

Consultation Paper

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)

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

1. respond to the question stated;
2. indicate the specific question to which the comment relates;
3. contain a clear rationale; and
4. describe any alternatives ESMA should consider.

ESMA will consider all comments received by **7 April 2025**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this paper?

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from central counterparties (CCPs) as well as from direct or indirect clearing participants of CCPs.

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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.

Contents

This Consultation Paper presents the draft RTS prepared by ESMA. Section 4 outlines ESMA’s proposal to specify the conditions for the accelerated procedure under Article 17a of EMIR. Section 5 presents 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 the conditions for the exemption from authorisation under Article 15a of EMIR. Section 7 covers the frequency of notification of exemptions under Article 15a of EMIR. Section 8 presents the list of required documents 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 (accelerated procedure). Section 9 provides a clarification on the determination of the concept of ‘working days’ under EMIR. Finally, Section 10 contains all the relevant annexes (Annex I provides the summary of all

questions posed in this Consultation Paper; Annex II provides the legislative mandate for the development of this draft RTS; Annex III contains the cost-benefit analysis; Annex IV contains the draft RTS).

Next Steps

The consultation will be open until 7 April 2025. ESMA will consider the feedback received to this consultation in Q2 2025 and expects to publish a final report and submit the draft RTS to the European Commission for endorsement by Q3 2025.

2 Legislative references and abbreviations

AML	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
CRR	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
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
DORA	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
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
Regulation No 1182/71	Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits
RTS	Regulatory Technical Standards
Settlement Finality Directive	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 Background

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 a 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 a 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 a 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.

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 a 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.

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

4.1 Scope of the accelerated procedure and ESMA's mandate

5. Article 17a of EMIR sets out the accelerated procedure for authorisation of an extension of authorisation. Under this accelerated procedure, applications should be processed by the NCA, after consulting ESMA and the college, and authorisation be either granted or refused, within 15 working days of acknowledgment of receipt of the application.

6. The conditions for an extension of clearing services or activities to benefit from the accelerated procedure are set out under Article 17a(1) of EMIR.

Article 17a

Accelerated procedure for authorisation of an extension of authorisation

1. An accelerated procedure for authorisation of an extension of authorisation shall apply where a CCP intends to extend its business to additional services or activities as referred to in Article 15 and where such extension fulfils all of the following conditions:

- (a) it does not result in the CCP needing to adapt significantly its operational structure at any point in the contract cycle;
- (b) it does not include offering the clearing of contracts that cannot be liquidated in the same manner as or together with contracts already cleared by the CCP;
- (c) it does not result in the CCP needing to take into account material new contract specifications;
- (d) it does not result in the introduction of material new risks or significantly increase the CCP's risk profile;
- (e) it does not include 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.

7. In accordance with Article 17a(5) of EMIR, the scope of ESMA's mandate includes two aspects:
- a. Further specifying the five conditions set out under Article 17a(1) of EMIR; and

- b. Specifying a procedure for consulting ESMA and the college according to Article 17a(3) of EMIR on whether or not those conditions are met.

Article 17a

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.

4.2 Conditions for applying the accelerated procedure

8. Under Article 17a of EMIR, ESMA notes that the decision to apply for the accelerated procedure is left to the discretion and assessment of the CCP, under the control of the NCA (which can decide, within 15 working days, that the application does not qualify for the accelerated procedure), after consulting ESMA and the college.
9. Therefore, ESMA believes that the draft RTS should provide clear-cut criteria for the CCP to determine on its own (and NCA to confirm, after consulting ESMA and the college) that an application would qualify to be assessed under the accelerated procedure under Article 17a of EMIR.
10. However, ESMA also notes that an application processed under the accelerated procedure will only be subject to a simplified review from the NCA, ESMA and the college. It is therefore important to ensure that the conditions are further specified in an appropriate manner.

11. Based on the list of conditions set out under Article 17a(1) of EMIR, the draft RTS should provide sufficiently clear guidance for the CCP to assess:
- a. What constitutes a significant adaptation of the CCP's operational structure at any point in the contract cycle (condition a);
 - b. How a CCP should consider that the contracts cannot be "liquidated in the same manner as or together with contracts already cleared" (condition b);
 - c. What qualifies as a "material new contract specification" (condition c);
 - d. What is a material new risk or a "significant increase of the CCP's risk profile" (condition d);
 - e. What qualifies as a new settlement or delivery mechanism or links with a different securities settlement system, CSD or payment system which the CCP did not previously use (condition e).
12. As regards the methodology to be used for deciding whether the conditions for the accelerated procedure under Article 17a of EMIR are considered to have been fulfilled, a CCP intending to extend its business to additional services or activities should assess the intended extension against the parameters set out in Sections 4.2.1 – 4.2.5, below. Where the CCP's intended extension of services or activities meets all the parameters set out in Sections 4.2.1 – 4.2.5, below, the conditions for the accelerated procedure referred to in Article 17a, points (a) to (e), of EMIR will be considered as fulfilled.

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

13. ESMA notes that this condition should capture situations where the introduction of new contracts or products will not require a CCP to significantly modify or adapt its operational structure.
14. Therefore, it is 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) are:
- 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.

Q1. Do you agree with the parameters to consider in relation to condition (a)? Are there any other parameters regarding condition (a) that should be considered?

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

15. It is 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) are:

- 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.

Q2. Do you agree with the parameters to consider in relation to condition (b)? Are there any other parameters regarding condition (b) that should be considered?

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

16. It is 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) are:

- 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; and
- 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.

For the purpose of point (a) above:

- i. As regards instruments that are derivatives, ESMA is of the view that the definition as set out in point (7) of Article 2 of EMIR should be used. In other words, a CCP would not fulfil the conditions for the accelerated procedure when the CCP, intends to clear contracts traded 'OTC as defined in point (7) of Article 2 of EMIR, where currently the CCP only clears these contracts that are not traded 'OTC', i.e. that do not fulfil the definition of OTC derivatives as set out in point (7) of Article 2 of EMIR (i.e. derivatives the execution of which takes place on a regulated market or a third-country market considered to be equivalent to a regulated market in accordance with Article 2a of EMIR). The same would apply the other way round;

- ii. As regards instruments other than derivatives, ESMA is of the view that the distinction between regulated markets and other multilateral trading venues is less important. However, ESMA is of the view that switching from clearing bilaterally traded to multilaterally traded instruments and vice versa is more relevant. Therefore, ESMA believes that as regards instruments other than derivatives, a CCP would not fulfil the conditions for the accelerated procedure when the CCP intends to clear contracts traded on a bilateral basis, where currently the CCP only clears these contracts traded on a multilateral trading venue. The same would apply the other way round.

Q3. Do you agree with the parameters to consider in relation to condition (c)? Are there any other parameters regarding condition (c) that should be considered?

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

17. Article 17a(1)(d) of EMIR excludes from the accelerated procedure extensions of activities and services that would “*result in the introduction of material new risks or significantly increase the CCP's risk profile*”. ESMA notes that the reference to material new risks could be read as risks linked to the *characteristics* of the new products cleared which are materially different from the risks already handled by the CCP.
18. It is therefore 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) are:
 - 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); and
 - b. The CCP intends to clear contracts that do not reference individual issuers where the CCP currently only clears contracts referencing indices; and
 - 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; and
 - 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.

Q4. Do you agree with the parameters to consider in relation to condition (d)? Are there any other parameters regarding condition (d) that should be considered?

4.2.5 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

19. It is 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) are:

- 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.

Q5. Do you agree with the parameters to consider in relation to condition (e)? Are there any other parameters regarding condition (e) that should be considered?

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

20. Under the empowerment under Article 17a(5) of EMIR, ESMA is also 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.

21. Based on the conditions set out in Article 17a(1) of EMIR, and based on the further specification of those conditions as proposed under section 4.2 above, ESMA proposes the following list of 'typical extensions' that could be considered in principle to fall under the accelerated procedure:

- Clearing IRS in “currency A” when already clearing IRS in other currencies and already handling payments in “currency A”;
- 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”;
- Clearing covered bonds, when already clearing corporate bonds in the same currency;
- Clearing equity futures in “currency C” when already clearing equity futures in other currencies, and already handling payments in “currency C”;
- Clearing equity options in “currency D” when already clearing equity options in other currencies, and already handling payments in “currency D”;
- Clearing American options on single stocks when already clearing European options on single stocks;
- 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;
- 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.

Q6. Do you agree with the proposed list of typical extensions that could be considered in principle to fall under the accelerated procedure under Article 17a of EMIR? Would you propose to add/remove/modify/further specify any?

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

22. 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.

Article 17a

3. Within 15 working days of acknowledgment of receipt of an application pursuant to paragraph 2 of this Article, the CCP's competent authority shall, after considering the input from ESMA and the college referred to in Article 18, decide:

(a) whether the application qualifies to be assessed under the accelerated procedure set out in this Article; and

(b) where the application qualifies to be assessed under the accelerated procedure set out in this Article, whether to:

(i) grant the extension of the authorisation where the CCP complies with this Regulation; or

(ii) refuse the extension of the authorisation where the CCP does not comply with this Regulation.

23. ESMA notes that in accordance with Article 17a(3) of EMIR, the NCA should make a decision within 15 working days (of acknowledgment of receipt of an application), after considering the input from ESMA and the college, on both (a) whether the conditions for the accelerated procedure are met, and (b) whether the CCP complies with EMIR and therefore the extension of authorisation should be granted.
24. However, the empowerment set out under Article 17a(5) of EMIR only tasks ESMA with specifying the consultation of ESMA and the college by the NCA on "whether the conditions [for the accelerated procedure] are met" (i.e. point (a) of Article 17a(3) of EMIR). The empowerment set out in Article 17a(5) of EMIR, however, does not task ESMA with specifying the consultation of ESMA and the college by the NCA in relation to point (b) of Article 17a(3) of EMIR.
25. For the avoidance of doubt, it should be stressed that ESMA and the college should provide input to the NCA at the same point in time on both (a) whether the conditions for the accelerated procedure are met, and (b) whether the CCP complies with EMIR and therefore the extension of authorisation should be granted. In other words, the consultation by the NCA of ESMA and the college on both elements would be conducted in one step. However, the draft RTS only includes the procedure for the NCA to consult ESMA and the College on the first element (i.e. whether the conditions for the accelerated procedure are met).
26. ESMA notes that the consultation needs to fit within the 15-working day assessment period and should (i) provide sufficient time for ESMA and the college to review the CCP's assessment against the conditions set out in Article 17a(1) of EMIR as further specified in

the RTS, and assess whether the application qualifies for the accelerated procedure³, (ii) allow for ESMA and the college to share their views, (iii) not delay the approval process.

27. ESMA also notes that the empowerment includes consultation of both ESMA and the college, and the college may need extra time to discuss their views.

28. Furthermore, ESMA notes that in accordance with Article 17a(2) of EMIR, the CCP should demonstrate in its application that the application qualifies to be assessed under the accelerated procedure under Article 17a of EMIR. Therefore, the application should include a self-assessment by the CCP against the conditions set out in Article 17a(1) of EMIR as further specified in the RTS.

29. Therefore, as general principles, ESMA suggests that as regards the consultation procedure:

- a. 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.
- b. Consultation of the College:
 - o 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 7 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.
 - o 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.

³ In practice, as required by Level 1 (Article 17a(3) of EMIR), during this period, ESMA and the college would also need to assess, and provide input to the NCA on, whether the extension of authorisation should be granted or refused (i.e. whether the CCP complies with EMIR or not), although this element would not be included in the RTS.

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.

Q7. Do you agree with the procedure for the consultation of ESMA and the college on whether an application for an extension of authorisation qualifies to be assessed under the accelerated procedure under Article 17a of EMIR?

6 RTS on the conditions for the exemption from authorisation under Article 15a of EMIR

30. 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*”.

Article 15a

Exemption from authorisation of an extension of clearing services or activities

1. Notwithstanding Article 15, a CCP that intends to extend its business to include an additional service or activity not covered by its existing authorisation shall not be required to be authorised for such an extension where that additional service or activity would not have a material impact on the CCP's risk profile.

The CCP shall notify the registered recipients via the central database where it decides to make use of the exemption provided for in the first subparagraph of this paragraph, including the service or activity it intends to provide.

The changes implemented by a CCP in accordance with this Article shall be subject to review and evaluation in accordance with Article 21.

ESMA may review the provision of clearing services and activities and report to the college referred to in Article 18 and to the Commission on the risks arising from CCPs' provision of services and activities pursuant to this Article and on their appropriateness.

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.

31. 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.
32. ESMA notes that the extensions of clearing services or activities that will benefit from the exemption under Article 15a of EMIR will only be notified and reviewed on an ex-post basis. As a result, ESMA believes that the definition of the types of extension that would not have a material impact on a CCP's risk profile 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 under Article 15a of EMIR.
33. ESMA further notes that Recital 30 of EMIR 3 clarifies that the exemption should apply "*where the new clearing service or activity is very similar to the services the CCP is already authorised to provide*".
34. ESMA suggests establishing a list of "conditions" to be met for extensions of services or activities to benefit from the exemption. In other words, it is proposed that an extension of services or activities should be eligible for the exemption under Article 15a of EMIR where it meets 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.

Q8. Do you agree with the list of conditions for the exemption from authorisation under Article 15a of EMIR? Should any other conditions be considered?

Q9. Do you consider that any other extensions/situations should be captured under the exemption from authorisation under Article 15a of EMIR? If yes, could you please specify which exact extensions/situations?

Q10. Question for CCPs: Based on the proposals presented in this Consultation Paper, could you provide an estimate of the number of extensions of authorisation, implemented/applied for by your CCP over the past three years, that would have qualified for i) the standard procedure under Article 17 of EMIR, ii) the accelerated procedure under Article 17a of EMIR, iii) the exemption from authorisation ('BaU' changes) under Article 15a of EMIR?

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

35. 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.

36. ESMA does not find any reason to distinguish between (i) activities or (ii) CCPs when setting the frequency for the reporting. In other words, the frequency of reporting should be the same for all types of products / extensions and all CCPs. ESMA also finds that the maximum 3-months reporting is sufficiently flexible, and should 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 (i.e. four reports per year).

37. ESMA therefore believes that a 3-months reporting frequency should be appropriate.

Q11. Do you agree with the proposed frequency for the reporting of the exemption from authorisation under Article 15a of EMIR?

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

38. In accordance with Articles 14(6) and 15(3) of EMIR, ESMA is mandated to specify the list of documents and information to accompany an application for authorisation of a CCP and an extension of such authorisation, under Articles 14 and 15 of EMIR. The draft RTS are designed to ensure that national competent authorities, ESMA and the college receive all relevant information from applicant CCPs to effectively and efficiently assess their application and ensure regulatory compliance.
39. At a later stage, and in accordance with the empowerments under Articles 14(7) and 15(4) of EMIR, ESMA will also prepare draft ITS specifying the electronic format of respectively the application for initial authorisation and the application for extension of authorisation to operationalise the information requirements resulting from this RTS.
40. The proposal set out in this Consultation Paper is based on the latest updates following discussions and feedback received from stakeholders and competent authorities. Through this consultation, ESMA aims to refine the draft RTS further to address any concerns and ensure clarity and comprehensiveness.
41. The draft RTS (Title III) in this consultation paper are organized into three main chapters.

8.1 Chapter I – General requirements

42. Chapter I (of Title III of the draft RTS) includes general requirements applying to the submission of both types of applications, initial authorisation and extension of an existing authorisation, and regardless of whether the latter can be processed through an accelerated procedure or not.
43. This first chapter specifies 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, this chapter requires that any application is accompanied by a statement from the CCP's board certifying the accuracy and completeness of all submitted documents. ESMA considers this certification as key for the involvement of the applicant CCP's board in the process of authorisation or extension thereof. Finally, it should be noted that in some Member States fees may apply when an entity applies for authorisation or extension of an existing authorisation. Where these fees apply and they must be paid before the authorisation or the extension thereof is granted, the applicant must provide a proof of payment of the fees related to the application.

44. Finally, this chapter also requires that applications include an index and a correspondence table to facilitate the assessment of the applications.

Q12. Are the general provisions in Chapter I (of Title III of the draft RTS) (language, certification, fees) appropriate and clear?

Q13. Is the requirement to submit an index and a correspondence table appropriate and clear?

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

45. Chapter II (of Title III of the draft RTS) details the requirements for CCPs applying for initial authorisation and is divided into four sections.

8.2.1 General information

46. Documents requested in this section aim 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 such as the group structure, key details covering the ownership structure and close links. Furthermore, a three-year business plan is requested.

47. This section also covers documents allowing competent authorities, ESMA and the college to assess the compliance of the applicant CCP with capital requirements set out in EMIR and in Delegated Regulation (EU) 152/2013.

48. Finally, the applicant CCP will be also required to confirm its compliance with EU anti-money laundering rules and to include evidence that the applicant CCP has been notified as a system under the Settlement Finality Directive (Directive 98/26/EC).

Q14. Are the documents and information required in relation to the identification of the applicant CCP clear? Would those be enough for competent authorities and ESMA to gain sufficient understanding about the applicant CCP as a company?

Q15. Should applicant CCPs provide other documents under the general information requirements?

8.2.2 Organizational requirements

49. This section specifies the documents and information that applicant CCPs should provide to allow competent authorities, ESMA and the college to assess whether the applicant CCP complies with organisational requirements set out in EMIR and in Delegated Regulation (EU) 153/2013. The information required concern among others the governance arrangements of the 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.

50. Regarding the good repute and the experience of senior management and of members of the board of the applicant CCP, the proposal requires the applicant CCP to identify these individuals and to provide a confirmation of their good repute and their experience. Documents used by the applicant CCP 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.) should not be submitted as part of the application but should be kept at the disposal of the competent authority by the applicant CCP.
51. Regarding the identity and the suitability of members and shareholders with qualifying holdings, the draft RTS 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. For the assessment of suitability, Article 32(4) of EMIR requires Member States to make publicly available a list specifying the information that is necessary to carry out that assessment. In order to produce the self-declaration required in Article 27 of the draft RTS, applicant CCPs should use the list published in application of Article 32(4) of EMIR by the Member States where the applicant CCP has its registered office. The materials used by the applicant CCP to assess the suitability of members and shareholders with qualifying holding should not be submitted as part of the application but should be kept at the disposal of the competent authority to be verified if requested.

Q16. Are documents and information required to assess organisational requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

8.2.3 Conduct of Business Rules

52. This section of the draft RTS details the 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.

Q17. Are documents and information required to assess conduct of business requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

8.2.4 Prudential requirements

53. The Prudential Requirements section in the draft RTS for CCP initial authorisation covers essential aspects of a CCP's financial stability and resilience, requiring documents and information that should allow competent authorities, ESMA and the college to verify the compliance of the applicant CCP with the relevant requirements set out in EMIR and in Delegated Regulation (EU) 153/2013. These requirements aim at ensuring that the applicant CCP will be able to withstand market shocks and defaults. Therefore, this section covers:

- Exposure Management: applicant CCPs must provide frameworks for measuring and assessing liquidity and credit exposures to members.
- Margin Requirements: applicant CCPs are required to detail margin models to the extent that it would allow competent authorities and ESMA to replicate them. Applicant CCPs must among others provide information on calibration standards, sensitivity analyses, and testing results to show adequate risk management.
- Default Fund: applicant CCPs must define fund sizing, extreme scenarios for stress tests, and standards for pre-funded resources to cover member defaults. Similar to margin requirements, the technical description of the stress testing framework should allow competent authorities, ESMA and the college to replicate the framework.
- Liquidity Risk Controls: applicant CCPs should provide the liquidity risk management framework, including stress testing and detailed breakdowns of liquidity needs across currencies and types of exposures.
- Default Waterfall: applicant CCPs should describe the procedures and resources available in case of member default, including the priority order in using available financial safeguards.
- Collateral Requirements: applicant CCPs will have to provide the list of acceptable collateral types, describe the credit monitoring practices, and processes for collateral haircuts to maintain liquidity and minimise risk.
- Investment Policy: applicant CCPs should provide their investment policy, detailing eligible instruments to invest their resources, as well as the policies and procedures detailing requirements that will apply to the applicant CCP's concentration limits.
- Default Procedures: applicant CCPs should provide policies and procedures that identify and manage member defaults, operational management of default, and testing for preparedness.
- Model Review, Stress Testing, and Back Testing: applicant CCPs must outline methodologies for evaluating and adjusting models, including regular stress tests and back tests to monitor performance and adequacy.

- Settlement: applicant CCPs are also required to detail their procedures for settlement.

54. Applicant CCPs are requested to provide, where relevant, assessments of how the policies and procedures put in place will allow them to comply with the relevant legislative and regulatory requirements. These assessments are essential for competent authorities, ESMA and the college to evaluate the understanding that applicant CCPs have of existing requirements when it comes to their operationalisation.

Q18. Are documents and information required to assess prudential requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

8.3 Chapter III – documents for extensions of authorisation

55. Chapter III (of Title III of the draft RTS) details the list of documents and information that are required from applicant CCPs seeking to extend their authorisation to include new services or activities. It is organized into two parts:

The first part concerns applications that follow the procedure for the extension of an authorisation under Article 17 of EMIR. This is the default pathway for extending a CCP's authorisation to cover new services or activities. It requires applicant CCPs to provide among others:

- a. A description of the new service and activity;
- b. An assessment of the compliance of the new service or activity with relevant requirements set out in EMIR and in Delegated Regulation 153/2013;
- c. Relevant documents that would have been provided under Chapter II (initial authorisation).

56. These documents should allow competent authorities, ESMA and the college to produce a full assessment, involving a comprehensive documentation review, to ensure that the applicant CCP will 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.

Q19. Are documents and information required to assess an extension of authorisation, under Article 17 of EMIR, sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

57. The second part of this chapter concerns the procedure for the extension of an authorisation under Article 17a of EMIR (i.e. under the accelerated procedure). This procedure for extending an existing authorisation is faster and typically used for simpler extensions or those deemed lower-risk.

58. The documents required 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. The documents required should also provide a description of how the applicant CCP 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. Contrary to the documents required for the ordinary procedure to extend an authorisation, in the accelerated procedure (under Article 17a of EMIR) the applicant CCP should not provide the full documents containing the policies and procedures that change due to the extension of authorisation.

Q20. Are documents and information required to assess an extension of authorisation through the “accelerated procedure” (under Article 17a of EMIR) sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

9 Determination of ‘working days’ under EMIR

59. Regulation No 1182/71⁴ provides uniform general rules for determining applicable periods, dates and time limits in relation to acts which have been or will be passed pursuant to the Treaty.

60. EMIR, as a piece of legislation by the Council and the Parliament, is an act covered by Article 1 of Regulation No 1182/71 and therefore time periods (including the concept of ‘working days’) set out in EMIR, should be determined in accordance with the rules of Regulation No 1182/71.

61. Article 2(1) of Regulation 1182/71 provides that: “*For the purposes of this Regulation, ‘public holidays’ means all days designated as such in the Member State or in the Community institution in which action is to be taken.*”

62. Article 2(2) of Regulation 1182/71 then states that: “*For the purposes of this Regulation, ‘working days’ means all days other than public holidays, Sundays and Saturdays.*”

63. Therefore, when calculating ‘working days’ prescribed by EMIR, account should be taken of the actor of the action/decision, i.e. the Member State in which or the EU Institution by which such action/decision is to be taken. In other words, where EMIR provides that the action/decision is to be taken by an NCA, the working days designated by the Member State of the NCA, in accordance with Regulation 1182/71, will apply. Similarly, where EMIR

⁴ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits; OJ L 124, 8.6.1971, p. 1–2.

provides that the action/decision is to be taken by ESMA, the working days designated by ESMA, in accordance with Regulation 1182/71, will apply.

10 Annexes

10.1 Annex I – Summary of questions

- Q1.** Do you agree with the parameters to consider in relation to condition (a)? Are there any other parameters regarding condition (a) that should be considered?
- Q2.** Do you agree with the parameters to consider in relation to condition (b)? Are there any other parameters regarding condition (b) that should be considered?
- Q3.** Do you agree with the parameters to consider in relation to condition (c)? Are there any other parameters regarding condition (c) that should be considered?
- Q4.** Do you agree with the parameters to consider in relation to condition (d)? Are there any other parameters regarding condition (d) that should be considered?
- Q5.** Do you agree with the parameters to consider in relation to condition (e)? Are there any other parameters regarding condition (e) that should be considered?
- Q6.** Do you agree with the proposed list of typical extensions that could be considered in principle to fall under the accelerated procedure under Article 17a of EMIR? Would you propose to add/remove/modify/further specify any?
- Q7.** Do you agree with the procedure for the consultation of ESMA and the college on whether an application for an extension of authorisation qualifies to be assessed under the accelerated procedure under Article 17a of EMIR?
- Q8.** Do you agree with the list of conditions for the exemption from authorisation under Article 15a of EMIR? Should any other conditions be considered?
- Q9.** Do you consider that any other extensions/situations should be captured under the exemption from authorisation under Article 15a of EMIR? If yes, could you please specify which exact extensions/situations?
- Q10.** Question for CCPs: Based on the proposals presented in this Consultation Paper, could you provide an estimate of the number of extensions of authorisation, implemented/applied for by your CCP over the past three years, that would have qualified for i) the standard procedure under Article 17 of EMIR, ii) the accelerated procedure under Article 17a of EMIR, iii) the exemption from authorisation ('BaU' changes) under Article 15a of EMIR?
- Q11.** Do you agree with the proposed frequency for the reporting of the exemption from authorisation under Article 15a of EMIR?
- Q12.** Are the general provisions in Chapter I (of Title III of the draft RTS) (language, certification, fees) appropriate and clear?

- Q13. Is the requirement to submit an index and a correspondence table appropriate and clear?**
- Q14. Are the documents and information required in relation to the identification of the applicant CCP clear? Would those be enough for competent authorities and ESMA to gain sufficient understanding about the applicant CCP as a company?**
- Q15. Should applicant CCPs provide other documents under the general information requirements?**
- Q16. Are documents and information required to assess organisational requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?**
- Q17. Are documents and information required to assess conduct of business requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?**
- Q18. Are documents and information required to assess prudential requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?**
- Q19. Are documents and information required to assess an extension of authorisation, under Article 17 of EMIR, sufficiently clear and comprehensive? Should the applicant CCP provide other documents?**
- Q20. Are documents and information required to assess an extension of authorisation through the “accelerated procedure”, under Article 17a of EMIR, sufficiently clear and comprehensive? Should the applicant CCP provide other documents?**

10.2 Annex II – 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.

10.3 Annex III – Cost-benefit analysis

10.3.1 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.

10.3.2 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 2.
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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 examples.</p> <p>However, the list would need to be carefully calibrated as any typical example that would not be included could never 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.

10.3.3 List of documents and information to be provided by applicant CCPs for initial authorisation and extension of authorisation

Specific objective	<p>To ensure the consistent application of EMIR across the Union, this draft RTS provides a harmonised list of documents and information required for both the initial authorisation and the extension of existing authorisation of a CCP. The documents and information in these lists should allow the applicant CCP to demonstrate compliance with all relevant requirements of EMIR. The choice of having a harmonised list of documents and information has been taken by the co-legislators in EMIR 3 (Level 1).</p> <p>This harmonisation supports the efficient functioning of the single market, enhances legal certainty for CCPs and facilitates the supervisory process for competent authorities.</p>
Policy option 1	<p>A first policy option would be to base the list of documents and information on the requirements of EMIR and of delegated regulations, giving the choice to applicant CCPs as to whether the information submitted is included in one single document or in several documents depending on the how their documentation is drafted and organised, as long as all the relevant information is provided to competent authorities to be able to assess the applicant CCP's compliance with EMIR.</p>
Policy option 2	<p>A second policy option would be to impose the harmonisation of documents across all CCPs, by defining each document (including its content) that would have to be submitted for each requirement in EMIR and in relevant delegated regulations.</p>
Preferred option	Policy option 1.

Impact of the proposed policies	
Option 1	
Benefits / drawbacks	<p>Whether it concerns an initial authorisation or an extension of an existing authorisation, this option has a low impact on applicant CCPs as they are given the choice to present the way in which they comply with relevant EMIR requirements, as long as information for each requirement is appropriately covered.</p>

	As drawback, this policy option does not pursue full harmonisation of all CCPs' documentation.
Compliance costs	This policy option should not have any additional compliance cost.
Supervision costs	This policy option should not have any additional supervisory cost.
Option 2	
Benefits / drawbacks	This policy option would allow to have a fully harmonised list of documents across all CCPs. However, full harmonisation of all rulebooks, policies and procedures would represent a significant effort, in particular for CCPs that have been operating for years without a benefit from the supervisory point of view that would justify such a full harmonisation.
Compliance costs	High compliance cost.
Supervision costs	This policy option should not have any additional supervisory cost.

10.4 Annex IV – 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 conditions for an exemption from authorisation of an extension of clearing services or activities, 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 repositories⁵, 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 should lay 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 intended extension against all the parameters set out in this Regulation. The CCP can request the accelerated procedure where the CCP's intended extension meets all the parameters set out in this Regulation. This should however be without prejudice to the ultimate decision of the competent authority, after considering the input from ESMA and the college, on whether the application qualifies

⁵ OJ L 201, 27.7.2012, p. 1–59.

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, considering the higher risks and operational complexity involved in physical settlement compared to cash settlement; and any material change to the novation mechanism, distinguishing between open offer and novation, and between pre-funded novation and non-funded novation.
- (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 auction, direct offer, broker execution, compulsory auction and forced allocation to non-defaulting clearing members. 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. For the avoidance of doubt, as regards the parameter on liquidation processes, where a CCP offers three auctions and two direct offers, this should be understood as five liquidation processes, and, therefore, if the CCP introduces a new auction, this should be understood as a new liquidation process. Furthermore, as regards the parameter on the segmentation or compartmentalisation of the existing default fund or the introduction of a new liquidation group within the existing default fund, 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 take into account the type of execution venue of the contracts, distinguishing between OTC contracts and non-OTC contracts; whether a new type of derivative, including futures, options, swaps and forwards is introduced; and whether it implies settlement in a new currency requiring the introduction of new liquidity or payment arrangements. When assessing these parameters, the CCP should also consider the introduction of these new specifications to existing contracts, i.e. the scenario where a CCP intends to clear contracts with similar characteristics (e.g. underlying asset), compared to existing contracts, but with one or several material new specifications.
- (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; the

introduction of reference to individual issuers, including single name credit default swaps and single stock equity derivatives, given their greater complexity compared to indices; a new risk factor type as primary underlying, including volatility, dividends and correlation; new currencies involving de-pegging or convertibility risks; and a new type of liquidity resource and new liquidity needs linked to exposure to a new category of entity.

- (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 link, including a direct or indirect 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.
- (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 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 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, as well as to ensure a level-playing field across CCPs and consistent application of Regulation (EU) No 648/2012. When determining whether an intended extension could benefit from the exemption from authorisation, as a first step, the CCP should assess whether the intended extension meets all of the conditions for the accelerated procedure as set out in Article 17a(1) of Regulation (EU) No 648/2012 and as further specified in Articles 1 to 6 of this Regulation. As a second step, the CCP should assess whether the intended extension meets all of the additional conditions set out in Article 10(1), points (b) to (h), of this Regulation. Where the intended extension meets all these cumulative conditions, including the conditions for the accelerated procedure, the intended extension would benefit from the exemption from authorisation.

- (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 three months of any exemption, including the service or activity, the CCP availed of in the previous quarter. In other words, the CCP should submit four notifications per year. For the avoidance of doubt, the CCP should submit a notification even where it did not avail of any exemption in the previous quarter 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)⁶, 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

⁶ OJ L 331, 15.12.2010, p. 84.

Article 1

Methodology

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

Where the CCP's intended 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 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 mechanisms as follows:
 - i. From open offer to novation, and vice versa; and
 - ii. From pre-funded to non-prefunded novation, and vice versa.

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 intends to clear contracts that do not lead to the introduction of a new liquidation process as set out under paragraph 2; 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.
2. For the purpose of this Article, a liquidation process shall be understood as auction, direct offer, broker execution, compulsory auction and forced allocation to non-defaulting clearing members.

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 does not intend to clear contracts traded OTC as referred to under paragraph 2, where it currently only clears these contracts that are not traded OTC, and vice versa;
 - b. the CCP does not intend to introduce a new type of derivative as referred to under paragraph 3, 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.
2. For the purpose of this Article, a contract shall be considered as traded OTC:
- a. For derivatives, where the contract fulfils the definition set out in point (7) of Article 2 of Regulation (EU) 648/2012;
 - b. For instruments other than derivatives, where the contract is not traded on a trading venue as defined under point (4) of Article 2 of Regulation (EU) 648/2012.
3. For the purpose of this Article, a type of derivative shall be understood as futures, options, swaps and forwards.

Article 5

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

1. 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 intends to clear contracts that do not reference underlying issued by sovereign issuers, where it currently only clears these contracts referencing underlying issued by corporates, and vice versa;
 - b. the CCP intends to clear contracts that do not reference individual issuers where it currently only clears these contracts referencing indices;
 - c. the CCP does not intend to clear contracts that reference a new risk factor type as primary underlying;
 - d. the CCP intends to clear contracts that do not reference as underlying new currencies involving de-pegging or convertibility risks, where it does not already clear as underlying any currency 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.
2. For the purpose of this Article, a risk factor type shall be understood as volatility, dividends and correlation.

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 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.

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 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 de-pegging or 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 or convertibility risks, when already clearing deliverable or non-deliverable foreign exchange forwards.

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 why 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 why 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

CONDITIONS FOR 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, an extension of services or activities, as applicable, shall be considered as not having a material impact on the CCP's risk profile where it meets all of the following conditions:
 - a. It fulfils all of 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;
 - b. It does not involve the introduction of a new option exercise style to equivalent existing contracts;
 - c. It does not involve clearing contracts referencing securities with different seniority or secured or securitisation characteristics;
 - d. It does not imply an extension of the clearing services to new geographical zones outside the EU, nor an extension of the CCP's clearing hours;
 - e. It does not generate payments in a new currency;
 - f. It does not reference a new currency as underlying;
 - 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.
2. For the purpose of this Article, an option exercise style shall be understood as European, American and Bermudan.
3. For the purpose of this Article, seniority or secured or securitisation characteristics shall be understood as covered, collateralised, secured or unsecured, asset- or mortgage-backed.

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 three months of any exemption, including the service or activity, the CCP availed of in the previous quarter.

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 board of the applicant CCP 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

(Article 14 of Regulation EU No 648/2012)

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 152/2013⁷ 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.

⁷ 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.

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 ensure compliance with the provisions of national law transposing Directive (EU) 2015/849⁸.

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/EC⁹ 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 accordance with Article 26 of Regulation (EU) No 648/2012 and Article 3 of Delegated Regulation (EU) No 153/2013¹⁰, 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

⁸ 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.

⁹ 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; OJ L 166, 11.6.1998, p. 45–50.

¹⁰ 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.

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) 2022/2554¹¹;
- 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;
 - 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;

¹¹ 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.

- 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 1249/2012¹², 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.

Article 25

Risk committee

1. The application for authorisation of a CCP shall include a document detailing the following information regarding the risk committee:

¹² 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.

- 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 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 available, 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 575/2013¹³ 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 15 of Regulation EU No 648/2012)

Article 45

Information to be provided by an applicant CCP for the extension of an existing authorisation in accordance with the procedure set out in Article 17 of Regulation (EU) No 648/2012

¹³ 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.

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, the primary market participants who will use the new service or activity and the expected transaction volumes, potential market size, and growth forecasts;
- c. The forecasted timeline of the extension implementation with associated milestones, key project risks and mitigating measures;
- d. An assessment of the impact of the new service or activity against the relevant requirements of Regulation (EU) No 648/2012, of Delegated Regulation (EU) No 152/2013 and of Delegated Regulation (EU) No 153/2013. For each requirement, the applicant CCP shall explain how it complies with the requirement, referencing as appropriate the relevant section of the document or documents provided in accordance with point (e) of this Article;
- e. The documents, information and results of testing required under Sections II, III and IV of Chapter II of this Title in relation to the extension. For documents that have been added or amended as a result of the extension of authorisation, the applicant CCP shall provide the new, or amended document with tracking of the changes made for the purpose of the extension. When already provided under point (d) of this Article, the assessments required under Sections II, III and IV of Chapter II of this Title shall not be submitted again.
- f. Evidence that the applicant CCP has been notified as a system under Directive 98/26/EC¹⁴ on settlement finality in payment and securities settlement systems, in relation to the new service or activity.

Article 46

Information to be provided by an applicant CCP for the extension of an existing authorisation in accordance with the procedure set out in Article 17a of Regulation (EU) No 648/2012

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 criteria 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;

¹⁴ 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; OJ L 166, 11.6.1998, p. 45–50.

- d. For the requirements under Regulation (EU) No 648/2012 and under Delegated Regulation (EU) No 153/2013 impacted by the extension, a concise description of how the applicant CCP achieves compliance with those requirements including the legal references of those requirements;
- e. A written declaration listing which policies and procedures change due to the new service or activity and written confirmation in respect of policies and procedures that do not change as a consequence of 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