisation as referred to in paragraph 1 and to specify the information that such documents are to contain with a view to demonstrating that the applicant CCP complies with all relevant requirements of this Regulation.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 25 December 2025.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 15(3) of EMIR

3. ESMA, in close cooperation with the ESCB, shall develop draft regulatory technical standards to specify the lists of required documents that shall accompany an application for an extension of authorisation pursuant to paragraph 1 and to specify the information that such documents shall contain. The lists of required documents and information shall be relevant and proportionate to the nature of the extension of authorisation procedures referred in paragraph 1, with a view to demonstrating that the CCP meets all relevant requirements of this Regulation.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 25 December 2025.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

9.2 Annex II - Cost-benefit analysis

9.2.1 Parameters for the five conditions for the standard / accelerated procedure

Specific objective	The objective is to further specify the conditions for determining whether an extension can benefit from the accelerated procedure, as well as the methodology and the parameters to apply when assessing these conditions. In setting these parameters and methodology, ESMA has considered several approaches on how to precisely specify the conditions while at the same time ensuring the efficiency of the process.
Policy option 1	A first policy option would be to specify a closed list of parameters for each condition, whereby where all the parameters are met then the condition would be considered as fulfilled.
Policy option 2	A second policy option would be to rely on a non-exhaustive list of parameters to be assessed by the CCP and consequently the NCA in order to make the determination. Under this approach the list would be only indicative and the CCP and NCA would retain some flexibility in assessing whether the conditions are met.
Preferred option	Policy option 1.

Impact of the proposed policies	
Option 1	
Benefits / drawbacks	<p>Under this option, the RTS would provide a high degree of legal certainty and ensure consistent and convergent application of the framework across EU CCPs and NCAs.</p> <p>The main drawback is the lack of flexibility to adapt to the specific characteristics of some extensions of services. This may result in a higher number of standard extensions of authorisation procedures.</p> <p>This option, however, ensures that the typical cases set out in accordance with Article 17a(5), second subparagraph, of EMIR are more accurate, as they are based on clear-cut exhaustive parameters.</p>
Compliance costs	Such option should not generate additional costs for the CCPs as the assessment of the parameters should be straightforward.
Supervision costs	The same would apply for the supervisory costs, as the check from the NCA will be straightforward based on the CCP's assessment.
Option 2	

Benefits / drawbacks	<p>Such option would provide more flexibility to the CCP and the NCA when assessing the parameters to determine whether an extension can benefit from the accelerated procedure. However, a higher number of applications may end up being rejected by the NCA as an element of discretion is introduced. In addition, it could lead to divergent interpretations and implementation across EU CCPs and NCAs.</p> <p>Furthermore, under option 2, it would be more difficult to identify the typical cases set out in accordance with Article 17a(5), second subparagraph, of EMIR as they would be partially based on expert judgment.</p>
Compliance costs	Could be higher than option 1 as a larger number of applications may be ultimately rejected.
Supervision costs	Higher than option 1 as the NCA would be required to perform an extra assessment on top of the CCP's determination.

9.2.2 Exemptions from authorisation under Article 15a of EMIR

Specific objective	The objective is to specify the type of extensions that would not have a material impact on a CCP's risk profile and could thus benefit from the exemption from authorisation.
Policy option 1	A first policy option would be to identify the typical extensions that would be considered as exempted from any formal extension of authorisation process.
Policy option 2	A second policy option would be to replicate the rationale under Article 17a of EMIR and introduce negative conditions to be met in order for the extension to benefit from the exemption.
Preferred option	Policy option 1.

Impact of the proposed policies	
Option 1	
Benefits / drawbacks	<p>Under option 1, the assessment would be more straightforward and less intensive in terms of assessment by the CCP. The CCP could easily identify whether an extension falls within the list of identified cases.</p> <p>However, the list would need to be carefully calibrated as any case that is not included in the list could not benefit from the exemption.</p>
Compliance costs	Such option should generate low costs for the CCPs.

Supervision costs	The same would apply for the supervisory costs.
Option 2	
Benefits / drawbacks	<p>With this option, the RTS would focus on a closed list of conditions to be met in order for the extension to benefit from the exemption. In other words, the RTS would clarify the types of extensions that are expected to never be exempted.</p> <p>This would leave a broader possibility for extensions to be exempted from the extension of authorisation process, as long as they meet all of the conditions.</p>
Compliance costs	Could be higher than option 1 as it will require an assessment against the list of conditions.
Supervision costs	Supervision costs are expected to be low and, in any case, similar to Option 1, since the use of the exemption is reported on an ex-post basis.

9.3 Annex III

Advice of the Securities and Markets Stakeholder Group

In accordance with Article 16 of the ESMA Regulation, ESMA has requested the advice of the Securities and Markets Stakeholder Group (SMSG). The SMSG has not provided any comment.

9.4 Annex IV - List of respondents to the public consultation

	Central Counterparty (CCP)
1	Cboe Clear Europe N.V.
2	Deutsche Boerse Group
3	European Association of CCP Clearing Houses (EACH)
4	LSEG
5	SIX Group

9.5 Annex V – draft technical standards

Draft technical standards

COMMISSION DELEGATED REGULATION (EU) No .../..

supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 with regard to regulatory technical standards specifying the conditions for an extension of authorisation under the accelerated procedure, the types of extensions that can benefit from an exemption from authorisation, and the list of documents that are to accompany applications for authorisation of a CCP and for extension of such authorisation

of []

(text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories³, in particular Articles 17a(5), fourth subparagraph, 15a(2), third subparagraph, Articles 14(6), third subparagraph, and 15(3), third subparagraph, thereof,

Whereas:

- (1) In order to provide legal certainty to Union CCPs as regards the appropriate procedure for an extension of authorisation, improve the efficiency of the process for extensions of authorisation, as well as ensure a level playing field across CCPs and a consistent application of Regulation (EU) No 648/2012, this Regulation lays down clear-cut parameters for each of the conditions set out in Article 17a(1) of Regulation (EU) No 648/2012. Where all the parameters for the respective condition are met, that condition should be considered as fulfilled. Therefore, in order for a CCP to determine whether it should apply for an extension of authorisation in accordance with the procedure set out in Article 17 of Regulation (EU) No 648/2012 or the accelerated procedure set out in Article 17a of Regulation (EU) No 648/2012, the CCP should assess its proposed extension against all the parameters set out in this Regulation. The CCP can apply via the accelerated procedure where the CCP's proposed extension meets all the parameters set out in this Regulation. This should however be without prejudice to the ultimate decision of the

³ OJ L 201, 27.7.2012, p. 1–59.

competent authority, after considering the input from ESMA and the college, on whether the application qualifies to be assessed under the accelerated procedure pursuant to Article 17a(3) of Regulation (EU) No 648/2012.

- (2) With regard to the condition set out in Article 17a(1), point (a), of Regulation (EU) No 648/2012, the parameters applied to determine whether an extension entails a significant adaptation of the CCP's operational structure should take into account the introduction of physical settlement where in respect of derivatives referencing the same type of underlying asset the CCP currently only offers cash settlement, considering the higher risks and operational complexity involved in physical settlement compared to cash settlement; and any material change to the novation mechanism, i.e. a change from novation to open offer, and from pre-funded novation and non-pre-funded novation, given the higher risks associated with such changes. However, given the lower operational complexity and risks associated with the introduction of cash settlement where, in respect of derivatives referencing the same type of underlying asset, the CCP already offers physical settlement and with changes in the novation mechanism from open offer to novation and from non-pre-funded novation to pre-funded novation, such changes should be eligible for the exemption from extension of authorisation pursuant to Article 15a of Regulation (EU) No 648/2012.
- (3) With regard to the condition set out in Article 17a(1), point (b), of Regulation (EU) No 648/2012, the parameters applied to determine whether the new contracts can be liquidated in the same manner as or together with contracts already cleared by the CCP should take into account the necessity by the CCP to introduce a new liquidation process, including an auction mechanism, a direct sales mechanism, an order book or request-for-quote mechanism and forced allocation. They should also take into account the introduction of a new default fund or a new segment or compartment of the existing default fund or the introduction of a new liquidation group within an existing default fund as these elements form an inherent part of the liquidation process of a CCP by ensuring that the CCP has the financial resources to continue liquidating positions in an orderly manner, and signal that the new contracts require a dedicated new step in the liquidation process. A segmented default fund or a default fund organised in liquidation groups should be understood as a default fund consisting of multiple segments, corresponding to groups of products with similar risk characteristics. The funds of each segment will be used as a priority to cover losses incurred in liquidating products in that group, with surpluses and deficits from other groups potentially included in the calculation with a lower priority.
- (4) With regard to the condition set out in Article 17a(1), point (c), of Regulation (EU) No 648/2012, the parameters applied to determine whether there are material new contract specifications should reflect the introduction of derivatives referencing a new type of underlying asset; and the introduction of a new type of non-derivatives instruments, i.e. equities, debt instruments, emission allowances, securities financing transactions, commodity contracts that are not financial instruments, crypto-assets that are not financial instruments, and other non-financial instruments. This means that a CCP should apply via the standard extension of authorisation procedure under Article 17 of Regulation (EU) No 648/2012 every time the CCP introduces derivatives referencing a new type of underlying asset. Similarly, a CCP should apply via the standard extension of authorisation procedure under Article 17 of Regulation (EU) No 648/2012 every time the CCP introduces a new type of non-derivatives instruments; for example, where the CCP already clears equities and debt instruments (bonds), and it proposes to start clearing securities financing transactions,

it should apply for an extension of authorisation in accordance with the standard procedure under Article 17 of Regulation (EU) No 648/2012. Furthermore, the parameters should take into account the type of execution venue of the derivatives, distinguishing between OTC derivatives referencing the same type of underlying asset and non-OTC derivatives referencing the same type of underlying asset; and the type of execution venue of the non-derivatives instruments, distinguishing between non-derivatives instruments of the same type traded on a bilateral basis and non-derivatives instruments of the same type traded on a multilateral basis. As regards the non-derivatives instruments, e.g. where the CCP's proposed extension includes clearing of securities financing transactions the execution of which takes place on a regulated market or an MTF, where the CCP currently clears securities financing transactions the execution of which takes place only on a bilateral basis, the CCP's proposed extension should be subject to the standard extension of authorisation procedure under Article 17 of Regulation (EU) No 648/2012.

- (5) With regard to the condition set out in Article 17a(1), point (d), of Regulation (EU) No 648/2012, the parameters applied to determine whether an extension entails material new risks or a significant increase of the CCP's risk profile should take into account the risks linked to the characteristics of the new products to be cleared which are materially different from the risks already handled by the CCP. These parameters should, therefore, consider the type of underlying, distinguishing between sovereign issuers and corporate issuers in respect of debt instruments (such as bonds), interest rate derivatives and credit derivatives; and between indices and single names in respect of credit derivatives and equity derivatives. Therefore, as regards the parameters on sovereign issuers vs. corporate issuers, where the CCP's proposed extension includes e.g. the introduction of corporate bonds where in respect of bonds the CCP currently only clears sovereign bonds, the proposed extension should be subject to the standard extension of authorisation procedure under Article 17 of Regulation (EU) No 648/2012, given the higher risks associated with corporate issuers. Similarly, as regards the parameters on indices vs. single names, where the CCP's proposed extension includes e.g. the introduction of single-stock equity derivatives where in respect of equity derivatives the CCP currently only clears index equity derivatives, the proposed extension should be subject to the standard extension of authorisation procedure under Article 17 of Regulation (EU) No 648/2012, given the higher risks associated with single names. Conversely, where the CCP's proposed extension includes e.g. the introduction of sovereign bonds where in respect of bonds the CCP currently only clears corporate bonds, such extension should qualify for the accelerated procedure under Article 17a of Regulation (EU) No 648/2012, in consideration of the lower risks associated with sovereign debt instruments compared to corporate debt instruments. Furthermore, where the CCP's proposed extension includes e.g. the introduction of index equity derivatives where in respect of equity derivatives the CCP only clears single-stock equity derivatives, such extension should be eligible for the exemption from authorisation pursuant to Article 15a of Regulation (EU) No 648/2012, considering the relatively low risks associated with such changes.
- (6) With regard to the condition set out in Article 17a(1), point (e), of Regulation (EU) No 648/2012, the parameters applied to determine whether an extension entails a new settlement or delivery mechanism or service which involves establishing links with a different securities settlement system, CSD or payment system should take into account any new direct link with a new securities settlement system, CSD or payment system. They should also consider the necessity to introduce settlement or payment in commercial bank money considering the higher risks posed by commercial bank settlement compared to central bank settlement as set out in Article 50(1) of Regulation (EU) No 648/2012, and the

operational challenges associated with the introduction of commercial bank settlement set-up. In contrast, where the CCP's proposed extension includes establishing an indirect link with a new securities settlement system, CSD or payment system or establishing a direct link with a securities settlement system, CSD or payment system where in respect of the same securities settlement system, CSD or payment system the CCP already has an indirect link, such extension should be subject to the accelerated procedure under Article 17a of Regulation (EU) No 648/2012, given the lower operational complexities of such changes.

- (7) The typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure set out in Article 17a of Regulation (EU) No 648/2012 should accurately reflect the conditions for the accelerated procedure as set out in Article 17a(1) of Regulation (EU) No 648/2012 and as further specified in this Regulation, and should thus provide guidance to a CCP on whether its intended extension of authorisation could be assessed under the accelerated procedure.
- (8) Considering the very restrictive deadline under the accelerated procedure, under Article 17a of Regulation (EU) No 648/2012, within which the competent authority is required to take its decision on both whether the CCP's application qualifies to be assessed under the accelerated procedure and whether to grant or refuse the extension of authorisation, the consultation period of ESMA and the college should also be short. The consultation of the college should also take into account the need for coordinating the views of all college members.
- (9) The type of extension of clearing services or activities that would not have a material impact on a CCP's risk profile and could thus benefit from the exemption from authorisation in accordance with Article 15a of Regulation (EU) No 648/2012 should be extensions in respect of new clearing services or activities that are very similar to the services or activities that the CCP already provides. In order to provide legal certainty as well as to ensure a level-playing field across CCPs and consistent application of Regulation (EU) No 648/2012, the list of type of extensions that could benefit from the exemption under Article 15a of Regulation (EU) No 648/2012 should be sufficiently clear and specific to avoid any ambiguity and ensure that extensions that should be approved under at least the accelerated procedure are not covered by the exemption from authorisation. However, the list of types of extensions that could benefit from the exemption should not be considered in isolation, all other factors must remain unchanged for the CCP to benefit from the exemption under Article 15a of EMIR. For instance, if the CCP proposes switching the novation mechanism from open offer to novation, this extension is exempt as long as it does not trigger the accelerated procedure under Article 17a or the standard procedure under Article 17 of Regulation (EU) No 648/2012, i.e. provided that the proposed extension does not involve the introduction of derivatives referencing a new type of underlying asset, the introduction of a new liquidation process, etc. For the avoidance of doubt, where the CCP's proposed extension qualifies for the exemption, the CCP is not required to submit an application for an extension of authorisation pursuant to the procedure set out in Article 17 of Regulation (EU) No 648/2012 or the procedure set out in Article 17a of Regulation (EU) No 648/2012, and no ex-ante checks or approvals by the CCP's competent authority are required. Instead, such extension would be subject to an ex-post notification and review, as required by Article 15a and Article 21 of Regulation (EU) No 648/2012.
- (10) The frequency of the notification provided by a CCP of the use of the exemption from authorisation in accordance with Article 15a of Regulation (EU) No 648/2012 should be

sufficiently flexible to limit the burden on CCPs, while allowing the registered recipients to be informed of any exemption from authorisation on a regular basis, in order for them to be able to perform their tasks in accordance with Regulation (EU) No 648/2012. Therefore, the CCP should notify the registered recipients via the central database referred to in Article 17c of Regulation (EU) No 648/2012 at least every six months of any exemption, including the service or activity, the CCP availed of in the previous six months. In other words, the CCP should submit two notifications per year. A CCP may decide on a voluntary basis to submit a notification even where it did not avail of any exemption in the previous semester in order for the registered recipients, in particular the competent authority, to be able to ascertain the CCP's compliance with the notification requirement.

- (11) In order to ensure that CCP's competent authorities have all the information required to grant an authorisation according to Articles 17 and 17a of Regulation (EU) No 648/2012, this Regulation should provide a harmonised list of documents and information required for both the initial authorisation and the extension of an existing authorisation. This harmonisation supports the efficient functioning of the single market, enhances legal certainty for CCPs and their stakeholders, and facilitates the supervisory process for competent authorities.
- (12) Procedural requirements for applications should also be harmonised. This includes the language, a certification requirement to ensure the right level of involvement of the board of the applicant CCP, and the need for indexing of documents. Given that all the documents will be submitted through the central database, referred to in Article 17c of Regulation (EU) No 648/2012, that will be used by competent authorities, the college established in accordance with Article 18 of Regulation (EU) No 648/2012 and ESMA, the documents should be submitted in a language customary to the sphere of finance. This should allow a more efficient processing of applications.
- (13) In some jurisdictions, fees might be required from applicant CCPs before their application for authorisation or extension of authorisation is reviewed or decided upon. In such cases, the applicant CCP should provide a proof of payment of any applicable fees under national laws.
- (14) Identifying the applicant CCP is key. Section 1 of Chapter II of Title III of this Regulation requires the applicant CCP to provide general information about its identity, legal status, and corporate structure. This includes documentation such as the applicant CCP's memorandum and articles of association, financial statements, and the business plan. It also requires details on the CCP's group structure and any close links to other entities that could affect its operational independence or ability to comply with Regulation (EU) No 648/2012 and are thus essential for the assessment of the application.
- (15) An applicant CCP should submit documents needed for the competent authority, the college and ESMA to assess inter alia the compliance function of the applicant CCP, its internal audit mechanisms, the conflict-of-interest policies, as well as the compliance of the applicant CCP with conduct of business requirements and with prudential requirements under Regulation (EU) No 648/2012.
- (16) Applications for the extension of an existing authorisation under the procedure set out in Article 17 of Regulation (EU) No 648/2012 should provide comprehensive and detailed information to allow competent authorities, the college and ESMA to assess how the new service or activity would impact the applicant CCP and assess if the applicant CCP would

continue to comply with all relevant requirements under Regulation (EU) No 648/2012 when providing the new service or performing the new activity for which the extension of authorisation is required.

- (17) For applications for extensions of existing authorisation under the accelerated procedure, under Article 17a of Regulation (EU) No 648/2012, where the proposed extension does not significantly alter the CCP's risk profile or operational framework, applicant CCPs should submit a more proportionate set of documents and information. This includes concise documentation describing the new services or activities and their limited impact on the CCP's overall compliance with Regulation (EU) No 648/2012.
- (18) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (19) ESMA has developed the draft regulatory technical standards in close cooperation with the European System of Central Banks (ESCB). In accordance with Article 10 of Regulation (EU) No 1095/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)⁴, ESMA has conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010.

HAS ADOPTED THIS REGULATION:

TITLE I

ACCELERATED PROCEDURE FOR EXTENSIONS OF AUTHORISATION

CHAPTER I

CONDITIONS FOR THE ACCELERATED PROCEDURE

Article 1

Methodology

A CCP intending to extend its business to additional services or activities shall assess the proposed extension against the parameters set out in Articles 2 to 6 of this Regulation.

⁴ OJ L 331, 15.12.2010, p. 84.

Where the CCP's proposed extension of services or activities meets all the parameters as set out in Articles 2 to 6 of this Regulation, the conditions referred to in Article 17a(1) points (a) to (e), of Regulation (EU) 648/2012 shall be considered as fulfilled.

Article 2

Significant adaptation of the CCP's operational structure

The parameters to consider when assessing whether the condition set out in Article 17a(1), point (a), of Regulation (EU) 648/2012 is fulfilled are all of the following:

- a. the CCP's proposed extension does not include clearing physically settled derivatives, where, in respect of derivatives referencing the same type of underlying asset, the CCP currently offers settlement only in cash; and
- b. the CCP's proposed extension does not involve a change in the novation mechanism as follows:
 - i. From novation to open offer; or
 - ii. From pre-funded to non-prefunded novation.

Article 3

Contracts liquidated in the same manner as or together with contracts already cleared by the CCP

1. The parameters to consider when assessing whether the condition set out in Article 17a(1), point (b), of Regulation (EU) 648/2012 is fulfilled are all of the following:

- a. the CCP's proposed extension does not introduce one or more new liquidation processes as set out under paragraph 2; and
- b. the CCP's proposed extension does not introduce a new default fund or the segmentation or compartmentalisation of the existing default fund or a new liquidation group within the existing default fund.

2. For the purpose of this Article, a new liquidation process shall be understood as any of the following:

- a. The introduction of an auction mechanism, where no auction mechanism currently exists;
- b. The introduction of direct sales, where a direct sales mechanism does not currently exist;
- c. The introduction of order book or request-for-quote (RFQ) mechanism, where neither currently exists; and
- d. The introduction of the forced allocation, where it currently does not exist.

Article 4

Material new contract specifications

1. The parameters to consider when assessing whether the condition set out in Article 17a(1), point (c), of Regulation (EU) 648/2012 is fulfilled are all of the following:

- a. The CCP's proposed extension does not introduce derivatives referencing a new type of underlying asset;

- b. The CCP's proposed extension does not introduce a new type of non-derivatives instruments, as follows:
 - i. Equities;
 - ii. Debt instruments;
 - iii. Emission allowances;
 - iv. Securities financing transactions;
 - v. Commodity contracts that are not financial instruments;
 - vi. Crypto-assets that are not financial instruments; and
 - vii. Other non-financial instruments.
 - c. The CCP's proposed extension does not include clearing OTC derivatives, where, in respect of derivatives referencing the same type of underlying asset, the CCP currently only clears such derivatives traded on an exchange-basis, and vice versa;
 - d. The CCP's proposed extension does not include clearing OTC non-derivatives instruments as referred to in point (b), sub-points (iii) to (vii), where, in respect of the same type of instruments, the CCP currently only clears such instruments traded on a multilateral basis, and vice-versa.
2. For the purpose of paragraph 1, point (c):
- a. OTC derivatives shall be understood as derivatives that fulfil the definition set out in point (7) of Article 2 of Regulation (EU) 648/2012;
 - b. Derivatives traded on an exchange-basis shall be understood as derivatives that do not fulfil the definition set out in point (7) of Article 2 of Regulation (EU) 648/2012.
3. For the purpose of paragraph 1, point (d):
- a. OTC non-derivatives instruments shall be understood as instruments referred to in paragraph 1, point (b), sub-points (iii) to (vii), that are not traded on a trading venue as defined under point (4) of Article 2 of Regulation (EU) 648/2012;
 - b. non-derivatives instruments traded on a multilateral basis shall be understood as instruments referred to in paragraph 1, point (b), sub-points (iii) to (vii), that are traded on a trading venue as defined under point (4) of Article 2 of Regulation (EU) 648/2012.

Article 5

Material new risks or significant increase of the CCP's risk profile

The parameters to consider when assessing whether the condition set out in Article 17a(1), point (d), of Regulation (EU) 648/2012 is fulfilled are all of the following:

- a. the CCP's proposed extension does not include clearing single-name credit derivatives, where, in respect of credit derivatives, the CCP currently clears credit derivatives on indices only;
- b. the CCP's proposed extension does not include clearing single-stock equity derivatives, where, in respect of equity derivatives, the CCP currently clears equity derivatives on indices only;

- c. the CCP's proposed extension does not include clearing corporate debt instruments, where, in respect of debt instruments, the CCP currently clears debt instruments on sovereigns only;
- d. the CCP's proposed extension does not include clearing interest rate derivatives on corporates, where, in respect of interest rate derivatives, the CCP currently clears interest rate derivatives on sovereigns only; and
- e. the CCP's proposed extension does not include clearing credit derivatives on corporates, where, in respect of credit derivatives, the CCP currently clears credit derivatives on sovereigns only.

Article 6

New settlement or delivery mechanism or service which involves establishing links with a different securities settlement system, CSD or payment system which the CCP did not previously use

The parameters to consider when assessing whether the condition set out in Article 17a(1), point (e), of Regulation (EU) 648/2012 is fulfilled are all of the following:

- a. the CCP's proposed extension does not involve establishing a direct link with a new securities settlement system, CSD or payment system which the CCP does not already use; and
- b. the CCP's proposed extension does not involve introducing settlement or payment in commercial bank money, where the CCP currently uses only central bank settlement or payment.

Article 7

Typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure

Without prejudice to Articles 1 to 6 of this Regulation, for the purpose of Article 17a of Regulation (EU) No 648/2012, typical extensions of services and activities that could be considered in principle to fall under the accelerated procedure shall be the following:

- a. Clearing options, where, in respect of derivatives referencing the same type of underlying asset, the CCP already clears futures;
- b. Establishing an indirect link with a new securities settlement system, CSD or payment system which the CCP does not already use;
- c. Establishing a direct link with a securities settlement system, CSD or payment system, where, in respect of the same securities settlement system, CSD or payment system, the CCP already has an indirect link;
- d. Clearing instruments that involve settlement or payment in a new currency, without establishing a direct link with a new settlement system, CSD or payment system, and without introducing settlement or payment in commercial bank money where the CCP currently only uses central bank settlement or payment;
- e. Introducing central bank settlement or payment, where the CCP currently uses settlement in commercial bank money;

- f. Clearing instruments that involve accessing a new type of liquidity resource as referred to under Article 33(1) of Regulation (EU) 153/2013;
- g. Clearing sovereign debt instruments, where the CCP already clears corporate debt instruments;
- h. Clearing interest rate derivatives on sovereigns, where the CCP already clears interest rate derivatives on corporates; and
- i. Clearing credit derivatives on sovereigns, where the CCP already clears credit derivatives on corporates.

CHAPTER II

PROCEDURE FOR THE CONSULTATION OF ESMA AND THE COLLEGE

Article 8

Consultation of ESMA

1. Upon receipt of an application by a CCP for an extension of authorisation pursuant to the accelerated procedure in accordance with Article 17a of Regulation (EU) No 648/2012, ESMA shall assess the application. ESMA shall assess the demonstration of whether the proposed extension qualifies to be assessed under the accelerated procedure, as provided by the CCP in the application in accordance with Article 17a(2) of Regulation (EU) No 648/2012, against the conditions set out in Article 17a(1) of Regulation (EU) No 648/2012, as further specified in Articles 1 to 6 of this Regulation.
2. Within 12 working days of the acknowledgment of receipt of the application, ESMA shall provide its input to the CCP's competent authority on whether it considers the proposed extension to meet the conditions set out in Article 17a(1) of Regulation (EU) No 648/2012, as further specified in Articles 1 to 6 of this Regulation, and to qualify to be assessed under the accelerated procedure under Article 17a of Regulation (EU) No 648/2012.

Article 9

Consultation of the college

1. Upon receipt of an application by a CCP for an extension of authorisation pursuant to the accelerated procedure in accordance with Article 17a of Regulation (EU) No 648/2012, the members of the college referred to in Article 18 of Regulation (EU) No 648/2012 shall assess the application. The members of the college shall assess the demonstration of whether the proposed extension qualifies to be assessed under the accelerated procedure, as provided by the CCP in the application in accordance with Article 17a(2) of Regulation (EU) No 648/2012, against the conditions set out in Article 17a(1) of Regulation (EU) No 648/2012, as further specified in Articles 1 to 6 of this Regulation.
2. Within seven working days of the acknowledgment of receipt of the application, the members of the college shall provide their respective initial input to the co-chairs of the college and to all other members of the college on whether they consider the proposed extension to meet the conditions set out in Article 17a(1) of Regulation (EU) No 648/2012, as further specified in Articles 1 to 6 of this Regulation, and to qualify to be assessed under the accelerated procedure under Article 17a of Regulation (EU) No 648/2012.

3. Where at least one member of the college disagrees that the proposed extension meets the conditions set out in Article 17a(1) of Regulation (EU) No 648/2012, as further specified in Articles 1 to 6 of this Regulation, and qualifies to be assessed under the accelerated procedure under Article 17a of Regulation (EU) No 648/2012, by no later than 12 working days of the acknowledgment of receipt of the application, the co-chairs of the college shall endeavour to reach a common view of the college. Where a common view cannot be reached, the input from the college shall be based on the majority view of the members of the college.

TITLE II

EXEMPTION FROM AUTHORISATION OF AN EXTENSION OF CLEARING SERVICES OR ACTIVITIES

CHAPTER I

TYPES OF EXTENSIONS THAT COULD BENEFIT FROM AN EXEMPTION FROM AUTHORISATION

Article 10

Services and activities that would not have a material impact on the CCP's risk profile

1. For the purpose of Article 15a of Regulation (EU) No 648/2012, the following type of extension of services or activities, as applicable, shall be considered as not having a material impact on the CCP's risk profile:
 - a. Clearing instruments referencing new ISINs or indices with the same characteristics as the instruments already cleared by the CCP on different ISINs or indices;
 - b. Clearing derivatives denominated in a new currency, where the CCP already clears derivatives referencing the same type of underlying asset denominated in a different currency and settles payments in that new currency in relation to other instruments;
 - c. Clearing non-derivatives instruments denominated in a new currency, where the CCP already clears that type of non-derivatives instruments denominated in a different currency and settles payments in that new currency in relation to other instruments;
 - d. Clearing FX derivatives on a new currency pair, where the CCP already clears FX derivatives and settles payments in the settlement currency of the new FX derivatives;
 - e. Extending the maximum tenor of derivatives, where the CCP already clears derivatives referencing the same type of underlying asset with a shorter tenor;
 - f. Introducing cash settlement for derivatives, where, in respect of derivatives referencing the same type of underlying asset, the CCP already offers physical settlement;
 - g. Introducing a new option exercise style (European, American, Bermudan), where, in respect of derivatives referencing the same type of underlying asset, the CCP already clears options with a different option exercise style;
 - h. Clearing futures, where, in respect of derivatives referencing the same type of underlying asset, the CCP already clears options;
 - i. Clearing forwards, where, in respect of derivatives referencing the same type of underlying asset, the CCP already clears swaps, or vice-versa;
 - j. Changing novation mechanism from open offer to novation;
 - k. Changing novation mechanism from non-prefunded novation to pre-funded novation;
 - l. Clearing index credit derivatives, where the CCP already clears single-name credit derivatives;
 - m. Clearing index equity derivatives, where the CCP already clears single-stock equity derivatives;

- n. Clearing covered bonds, where the CCP already clears corporate bonds in the same currency; and
 - o. Offering existing clearing services in a new jurisdiction.
2. For the purpose of paragraph 1, where the proposed extension does not fulfil the conditions for the accelerated procedure as set out in Article 17a(1) of Regulation (EU) No 648/2012, the proposed extension shall be considered as having a material impact on the CCP's risk profile.

CHAPTER II

FREQUENCY OF NOTIFICATION OF EXEMPTION FROM AUTHORISATION

Article 11

Frequency of notification of the use of the exemption

For the purpose of Article 15a of Regulation (EU) No 648/2012, a CCP shall notify the registered recipients via the central database referred to in Article 17c of Regulation (EU) No 648/2012 at least every six months of any exemption, including the service or activity, the CCP availed of in the previous six months.

TITLE III

LIST OF DOCUMENTS

CHAPTER I

GENERAL PROVISIONS

Article 12

Language, reference of documents submitted and certification of an application for authorisation or for an extension thereof

1. Documents submitted by an applicant CCP for an application for authorisation or for an extension of an existing authorisation, shall:
 - a. be submitted in a language customary in the sphere of international finance;
 - b. be provided with a unique reference number for each document included.
2. Any application submitted for an authorisation under Article 14 of Regulation (EU) No 648/2012 or for an extension of existing authorisation under Article 15 of Regulation (EU) No 648/2012 shall be accompanied by an index, including all the documents and their unique reference number.
3. Applicant CCPs shall provide a correspondence table allowing to identify the document or the relevant section of the document submitted in application of this Regulation, where the information required in the different articles of Chapters II and III of this Title can be found.

4. Any application submitted for an authorisation under Article 14 Regulation (EU) No 648/2012 or for an extension of existing authorisation under Article 15 of Regulation (EU) No 648/2012 shall be accompanied by a document approved by the chief executive officer or any other person within the governance of the applicant CCP occupying a senior managerial position and engaging the responsibility of the CCP regarding certifying the accuracy and veracity of all the documents submitted in accordance with this Regulation.

Article 13

Proof of payment of fees

Where national laws of Member States provide for the imposition, by competent authorities, of administrative or any other fees in relation to an application for authorisation or for an extension of authorisation, before the application is reviewed or decided upon, the applicant CCP shall also include the proof or payment of any such fees.

CHAPTER II

AUTHORISATION OF CCPs

SECTION 1

GENERAL INFORMATION

Article 14

Identification and legal status of applicant CCP

An application for authorisation shall include a document with general information identifying the applicant CCP, including the following information:

- a. full name, function, email address and telephone number of the person responsible for the application;
- b. full name, function, email address and telephone number of the person or persons in charge of the applicant CCP's compliance and internal control function;
- c. the corporate name of the applicant CCP, its Legal Entity Identifier (LEI) and registered address in the Union;
- d. the memorandum and articles of association or other constitutional and statutory documentation of the applicant CCP, including the by-laws;
- 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 CCP that is valid at the date of the application;
- f. for an applicant CCP that is already active, the financial statements of the last three years approved, where audited, by the external auditor where the applicant CCP has been in operation for that period of time; where an applicant CCP has been active for a shorter period of time, the applicant CCP shall submit such financial statements for that period;

- 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.

Article 15

Structure of the group

An application for authorisation shall include a document with information identifying the group to which the applicant CCP belongs, including the following information:

- a. 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, LEI if available or tax numbers or company registration numbers;
- b. A description of the business activities of the applicant CCP's subsidiaries and other legal persons in which the applicant CCP holds a participation, including information on the level of participation.

Article 16

Close links

An application for authorisation shall include a detailed description of any close link between the applicant CCP and other natural or legal persons and an assessment of how the close link safeguards the ability of the applicant CCP to provide timely and accurate information to its competent authority to allow the competent authority the effective exercise of its supervisory functions.

Article 17

Business plan

An application for authorisation shall include a business plan. The business plan submitted by the applicant CCP shall, at least, include the following elements:

- a. A detailed description of the CCP's strategic objectives, including its market positioning, target customer base, and anticipated business growth over a three-year period;
- b. A list of clearing services the applicant CCP intends to provide and of the services and activities linked to clearing that the applicant CCP intends to provide or perform, including the classes of financial and non-financial instruments covered by such services and activities;
- c. An explanation of the CCP's revenue generation model, including the sources of income such as fees, commissions, or other revenues, and an estimation of expected revenues over the three years following the granting of the authorisation;
- d. Projected financial statements for three years, including assumptions made in relation to revenue growth, cost structure, liquidity, and capital adequacy;
- e. An outline of the CCP's growth strategy, including potential geographical expansion, introduction of new services or activities, and any plans to increase operational capacity in response to market demands.

Article 18

Capital requirements

An application for authorisation shall include:

- a. A document demonstrating that the capital of the applicant CCP, including retained earnings and reserves of the applicant CCP, meets the requirement set out in [Article 16 of Regulation (EU) No 648/2012 and in Delegated Regulation (EU) No 152/2013⁵ with regard to regulatory technical standards on capital requirements for central counterparties];
- b. A document describing the process used to monitor the capital requirements on an ongoing basis.

Article 19

Detection and prevention of money laundering and terrorist financing

The application for authorisation of a CCP shall include a written statement confirming that the applicant CCP has put in place internal control mechanisms and policies and procedures to adequately mitigate money-laundering risk or to ensure where relevant compliance with the provisions of national law transposing Directive (EU) 2015/849⁶.

Article 20

Notification as a system pursuant to Directive 98/26/EC

The application for authorisation of a CCP shall include evidence that the applicant CCP has been notified as a system under Directive 98/26/EC⁷ on settlement finality in payment and securities settlement systems.

SECTION 2

INFORMATION ON ORGANISATIONAL REQUIREMENTS

Article 21

General organisational requirements

The application for authorisation of a CCP shall include:

- a. A detailed description of the key components of the governance arrangements of the CCP that define its organisational structure as well as clearly specified and well-documented policies, procedures and processes by which its board and senior management operate in

⁵ 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; OJ L 52, 23.2.2013, p. 37–40.

⁶ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC; OJ L 141, 5.6.2015, p. 73–117.

accordance with Article 26 of Regulation (EU) No 648/2012 and Article 3 of Delegated Regulation (EU) No 153/2013⁸, together with an organisational chart;

- b. The risk management framework including and assessment of how it complies with Article 26 of Regulation (EU) No 648/2012 and Article 4 of Delegated Regulation (EU) No 153/2013;
- c. A detailed description of the compliance function, including proof of independence from other functions of the applicant CCP, authority, resources, expertise and access to all relevant information as required by Article 26 of Regulation (EU) No 648/2012 and Article 6 of Delegated Regulation (EU) No 153/2013;
- d. The policies and procedures regarding the role and responsibilities of the board and senior management and any board committees, including the audit committee and the remuneration committee, as well as the description of the arrangements by which the board and senior management operate, as required by Article 26 of Regulation (EU) No 648/2012 and Article 7 of Delegated Regulation (EU) No 153/2013;
- e. The remuneration policy;
- f. A description of the ICT systems and an evaluation of how these are adequate to deal with the complexity, variety and type of services and activities that the applicant CCP intends to provide and how they are managed in accordance with Regulation (EU) 2022/2554⁹;
- g. The policies, procedures and arrangements to enable frequent and independent audits;
- h. The written organisational and administrative arrangements to identify and manage potential conflicts of interest, in accordance with Article 33 of Regulation (EU) No 648/2012.

Article 22

Information on key function holders

1. An application for authorisation shall include a document containing the following information for each holder of a key internal function:
 - a. Full name, date of birth, and nationality;
 - b. Position within the organizational structure, including a detailed description of duties and responsibilities;
 - c. Educational and professional qualifications, including relevant work experience;
 - d. A self-declaration confirming the good repute of each holder of a key internal function ;
 - e. A declaration of any potential conflicts of interest, including financial, professional, or personal interests that could influence the performance of their duties;
 - f. A declaration of any potential conflicts of interest, including financial, professional, or personal interests that could influence the performance of their duties;

⁸ 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; OJ L 52, 23.2.2013, p. 41–74.

⁹ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011; OJ L 333, 27.12.2022, p. 1–79.

- g. Contact details for regulatory communication.
- 2. For the purpose of paragraph 1, “Key internal functions” of the applicant CCP shall be understood as:
 - a. Risk Management;
 - b. Compliance and Internal Audit;
 - c. IT and Cybersecurity;
 - d. Financial Reporting and Accounting;
 - e. Operations and Clearing Services;
 - f. Any other functions deemed essential to the sound and prudent management of the CCP, as identified by the applicant CCP.

Article 23

General information concerning policies and procedures

- 1. The application for authorisation of a CCP shall include policies and procedures designed to detect any risk of failure by the CCP and its employees to comply with obligations under Regulation (EU) No 648/2012, Delegated Regulation No 153/2013, and Implementing Regulation (EU) No 1249/2012¹⁰, in accordance with Article 26 of Regulation (EU) No 648/2012 and Article 5 of Delegated Regulation (EU) No 153/2013.
- 2. The policies and procedures referred to in the first paragraph shall include an annex further specifying the following information on the policies and procedures of the applicant CCP:
 - a. the job titles of the persons responsible for the approval and implementation of the policies and procedures;
 - b. a description of the measures implementing and monitoring the compliance with the policies and procedures.

Article 24

Identity, proof of good repute and sufficient experience of senior management and of members of the board

The application for authorisation of a CCP shall include:

- a. A self-declaration confirming the good repute and the sufficient experience of each member of the senior management of the applicant CCP, indicating their full names and positions;
- b. A document detailing the composition of the board, its roles and responsibilities as well as the compensation policy of independent and other non-executive members of the board;
- c. A self-declaration confirming the good repute and the sufficient experience of each member of the board.

¹⁰ 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; OJ L 352, 21.12.2012, p. 32–39.

Article 25

Risk committee

1. The application for authorisation of a CCP shall include a document detailing the following information regarding the risk committee:
 - a. The composition of the risk committee, including the full name and, where different, name at birth, professional occupation and position of all its voting-members;
 - b. The mandate, the governance arrangements and the operational procedures of the risk committee;
 - c. The admission criteria and the election mechanism of members of the risk committee.
2. The document required in the first paragraph shall include in an annex an assessment of how the information provided ensures compliance with Article 28 of Regulation (EU) No 648/2012.

Article 26

Record keeping

The application for authorisation of a CCP shall include:

- a. The record-keeping system, policies and procedures of the applicant CCP;
- b. An assessment of how these comply with Article 29 of Regulation (EU) No 648/2012 and with requirements laid down in Chapter IV of Delegated Regulation (EU) No 153/2013.

Article 27

Identity and suitability of shareholders and members with qualifying holdings

The application for authorisation of a CCP shall include:

- a. A detailed organigram of the holding structure of the applicant CCP, including the breakdown of its capital and voting rights and the full names, nationalities and professional occupation of the shareholders or members with qualifying holdings who are natural persons, and the corporate names, LEIs if available or tax numbers or company registration numbers and registered address of the shareholders or members with qualifying holdings that are legal persons;
- b. A self-declaration confirming the reputation, integrity and financial soundness of the shareholders and members with qualifying holdings.

Article 28

Business continuity

The application for authorisation of a CCP shall include:

- a. The business continuity policy and disaster recovery plan of the applicant CCP;
- b. The policies and procedures aiming at ensuring the timely and orderly settlement or transfer of the assets and positions of clients and clearing members in the event of a withdrawal of authorisation pursuant to a decision under Article 20 of Regulation (EU) No 648/2012;

- c. An assessment of how business continuity policy and disaster recovery plan provided under point (a) comply with requirements set out in Regulation (EU) 2022/2554 and with the requirements set out in Article 34 of Regulation (EU) No 648/2012 and Chapter V of Delegated Regulation (EU) No 153/2013.

Article 29

Outsourcing

The application for authorisation of a CCP shall include:

- a. A description of any operational functions, services and activities outsourced by the applicant CCP;
- b. The service level agreements concluded with the service provider to whom operational functions, services or activities have been outsourced;
- c. A document detailing fees applied by the service provider to whom operational functions, services or activities have been outsourced;
- d. A document detailing the reporting and auditing of the services provider;
- e. A written statement confirming the possibility for the competent authority to request information to the service provider to allow the competent authority the effective exercise of its supervisory functions;
- f. An assessment of how the applicant CCP will ensure of its compliance with all the outsourcing conditions set out in Article 35(1), points (a) to (j), of Regulation (EU) No 648/2012.

SECTION 3

CONDUCT OF BUSINESS RULES

Article 30

Participation requirements

The application for authorisation of a CCP shall include:

- a. A document describing the applicable criteria to become a clearing member, including information demonstrating their fairness, objectivity, and proportionality to the risks, and how these criteria ensure that clearing members have sufficient financial resources and operational capacity to meet the obligations arising from participating in the CCP;
- b. The process and procedures used for the on-going assessment of these criteria;
- c. When non-financial counterparties are accepted as clearing members, and if not already detailed in the document provided under point (a), a document describing the applicable criteria for non-financial counterparties to become clearing members, including information demonstrating their fairness, objectivity, and proportionality to the risks, and how they ensure that non-financial counterparties becoming clearing members have sufficient financial resources and operational capacity to meet the obligations arising from participating in the CCP;

- d. The procedures for the suspension and orderly exit of clearing members that no longer meet the participation criteria;
- e. An assessment of how the applicant CCP will comply with Article 37 of Regulation (EU) No 648/2012 and requirements set out in delegated regulation under Article 37(7) of Regulation (EU) No 648/2012.

Article 31

Transparency

The application for authorisation of a CCP shall include:

- a. A document detailing the prices and fees associated with the services provided by the applicant CCP, including discounts and rebates and the conditions to benefit from those reductions;
- b. A document including the information on the risk associated to the services that the applicant CCP intends to provide as it will disclose it to clearing members and to clients;
- c. A document detailing how the CCP intends to disclose the information used to calculate its end-of-day exposures to its clearing members;
- d. A document detailing how the applicant CCP intends to publicly disclose the volumes of the cleared transactions for each class of instruments cleared by the applicant CCP on an aggregated basis;
- e. The operational and technical requirements relating to the communication protocols covering content and message formats it uses to interact with third parties, including the operational and technical requirements referred to in Article 7 of Regulation (EU) No 648/2012;
- f. A document describing the functionalities of the simulation tool required by Article 38(6) of Regulation (EU) No 648/2012 allowing clearing members to determine the amount of additional initial margin at portfolio level that the applicant CCP may require upon the clearing of a new transaction, including a simulation of the margin requirements that the clearing members may be subject to under different scenarios;
- g. The information the CCP intends to provide to its clearing members on the initial margin models it uses according to Article 38(7) of Regulation (EU) No 648/2012;
- h. The policy and procedures describing the arrangements to disclose information required by Article 38 of Regulation (EU) No 648/2012 and by Article 61 of Delegated Regulation (EU) No 153/2013.

Article 32

Segregation and portability

The application for authorisation of a CCP shall include:

- a. A document describing in detail the segregation and portability arrangements that the applicant CCP will put in place, including how these apply each of the different types of accounts that the CCP plans to offer;
- b. The information the CCP intends to publicly disclose on the levels of protection and the costs associated with the different levels of segregation according to Article 39(7) of

Regulation (EU) No 648/2012 and the right of use according to Article 39(8) of Regulation (EU) No 648/2012;

- c. An assessment of how the segregation and portability arrangements are compliant with Article 39 of Regulation (EU) No 648/2012.

SECTION 4

PRUDENTIAL REQUIREMENTS

Article 33

Exposure management

The application for authorisation of a CCP shall include the applicant CCP's exposure management framework, including:

- a. The procedures for measuring and assessing the applicant CCP's liquidity and credit exposures to its clearing members or interoperable CCPs, on a near to real-time basis;
- b. The procedures to obtain or compute daily settlement prices.

Article 34

Margin requirements

The application for authorisation of a CCP shall include:

- a. The list of contracts in scope for the margin model, including where applicable the products, default funds and asset classes covered by the model;
- b. Documentation of the margin model methodology, including:
 - i. A detailed description of the model including mathematical specifications, such as details of the calculations, logical steps and mathematical and statistical details. The description shall be of a sufficient standard to enable the reader to replicate the model;
 - ii. Worked-out examples illustrating the behaviour of the model;
 - iii. The model standards chosen to calibrate the model and their justification, including the confidence level, the lookback period, and the time horizon for the liquidation period;
 - iv. A comprehensive list of parameters used in the model with a description of their function in the model;
 - v. A list of assumptions used in the model, and the consequent limitations;
- c. The policies and procedures with relevance to margin requirements, including:
 - i. The processes that will be used by the CCP to call and collect margins on an intraday basis, at least when predefined thresholds are exceeded;

- ii. The processes that will be used by the CCP to regularly monitor and, if necessary, revise the level of its margins to reflect current market conditions taking into account any potentially procyclical effects of such revisions;
- d. Comprehensive test results for the margin model, including:
 - i. The resulting margin requirements for selected hypothetical and, where available, actual portfolios. Where the results incorporate any assumptions, these assumptions shall also be listed and described;
 - ii. Test results evidencing the behaviour of the margin model in relation to procyclicality and periods of stress;
 - iii. A sensitivity analysis presenting qualitative and quantitative estimates of the materiality of key parameters, assumptions and limitations on margin requirements;
- e. An assessment of how the applicant CCP is compliant with requirements defined in Article 41 of Regulation (EU) No 648/2012 and Chapter VI of Delegated Regulation (EU) No 153/2013, explaining for the provisions within each article how the CCP complies with those requirements, referencing as appropriate the relevant section of the document or documents provided.

Article 35

Default fund

The application for authorisation of a CCP shall include:

- a. The list of contracts in scope for the stress testing framework in each default fund, including where applicable the products and asset classes covered;
- b. Documentation of the stress testing framework methodology, including:
 - i. A detailed description of the stress testing framework, including mathematical specifications, such as details of the calculations, logical steps and mathematical and statistical details. The description shall be of a sufficient standard to enable the reader to replicate the framework;
 - ii. Worked-out examples illustrating the behaviour of the framework;
 - iii. The model standards chosen to calibrate the framework and their justification, including where relevant the definition of extreme but plausible scenarios;
 - iv. A description of the extreme but plausible historical and potential future scenarios used for sizing the default fund and the total prefunded resources in terms of shocks to the most material risk factors and entity default assumptions;
 - v. A comprehensive list of parameters used in the framework with a description of their function in the framework;
 - vi. A list of assumptions used in the framework, and the consequent limitations;
- c. The policies and procedures with relevance to the default fund, including:
 - i. The processes that will be used by the CCP to size the default fund or funds, including the approach used for converting scenarios of extreme but plausible market conditions into required financial resources, minimum fund size, frequency of the resizing, and the criteria for calculating the contributions of individual clearing members;

- ii. The processes that will be used by the CCP to maintain sufficiency of default fund and pre-funded financial resources as required by Article 42 and Article 43 of Regulation (EU) No 648/2012;
 - iii. The processes that will be used by the CCP to review extreme but plausible stress scenarios, and the actions that the CCP could take given the stress testing results;
- d. Comprehensive test results for the stress testing framework, including:
 - i. The credit stress test results and default fund requirements for selected hypothetical and, where available, actual portfolios. Where the results incorporate any assumptions, these assumptions shall also be listed and described;
 - ii. A sensitivity analysis presenting qualitative and quantitative estimates of the materiality of key parameters, assumptions and limitations on the size of the default fund;
- e. An assessment of how the applicant CCP is compliant with the requirements defined in Articles 42 and 43 of Regulation (EU) No 648/2012 and Chapter VII of Delegated Regulation (EU) No 153/2013, explaining for the provisions within each article how the CCP complies with those requirements, referencing as appropriate the relevant section of the document or documents provided.

Article 36

Liquidity risk controls

The application for authorisation of a CCP shall include:

- a. The policies and procedures with relevance to the liquidity risk management framework of the applicant CCP, including:
 - i. The liquidity plan, as described in Article 32(3) of Delegated Regulation (EU) No 153/2013;
 - ii. The reports that it intends to establish;
 - iii. The types of liquidity resources it intends to maintain;
 - iv. The processes that it intends to use to analyse and evaluate the adequacy of its liquidity risk management framework and providers on the basis of stress test results;
 - v. The processes that it intends to use to monitor and control the concentration of its liquidity risk exposures;
- b. Documentation of the methodology for assessing potential future liquidity resources and needs under potential stress scenarios, including:
 - i. A detailed description of the stress scenarios and their generation, covering shocks to market risk factors and the modelling of default of clearing members and liquidity providers, including the representation of relationships among these entities;
 - ii. The consideration of timescales and denomination currency for liquidity resources and needs;
 - iii. The consideration of obligations with respect to deliveries of financial instruments;
 - iv. A comprehensive list of parameters used in the methodology with a description of their function in the methodology;

- v. A list of assumptions used in the methodology, and the consequent limitations;
- c. Comprehensive test results for the liquidity risk framework including:
 - i. Liquidity stress test results evidencing the sufficiency of liquid resources on the basis of hypothetical and, where available, actual liquidity exposures and needs. Where the results incorporate any assumptions, these assumptions shall also be listed and described;
 - ii. A breakdown of the liquidity needs and resources in each relevant type and currency;
- d. An assessment of how the applicant CCP is compliant with requirements defined in Article 44 of Regulation (EU) No 648/2012 and Chapter VIII of Delegated Regulation (EU) No 153/2013, explaining for the provisions within each article how the CCP complies with those requirements, referencing as appropriate the relevant section of the document or documents provided.

Article 37

Default waterfall

The application for authorisation of a CCP shall include a report of the own resources and the policies and procedures describing the default waterfall as required by Article 45 of Regulation (EU) No 648/2012 and Chapter IX of Delegated Regulation (EU) No 153/2013, including a detailed description of how the applicant CCP calculates and maintains the own resources, and the reporting mechanism that will be used to inform its competent authority if that amount of dedicated own resources falls below the requirements.

Article 38

Collateral requirements

The application for authorisation of a CCP shall include:

- a. The list of financial instruments and other assets and guarantees accepted as collateral, and where relevant an assessment of their compliance with the conditions set out in Annex I of Delegated Regulation (EU) No 153/2013;
- b. The policies, procedures and methodologies describing the process for monitoring the credit quality, market liquidity and price volatility of the financial instruments, other assets and guarantees accepted as collateral and to ascertain their mark-to-market value on a near to real time basis;
- c. The policies, procedures and methodologies describing the approach used to determine, monitor and review collateral haircuts;
- d. A detailed description of the approach used to determine, monitor and review concentration limits.
- e. An assessment of how the CCP is compliant with requirements defined in Article 46 of Regulation (EU) No 648/2012 and Chapter X of Delegated Regulation (EU) No 153/2013, explaining for the provisions within each article how the applicant CCP complies with those requirements, referencing as appropriate the documents provided.

Article 39

Investment policy

The application for authorisation of a CCP shall include:

- a. The list of financial instruments eligible for investing the applicant CCP's financial resources, and where relevant an assessment of their compliance with the conditions set out in Annex II of Delegated Regulation (EU) No 153/2013;
- b. The list of operators of securities settlement systems, central banks, authorised credit institutions, third country financial institutions, and other highly secure arrangements to be used by the CCP to deposit financial instruments and cash;
- c. The policies and procedures containing the requirements by which the applicant CCP will abide for depositing financial instruments and cash;
- d. The policies and procedures containing the requirements by which the applicant CCP will abide to determine, monitor, review and control the CCP's concentration limits in respect of its investments;
- e. An assessment of how the applicant CCP is compliant with requirements defined in Article 47 of Regulation (EU) No 648/2012 and Chapter XI of Delegated Regulation (EU) No 153/2013, explaining for the provisions within each article how the CCP complies with those requirements, referencing as appropriate the relevant section of the document or documents provided.

Article 40

Default procedures

The application for authorisation of a CCP shall include the following documents to illustrate how the applicant CCP intends to comply with Article 48 of Regulation (EU) No 648/2012:

- a. The policies and procedures that the applicant CCP intends to use to identify a default event or to place a clearing member in default;
- b. Information on how the CCP verified that its default procedures are enforceable and that it has the legal powers to liquidate the proprietary positions of the defaulting clearing member and to transfer or liquidate the clients' positions of the defaulting clearing member in accordance with Article 48(4) of Regulation (EU) No 648/2012;
- c. The procedure for the notification of the competent authority in accordance with Article 48(3) of Regulation (EU) No 648/2012;
- d. The policies and procedures that the applicant CCP intends to use to operationally manage the default of a clearing member, including realising the collateral, transferring positions of clients where applicable, and liquidating the positions;
- e. The default management testing programme that the applicant CCP intends to put in place to evaluate the effectiveness and efficiency of the default procedures.

Article 41

Review of models, stress testing and back testing

The application for authorisation of a CCP shall include:

- a. The policies and procedures with relevance to the review of models, stress testing and back testing, including:

- i. The processes that the applicant CCP intends to use to validate its models, methodologies and liquidity risk management framework, including frequency, scope and criteria for successful validation;
 - ii. The processes that the applicant CCP intends to use to analyse and monitor the performance of its models, including scope, frequency and reporting of back tests, sensitivity tests, stress tests and reverse stress tests, and the actions it could take to review its models based on results from these tests;
 - iii. The governance framework for revisions and adjustments to the models, methodologies and liquidity stress testing framework;
- b. Documentation of the methodology for the review of models, including:
 - i. The methodology used for back testing, including the choice of time horizons, observation window, statistical tests, performance criteria and portfolio selection;
 - ii. The methodology used for sensitivity testing, including the parameters and assumptions tested, performance criteria and portfolio selection;
 - iii. The methodology and process used for reverse stress tests, including the parameters and assumptions tested, performance criteria and portfolio selection;
- c. Comprehensive test results for the review of models, including:
 - i. The results of back testing for selected hypothetical, and where available, actual portfolios over an appropriate observation window, including an evaluation of the coverage and of the testing exceptions observed;
 - ii. The results of reverse stress testing for selected hypothetical, and where available, actual portfolios, including an evaluation of the results;
 - iii. Where applicable, any documents reporting on independent validation obtained by the applicant CCP of the models with relevance to the authorisation;
- d. An assessment of how the applicant CCP is compliant with requirements defined in Article 49 of Regulation (EU) No 648/2012 and in Chapter XII of Delegated Regulation (EU) No 153/2013, explaining for the provisions within each article how the CCP complies with those requirements, referencing as appropriate the relevant section of the document or documents provided.

Article 42

Settlement

1. The application for authorisation of a CCP shall include the procedures for the settlement of its cash transactions, including where relevant, a description of the steps that the applicant CCP intends to take to limit cash settlement risks.
2. The applicant CCP shall provide, where relevant, a detailed description of the procedures for the settlement of financial and non-financial instruments including evidence of any arrangement in place to use delivery-versus-payment mechanisms.

Article 43

Information on interoperability arrangements

The application for authorisation of a CCP shall include:

- a. A document describing in detail the interoperability arrangements that the applicant CCP intends to enter into;
- b. An assessment of how the interoperability arrangements will comply with Articles 51 to 54 of Regulation (EU) No 648/2012.

Article 44

Calculations and reporting for the purposes of Regulation (EU) No 575/2013

The application for authorisation of a CCP shall include a written confirmation that the applicant CCP will comply with the reporting obligation under Article 50c of Regulation (EU) No 648/2012 and that the calculations for the purposes of Regulation (EU) No 575/2013¹¹ will be carried out in accordance with Articles 50a, 50b and 50d of Regulation (EU) No 648/2012.

CHAPTER III

EXTENSION OF AN EXISTING AUTHORISATION OF A CCP

Article 45

Information to be provided by an applicant CCP for the extension of an existing authorisation

1. An application for an extension of an existing authorisation to new services or activities in accordance with Article 17 of Regulation (EU) No 648/2012, shall include:
 - a. The information requested in points (a) and (c) of Article 14 of this Regulation;
 - b. A detailed description of the new service or activity, including the contracts and classes of financial and non-financial instruments covered by the proposed extension and a business plan explaining the expected demand for the new service or activity, the reasons for its introduction and how it aligns with the CCP's strategic goals;
 - c. The expected timeline of the extension implementation;
 - d. The documents and information requested in point (b) of Article 21;
 - e. The documents and information requested in points (a), (b) and (c) of Article 31;
 - f. The documents and information requested in Article 34;
 - g. The documents and information requested in Article 35;
 - h. The documents and information requested in Article 36;
 - i. The documents and information requested in Article 37;
 - j. The documents and information requested in Article 38;
 - k. The documents and information requested in Article 40;
 - l. The documents and information requested in Article 41;

¹¹ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; OJ L 176, 27.6.2013, p. 1–337.

2. Documents and information mentioned in points (d) to (l) of the first paragraph shall only be included in an application for extension of authorisation when they are modified as a result of the proposed extension or when the applicant CCP has never submitted those documents and information to ESMA through the central data base established by ESMA pursuant to Article 17c of Regulation (EU) 648/2012. When the documents have been modified, changes should be apparent.

Article 46

Information to be provided by an applicant CCP for the extension of an existing authorisation under the accelerated procedure

1. A request for an extension of an existing authorisation to new services or activities in accordance with Article 17a of Regulation (EU) No 648/2012, shall include:
 - a. The information requested in Article 14, points (a) and (c), of this Regulation;
 - b. The information requested in Article 45(1), points (b) and (c), of this Regulation;
 - c. An assessment of the proposed extension of the existing authorisation against the conditions set forth in Article 17a(1), points (a) to (e), of Regulation (EU) No 648/2012, as further specified in Articles 1 to 6 of this Regulation;
 - d. For the requirements under Regulation (EU) No 648/2012 and under Delegated Regulation (EU) No 153/2013 impacted by the extension, a description of how the applicant CCP achieves compliance with those requirements including the legal references of those requirements. Where the compliance is evidenced by testing results, these should also be included;
 - e. A written declaration listing which policies and procedures change due to the new service or activity.

TITLE IV

FINAL PROVISIONS

Article 47

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.

Done at Brussels,

For the Commission

The President