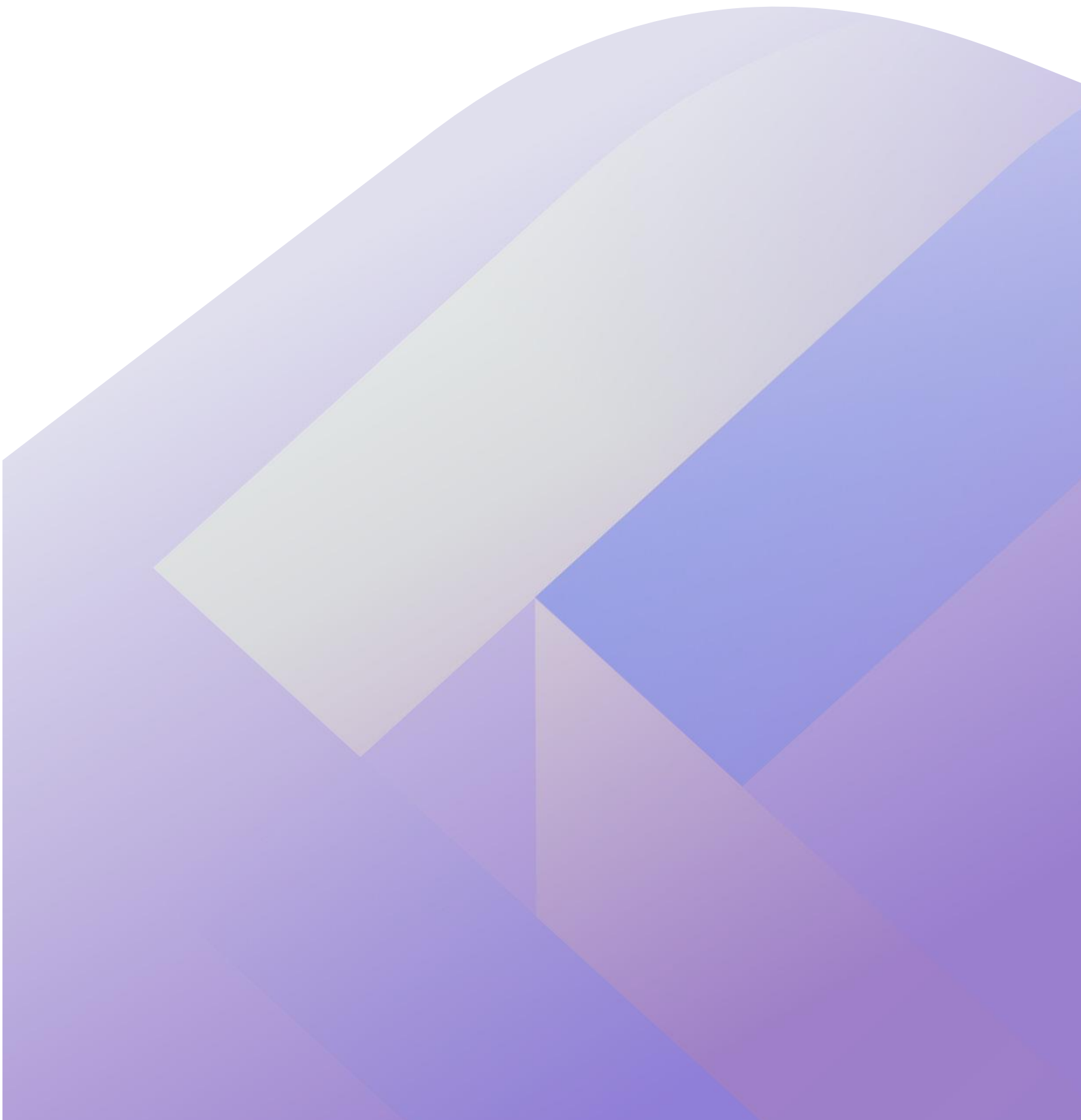


# Final Report

**Draft RTS on the information notified by third-country CSDs**



## Legislative references

|   |  |
|---|--|
| <b>CSDR<sup>1</sup></b>                         | Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1)  |
| <b>CSDR Refit<sup>2</sup></b>                   | Regulation (EU) 2023/2845 of the European Parliament and of the Council of 13 December 2023 amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third-country central securities depositories and amending Regulation (EU) No 236/2012 (OJ L, 2023/2845, 27.12.2023) |
| <b>ESMA Regulation<sup>3</sup></b>              | 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 (OJ L 331, 15.12.2010, p. 84)  |
| <b>RTS on CSD requirements<sup>4</sup></b>      | Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories (OJ L 65, 10.3.2017, p. 48)   |
| <b>RTS on settlement discipline<sup>5</sup></b> | Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (OJ L 230, 13.9.2018, p. 1)   |

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<sup>1</sup> ELI: <http://data.europa.eu/eli/reg/2014/909/oj>

<sup>2</sup> ELI: <http://data.europa.eu/eli/reg/2023/2845/oj>

<sup>3</sup> ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>

<sup>4</sup> ELI: [http://data.europa.eu/eli/reg\\_del/2017/392/oj](http://data.europa.eu/eli/reg_del/2017/392/oj)

<sup>5</sup> ELI: [http://data.europa.eu/eli/reg\\_del/2018/1229/oj](http://data.europa.eu/eli/reg_del/2018/1229/oj)

## List of acronyms

|         |   |
|---------|---|
| CP      | Consultation Paper                        |
| CSD     | Central Securities Depository             |
| ESMA    | European Securities and Markets Authority |
| EC      | European Commission                       |
| EEA     | European Economic Area                    |
| EU      | European Union                            |
| DvP     | Delivery versus Payment                   |
| FoP     | Free of Payment                           |
| FR      | Final Report                              |
| NCA     | National Competent Authority              |
| RTS     | Regulatory Technical Standards            |
| SMSG    | Securities and Markets Stakeholder Group  |
| SSS     | Securities Settlement System              |
| TC CSDs | Third-country CSDs                        |

## Table of Contents

|       |   |    |
|-------|---|----|
| 1     | Executive Summary .....                       | 5  |
| 2     | Background and general considerations .....   | 7  |
| 3     | Notification timing and reporting period..... | 8  |
| 3.1   | Notary and central maintenance services.....  | 8  |
| 3.1.1 | Proposal in the CP .....                      | 8  |
| 3.1.2 | Feedback to the consultation.....             | 8  |
| 3.1.3 | ESMA’s assessment and next steps .....        | 8  |
| 3.2   | Settlement services.....                      | 9  |
| 3.2.1 | Proposal in the CP .....                      | 9  |
| 3.2.2 | Feedback to the consultation.....             | 9  |
| 3.2.3 | ESMA’s assessment and next steps .....        | 10 |
| 4     | Information to be notified.....               | 11 |
| 4.1   | Overall approach and general information..... | 11 |
| 4.1.1 | Proposal in the CP .....                      | 11 |
| 4.1.2 | Feedback to the consultation.....             | 11 |
| 4.1.3 | ESMA’s assessment and next steps .....        | 12 |
| 4.2   | Notary and central maintenance services.....  | 12 |
| 4.2.1 | Proposal in the CP .....                      | 12 |
| 4.2.2 | Feedback to the consultation.....             | 12 |
| 4.2.3 | ESMA’s assessment and next steps .....        | 13 |
| 4.3   | Settlement services.....                      | 14 |
| 4.3.1 | Proposal in the CP .....                      | 14 |
| 4.3.2 | Feedback to the consultation.....             | 14 |
| 4.3.3 | ESMA’s assessment and next steps .....        | 15 |
| 5     | Annexes .....                                 | 16 |

|     |   |    |
|-----|---|----|
| 5.1 | Annex I: Summary of questions .....                                 | 16 |
| 5.2 | Annex II: Legislative mandates to develop technical standards ..... | 17 |
| 5.3 | Annex III: Cost-benefit analysis .....                              | 20 |
| 5.4 | Annex IV: Draft regulatory technical standards.....                 | 22 |

## 1 Executive Summary

### Reasons for publication

CSDR Refit has introduced two mandates for ESMA to specify the information that TC CSDs will be required to notify when providing notary services, central maintenance and/or settlement services in relation to financial instruments constituted under the law of an EU Member State.

Pursuant to the above-mentioned empowerments, these notifications shall include general and specific information on the TC CSDs, limited to what is strictly necessary to ensure an accurate understanding of the services provided in the EU and to inform potential regulatory and supervisory actions.

ESMA has sought input on its proposed draft RTS in a CP published on 9 July 2024. The consultation period closed on 9 September 2024. Four respondents provided their feedback on the proposed draft RTS. The SMSG was consulted as per Article 37 of the ESMA Regulation and did not provide advice.

In light of the feedback received, ESMA introduced adaptations and clarifications in the final draft RTS annexed to this FR.

### Contents

Following general considerations (Section 2), this FR recalled ESMA's proposal, summarises the feedback received and outlines ESMA's assessment and proposed way forward.

Regarding the notification timing and reporting in relation to notary and central maintenance services (section 3.1) and settlement services (section 3.2), ESMA removed the specifications on the notification timing and aligned the reporting period with the letter and the spirit of the provisions introduced by the CSDR Refit.

Regarding the information to be notified, ESMA maintained the content of its proposal on general information for all notifications (section 4.1) and streamlined the information required in relation to both notary and central maintenance services (section 4.2) and to settlement services (section 4.3), leading to a significant reduction of reporting burden for TC CSDs.

In summary, TC CSDs will be expected to notify information on the number and country of incorporation of the issuers to which they are providing notary services and of the participants to which they are providing central maintenance services, as well as information

relating to the number, value, currency and relevant laws under which the financial instruments are constituted. Certain information items with respect to issuers and participants incorporated outside of the EU can be notified on an aggregate basis.

TC CSDs will also be expected to notify information on the number and country of incorporation of the participants located in the EU to which they are providing settlement services, as well as more granular information on settlement instructions for financial instruments constituted under the law of a Member State and on transactions settled by participants incorporated in the EU.

These adaptations are embodied in the final draft RTS included as Annex IV, while Annex I contains the summary of questions, Annex II the legislative mandate to develop such RTS, and Annex III an analysis of the costs and benefits of the policy options explored.

### **Next Steps**

ESMA submits this FR and the draft RTS to the European Commission for endorsement. In accordance with Article 10 of ESMA Regulation, the Commission has three months to decide whether to endorse the proposed amendments to the RTS.

ESMA intends to publish further notification guidance, including templates, formats and calculation requirements, to ensure data quality and consistency across all notifications.

## 2 Background and general considerations

1. Article 25(2a) and (13), as well as Article 69(4a) and (4b) of CSDR, introduce notification requirements for TC CSDs in two instances:
  - when they provide/intend to provide **settlement services** in relation to financial instruments constituted under the law of an EU Member State, with subsequent information from ESMA to the competent authority of that Member State; and
  - when they provide **notary and central maintenance services** in relation to financial instruments constituted under the law of an EU Member State pursuant to applicable national rules on recognition of TC CSDs, i.e. in the absence of a decision on recognition made under CSDR in relation to these two services.
2. ESMA understands these notification requirements to apply directly to TC CSDs, without direct involvement of the competent authorities of these TC CSDs. As part of its regular dialogue with TC competent authorities, ESMA may indicate when a TC CSD could be assumed to provide services in relation to financial instruments constituted under the law of an EU Member State (e.g. when this TC CSD has provided a response to the CP) and may therefore be subject to the notification requirements.
3. Both notification requirements intend to provide ESMA with a more granular overview of the activities of TC CSDs in relation to financial instruments constituted under the law of an EU Member State. ESMA is also required to inform the relevant competent authorities of the notifications received in relation to settlements services.
4. The information on participants to be notified in relation to settlement services pursuant to Articles 25(2a) and 69(4b) of CSDR is explicitly limited to participants located in the EU, as specified in Article 25(13)(a) of CSDR.
5. By contrast, the information to be notified in relation to notary services and to central maintenance services pursuant to Article 69(4a) of CSDR is not limited to entities located in the EU. Such information should therefore cover all participants to whom central maintenance services in relation to financial instruments constituted under the law of an EU Member State are provided, and all issuers to whom notary services in relation to these financial instruments are provided, as by design notary services are only provided to issuers.
6. In order to streamline the notification process applying to all TC CSDs depending on their activities in the EU, as proposed by ESMA in the CP, the two mandates referred to in Articles 25(13) and 69(4a) of CSDR are bundled into one single draft RTS.



## **3 Notification timing and reporting period**

### **3.1 Notary and central maintenance services**

#### **3.1.1 Proposal in the CP**

7. In the CP, ESMA proposed that the one-off notification in relation to notary and central maintenance services referred to in Article 69(4a) of CSDR covers information for the period between 17 January 2024 and 16 January 2026, where applicable and available, and at least until 30 September 2025.

#### **3.1.2 Feedback to the consultation**

8. While three respondents generally agreed with or did not provide specific comments on ESMA's approach, one respondent challenged the proposal. In their view, a two-year reporting period would not be supported by the provisions in Article 69(4a) of CSDR, and the information provided would be neither 'strictly necessary' nor current and timely at the time when the TC CSD would notify it to ESMA.
9. The disagreeing respondent encouraged ESMA to revise its approach and provide for a reporting timeframe of one-year prior to the notification date. The same respondent also requested that TC-CSDs that classify information differently than required under the RTS, and who would therefore need to undergo technology and/or associated operational changes, are provided with additional time to complete the notification.

#### **3.1.3 ESMA's assessment and next steps**

10. ESMA notes that the provisions in Article 69(4a) of CSDR do not specify the applicable reporting period and do not include a mandate for ESMA to specify this reporting period.
11. It should therefore be understood that the information in relation to notary and central maintenance services can cover any point in time between the entry into force of CSDR Refit, i.e. 16 January 2024, and the actual notification from the TC CSD.
12. Regarding the notification timing, ESMA highlights that Article 69(4a) of CSDR explicitly requires that this notification occurs within two years of 16 January 2024. It follows that this notification deadline is directly set by CSDR and that ESMA does not have a mandate to postpone it.
13. As a consequence, ESMA introduced some targeted changes in the draft RTS, notably by removing the specifications on the reporting period in relation to notary services and central maintenance services.

## **3.2 Settlement services**

### **3.2.1 Proposal in the CP**

14. Based on the combined analysis of the provisions in Article 25(2a) and in Article 69(4b) of CSDR, ESMA proposed in the CP a two-fold approach for the information to be provided in relation to settlement services:
  - TC CSDs already providing settlement services in the EU before 17 January 2026 should be subject to a one-off notification by 17 January 2026, irrespective of whether the TC-CSD still provides the respective services at the time of the notification;
  - TC CSDs intending to provide settlement services in the EU after 17 January 2026 should be subject to on-going notifications from the entry into force of the RTS, to signal any change in their provision of settlement services in the EU.
15. ESMA also proposed that the one-off notification should cover at least the information until 30 September 2025, and that any missing data would be collected in the future on-going notifications pursuant to Article 25(13) of CSDR.
16. Regarding on-going notifications related to the intention to provide settlement services in the EU, ESMA proposed that TC CSDs are required to notify by 1 April of the year when they intend to provide services in the EU, covering information for the period between 1 January and 31 December of the previous year.
17. In summary, ESMA proposed to specify in the draft RTS that the notification requirements apply as follows:
  - One-off notification under Article 69(4b) of CSDR: by 17 January 2026, with 17 January 2024 – 16 January 2026 as reporting period, where applicable and available, and at a minimum until 30 September 2025.
  - On-going notifications under Article 25(2a) of CSDR: after 17 January 2026 and by 1 April 20YY+1, with 1 January 20YY - 31 December 20YY as reporting period.

### **3.2.2 Feedback to the consultation**

18. The feedback received was mixed, with two respondents generally agreeing with ESMA's approach, and two respondents objecting to the design and the introduction of both types of notifications.
19. One of the disagreeing respondents expressed the same concerns as those in relation to notary services and central maintenance services, namely that the information provided with the proposed reporting period would be neither 'strictly necessary' nor current and timely at the time when the TC CSD would notify to ESMA. The same

respondent highlighted that Article 25(13) of CSDR lists as information to be notified the data on transactions settled 'during the previous year'.

20. The other disagreeing respondent posited that the one-off notification requirement under Article 69(4b) of CSDR should be read in conjunction with the on-going notification requirement under Article 25(2a) of CSDR, i.e. that a TC CSD not intending to provide settlement services in scope of Article 25(2a) should not be required to notify information pursuant to Article 69(4b). The same respondent also noted an inconsistency between the reporting period mentioned in recital 8 and Article 2(2) of the draft RTS.

### 3.2.3 ESMA's assessment and next steps

21. Regarding the notifications on settlement services, ESMA confirms the approach in the CP that the notification requirement pursuant to Article 69(4b) of CSDR should be read as a specification of the notification requirement pursuant to Article 25(2a) of CSDR.
22. In practice, this means that a notification pursuant to Article 69(4b) of CSDR is required from any TC CSD that provided settlement services in relation to financial instruments constituted under the law of a Member State before 17 January 2026, i.e. between 16 January 2024 (the date of entry into force of CSDR Refit) and 16 January 2026. These TC CSDs may also be required to notify information at a later stage in relation to the settlement services they intend to provide pursuant to Article 25(2a) of CSDR, which applies from 17 January 2026<sup>1</sup>.
23. ESMA also notes that the notification timing set explicitly in Article 69(4b) of CSDR cannot be further specified or postponed in the draft RTS, given that the provisions in Article 25(2a) and 25(13) of CSDR neither provide nor include a mandate for ESMA to specify the notification timing.
24. Regarding the reporting period, ESMA acknowledges the clerical mistake in the last sentence of proposed recital 8, which should have read "*As a minimum, third-country CSDs are expected to notify information for the period between 17 January 2024 and 30 September 2025.*" in line with Article 2(2) of the draft RTS.
25. Further, due to the lack of an explicit mandate under Article 25(13) of CSDR, the reporting period cannot be further specified in the draft RTS. ESMA understands that the information on the number of participants located in the EU, under point (a) of Article 25(13) of CSDR, relates to the point in time when the TC CSD has intended to provide the settlement services, while the information on the number of volume of transactions

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<sup>1</sup> Point (b) of the second subparagraph of Article 3 of CSDR Refit stipulates that point 13, point (a) of Article 1, introducing the new paragraph 2a in Article 25 of CSDR, applies from 17 January 2026.

settled, under points (b) and (c) of Article 25(13) of CSDR, relates to the previous calendar year.

26. For similar reasons, introducing on-going notifications for TC CSDs starting or intending to provide settlement services may not be considered limited to what is strictly necessary. ESMA therefore proposes to specify that TC CSDs would be required to update the notified information only when they intend to provide settlement services in relation to i) an additional type of financial instruments, ii) financial instruments constituted under an additional law of an EU Member State, iii) financial instruments settled with an additional type of settlement instructions and iv) financial instruments denominated in an additional currency.
27. As a consequence, ESMA introduced changes in the draft RTS, notably by removing the specifications on the notification timing and on the reporting periods for the notifications, and specifying the cases when TC CSDs would be required to update the notified information. ESMA also ensured proportionality by requiring that these updates only occur on a yearly basis.

## **4 Information to be notified**

### **4.1 Overall approach and general information**

#### **4.1.1 Proposal in the CP**

28. ESMA proposed that notifications in relation to all services include general information on the reporting TC CSD, on the person responsible for the notification, and on the date of notification and the reporting period, drawing inspiration from the existing framework (e.g. RTS on settlement discipline and application for recognition of third-country CSDs in accordance with Annex I of the RTS on CSD requirements).
29. The proposed draft RTS also incorporates reporting and calculation requirements, for example, on the applicable exchange rates for currencies other than euros, together with templates and common reporting formats.

#### **4.1.2 Feedback to the consultation**

30. Respondents generally agreed or did not provide specific comments on ESMA's proposed approach, with one respondent querying the reasons for ESMA to specify reporting and calculation requirements, for example, on the applicable exchange rates for currencies other than EUR.

### 4.1.3 ESMA's assessment and next steps

31. In light of the feedback received, ESMA considers that the templates, formats and calculation guidance proposed in the CP are broadly supported.
32. These elements have not been included in the final draft RTS, as they are not explicitly listed in the mandates in Articles 25(13) and 69(4a) of CSDR. To clarify the application of these provisions, ESMA intends to issue guidance upon the entry into force of the RTS, to foster consistent and comparable data across notifications from all TC CSDs. For instance, information with regard to exchange rates for currencies other than EUR may be useful for notifications including information related to EU and EEA jurisdictions not using the Euro as a currency.

## 4.2 Notary and central maintenance services

### 4.2.1 Proposal in the CP

33. In the CP, ESMA proposed that the information items listed in the third subparagraph of Article 69(4a) of CSDR are specified as followed:
  - point (a) for notary services: number of issuers and of securities issues recorded in securities accounts centrally and not centrally maintained in each securities settlement system operated by the third-country CSD, by type of financial instrument, as well as the number of participants to which central maintenance services are provided in relation to these securities issues, by jurisdiction of incorporation of the participant, also indicating the jurisdiction where the participant operates when the participant acts through a branch;
  - point (a) for central maintenance services: number of participants by participant type, by jurisdiction in which services are provided, and by jurisdiction of incorporation of the participant, also indicating the jurisdiction where the participant operates when the participant acts through a branch;
  - points (b) and (c) for both services: volume and value of financial instruments in respect of which services are provided, by type of financial services, by jurisdiction of the national rules of the services provided and by currency in which the financial instrument is denominated.

### 4.2.2 Feedback to the consultation

34. Two respondents generally agreed or did not provide specific comments on the proposed list of information items. The other two respondents challenged the relevance, appropriateness and proportionality of the information requested.

35. Both disagreeing respondents asked for clarifications on the meaning of 'jurisdiction in which services are provided', and whether it relates to the jurisdiction of the participant, the jurisdiction where the issuer is incorporated and/or the jurisdiction under whose law the securities are issued.
36. One of the respondents also questioned the relevance of requesting information on accounts not centrally maintained and of notifying information on notary services and on central maintenance separately.
37. The other disagreeing respondent posited that the one-off notification pursuant to Article 69(4a) of CSDR should be limited to participants in the EU, as is the case for notifications pursuant to Article 25(2a) and Article 69(4b) of CSDR, and asked for clarifications on the calculation of the total number of value of financial instrument due to the fact that the one-off notification is not presented as a point-in-time notification.

### **4.2.3 ESMA's assessment and next steps**

38. In light of the feedback received, ESMA proposes to further align the draft RTS with the rules applicable to EU CSDs, both for indicators of substantial importance, as specified in the RTS drafted in accordance with Article 24a(13) of CSDR, and for the review and evaluation process, as specified in the RTS on CSD requirements.
39. In more detail, ESMA introduced the following changes in the draft RTS:
  - removing from the notification requirements the information on accounts not centrally maintained, and on the jurisdiction of operation of the branch of a participant, as well as removing the reference to the jurisdiction in which the services are provided;
  - streamlining the information to be reported in relation to the number of issuers and participants to which notary and central maintenance services are provided, including the removal of granular reporting by type of participant.
40. In relation to the information on the calculation of the number and value of financial instruments, as mentioned in section 4.1 above, ESMA intends to provide additional guidance making a clear distinction between the information to be notified in relation to issuers to which notary services are provided, on the one hand, and in relation to participants to which central maintenance services are provided, on the other hand.
41. ESMA also notes that the information in relation to issuers and/or participants located outside of the EU is in scope of the notification pursuant to Article 69(4a) of CSDR. ESMA however recognises that a proportional approach, limiting the scope of information requested to what is strictly necessary, warrants that the scope of the information to be notified by third-country CSDs should be narrowed down for issuers and for participants located outside of the EU.

## 4.3 Settlement services

### 4.3.1 Proposal in the CP

42. In the CP, ESMA proposed that the information items listed in Article 25(13) of CSDR, third subparagraph, are specified as followed:
- Point (a): number of participants by participant type, by jurisdiction of incorporation of the participant, also indicating the jurisdiction where the participant operates when the participant acts through a branch and the type of links where relevant.
  - Point (b): volume and value of settlement instructions in relation to transactions in financial instruments constituted, by financial instrument type, by relevant jurisdiction (of incorporation of the issuer as well as governing the issuance of the security), by type of settlement (including information on the cash again payment settlement mode) and by currency in which the financial instrument is denominated.
  - Point (c): volume and value of transactions settled by EU participants, by participant type, by financial instrument type, by type of settlement (including information on the cash again payment settlement mode), by jurisdiction of incorporation of the participant, also indicating the jurisdiction where the participant operates when the participant acts through a branch and by currency in which the financial instrument is denominated.
43. ESMA also proposed that TC CSDs supplement the information on participants by indicating when the instructions are settled through a link, and by identifying the type of link (standard, customised, interoperable or indirect link), to ensure that ESMA's CSDs register<sup>2</sup> is up to date in relation to TC CSDs.

### 4.3.2 Feedback to the consultation

44. As for previous topics, two respondents generally agreed or did not provide specific comments on the proposed list of information items, while the remaining two respondents provided more detailed feedback.
45. One of the respondents highlighted that core elements of the reporting template are based on concepts and definitions defined in EU law which may prove challenging to reconcile in non-EU situations, citing the classification of financial instruments, the categories of method of cash settlement, and the type of settlement instructions as areas where third-country regulatory frameworks differ from EU legislation.

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<sup>2</sup> [https://www.esma.europa.eu/sites/default/files/library/esma70-155-11635\\_csd\\_register\\_-\\_art\\_21.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-155-11635_csd_register_-_art_21.pdf)

46. Both disagreeing respondents also challenged supplementary reporting on the settlement of instrument through links and on the identification of the link types, noting that this information may not be considered 'strictly necessary' due to the fact that EU CSDs are already required to report their links with TC CSDs.

#### **4.3.3 ESMA's assessment and next steps**

47. ESMA notes that the classification of the financial instruments subject to notification requirements should be eased by the fact that these requirements only apply to instruments constituted under the law of a Member State.
48. ESMA recognises that TC CSDs operating with different methods of cash settlement or with different types of settlement instructions may face challenges when notifying information in line with EU requirements on these features. ESMA therefore proposes that TC CSDs should only be required to specify these elements where applicable and available.
49. ESMA also acknowledges that the information in relation to the links may not be considered strictly necessary, although useful to ensure that the reporting of CSD links is coherent on both ends of the link. In this light, ESMA proposes to remove the requirement for TC CSDs to notify information on links.
50. In a similar vein and in line with information required from EU CSDs, ESMA proposes further streamlining of the notification requirements, including a removal of the information in relation to participants' branches and of granular reporting by type of participant. ESMA intends to provide additional guidance on the calculation of the number and value of the settlement instructions and of the transactions settled, as mentioned in section 4.1.



## 5 Annexes

### 5.1 Annex I: Summary of questions

**Q1: Do you agree with ESMA's assessment and proposal on the timing and reporting period for the notification in relation to notary services and central maintenance services? If not, please describe an alternative approach with justifications.**

**Q2: Do you agree with ESMA's assessment and proposal on the timing and reporting period for the notifications in relation to settlement services? If not, please describe an alternative approach with justifications.**

**Q3: Do you agree with ESMA's proposed overall approach to the information requested? If not, please describe an alternative approach with justifications.**

**Q4: Do you agree with the proposed content for the general information section? If not, please specify which information items should in your view be amended, replaced and/or added.**

**Q5: Do you agree with the proposed content for the notification in relation to notary services and central maintenance services? If not, please specify which information items should in your view be amended, replaced and/or added.**

**Q6: Do you agree with the proposed content for the notifications in relation to settlement services? If not, please specify which information items should in your view be amended, replaced and/or added.**

**Q7: Do you have additional comments and suggestions on the draft RTS for the information to be provided by TC CSDs? Please provide justifications, and where relevant, qualitative and quantitative data on the expected costs and benefits.**

## 5.2 Annex II: Legislative mandates to develop technical standards

### Article 25 of CSDR – Third countries

*[...] 2a. A third-country CSD that intends to provide the core service referred to in Section A, point 3, of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph, shall notify ESMA thereof. ESMA shall inform the competent authority of the Member State under whose law the financial instruments are constituted of the notification received. [...]*

*13. ESMA shall develop draft regulatory technical standards to specify the information that the third-country CSD is to provide to ESMA in the notification referred to in paragraph 2a. Such information shall be limited to what is strictly necessary, including, where applicable and available:*

*(a) the number of participants located in the Union to whom the third-country CSD provides or intends to provide the services referred to in paragraph 2a;*

*(b) the number and volume of transactions in financial instruments constituted under the law of a Member State settled during the previous year;*

*(c) the number and volume of transactions settled by Union participants during the previous year.*

*ESMA shall submit those draft regulatory technical standards to the Commission by 17 January 2025.*

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

### Article 69 of CSDR

#### Transitional provisions

*[...] 4a. The national rules on recognition of third-country CSDs shall continue to apply until the date when a decision is made under this Regulation on the recognition of the third-country CSDs and of their activities, or until 17 January 2027, whichever is earlier.*

*A third-country CSD that provides the core services referred to in Section A, points 1 and 2, of the Annex in relation to financial instruments constituted under the law of a Member State*

*referred to in Article 49(1), second subparagraph, pursuant to the applicable national rules on recognition of third-country CSDs shall notify ESMA thereof within two years of 16 January 2024.*

*ESMA shall develop draft regulatory technical standards to specify the information that the third-country CSD is required to provide to ESMA in the notification referred to in the second subparagraph. Such information shall be limited to what is strictly necessary including, where applicable and available:*

*(a) the number of participants to whom the third-country CSD provides or intends to provide the services referred to in the second subparagraph;*

*(b) the categories of financial instruments in respect of which the third-country CSD provides such services; and*

*(c) the total volume and value of such financial instruments.*

*ESMA shall submit those draft regulatory technical standards to the Commission by 17 January 2025.*

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

*4b. A third-country CSD that provided the core service referred to in Section A, point 3, of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1) second subparagraph, before 17 January 2026 shall submit the notification referred to in Article 25(2a) by 17 January 2026.*

*4c. Where a CSD has submitted a complete application for recognition in accordance with Article 25(4), (5) and (6) before 16 January 2024 but ESMA has not issued a decision in accordance with Article 25(6) by that date, the national rules on recognition of CSDs shall continue to apply until the ESMA decision is issued. [...]*

#### **Recital (27) of CSDR Refit**

*(27) ESMA and competent authorities currently have limited information on the services offered by third-country CSDs in relation to financial instruments constituted under the law of a Member State as a result of several factors. The first is the deferred application, without an end date, of the recognition requirements for third-country CSDs that already provided central maintenance and notary services in the Union before the date of application of Regulation (EU) No 909/2014 pursuant to Article 69(4) of that Regulation. The second is the fact that where a third-country CSD provides only the settlement service, it is not subject to recognition*

*requirements. The third is the fact that Regulation (EU) No 909/2014 does not require third-country CSDs to notify Union authorities of their activities in relation to financial instruments constituted under the law of a Member State. Given the lack of information, neither issuers nor public authorities at Union or national level have been able to assess the activities of those CSDs in the Union when needed. Therefore, third-country CSDs should be required to inform Union authorities of their activities in relation to financial instruments constituted under the law of a Member State.*

## 5.3 Annex III: Cost-benefit analysis

### Notifications in relation to notary and central maintenance services

|   |   |                          |
|---|---|--------------------------|
| <b>Policy Objective</b>                           | Provide relevant information for ESMA to ensure the orderly phase-out of the grand-fathering clause for notary and central maintenance services and the effective use of the recognition process.                             |                          |
| Option 1  | Granular notifications distinguishing between issuers and participants and requesting detailed information on securities issues recorded in securities accounts and the jurisdictions of operation of participants' branches. |                          |
| Option 2  | Streamlined notifications limiting the information requested from TC CSDs at the level of issuers and participants.   |                          |
| Preferred Option                                  | Option 2  |                          |
| Benefits  | Qualitative description   | Quantitative description |
|   | Provides a snapshot of the activities of TC CSDs at the time of notification. Ensures that the granularity of information remains proportionate and can be complemented in potential applications for recognition.            |                          |
| Cost to regulator:<br>- One-off<br><br>- On-going | Limited one-off costs to receive and analyse the notifications.<br>No on-going costs identified.  | NA                       |
| Compliance cost:<br>- IT<br>- Training<br>- Staff | Limited one-off IT and staff costs to collect the requested information and send the notification.<br>No on-going costs identified.   | NA                       |
| Other costs                                       | None identified.  | None identified.         |
| Innovation-related aspects                        | Innovation-related aspects are not of direct relevance to the notifications in relation to notary and central maintenance services.   |                          |
| ESG-related aspects                               | ESG-related aspects are not of direct relevance to the notifications in relation to notary and central maintenance services.  |                          |
| Proportionality-related aspects                   | Streamlined notifications and lesser granularity ensure that the requirements to provide information are limited to what is strictly necessary, as explicitly required by the empowerment under CSDR.                         |                          |

## Notifications in relation to settlement services

|   |   |                          |
|---|---|--------------------------|
| <b>Policy Objective</b>                           | Provide relevant information to ESMA and subsequently to NCAs to assess the provision of settlement services in relation to financial instruments constituted under the law of an EU Member State by TC CSDs, as previously this was lacking, and to determine follow-up actions, as necessary. |                          |
| Option 1  | Initial and on-going notifications with granular information identifying the jurisdiction of operation of participants' branches and the links through which instructions are settled.  |                          |
| Option 2  | Notifications updated in specific cases, with no information on jurisdiction of operations of branches and links, and information on settlement type and mode where applicable and available.   |                          |
| Preferred Option                                  | Option 2  |                          |
| Benefits  | Qualitative description   | Quantitative description |
|   | Provides a snapshot of the activities of TC CSDs at the time of the initial notification, to be updated where their activities expand overtime. Ensures that the granularity of information requested remains proportionate.  |                          |
| Cost to regulator:<br>- One-off<br><br>- On-going | Limited one-off and on-going costs to receive and analyse the notifications.  | NA                       |
| Compliance cost:<br>- IT<br>- Training<br>- Staff | Limited one-off and on-going IT and staff costs to collect the requested information and send the notifications.  | NA                       |
| Other costs                                       | None identified.  | None identified.         |
| Innovation-related aspects                        | Innovation-related aspects are not of direct relevance to the notifications in relation to settlement services.   |                          |
| ESG-related aspects                               | ESG-related aspects are not of direct relevance to the notifications in relation to settlement services.  |                          |
| Proportionality-related aspects                   | Requiring updates only in specific cases and no more than yearly, and with lesser granularity in the information requested, ensures that notifications are limited to what is strictly necessary, as explicitly required by the empowerment under CSDR .  |                          |

## 5.4 Annex IV: Draft regulatory technical standards

### **COMMISSION DELEGATED REGULATION (EU) XXXX/XXX of DD MMMM 2025**

**supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on the information notified by third-country central securities depositories**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, and in particular Articles 25(13) and 69(4b) thereof,

Whereas:

(1) The provisions of this Regulation are closely linked, since they all deal with notification requirements applicable to third-country central securities depositories (CSD). To ensure consistency and coherence between these provisions, as well as a comprehensive view of the information referred to in Article 25(13) and in Article 69(4b) of Regulation (EU) No 909/2014, it is desirable to include all regulatory technical standards concerning notification requirements applicable to third-country CSDs in a single Regulation.

(2) To enable ESMA to identify the third-country CSD unequivocally, general information on the third-country CSD should be included in the notification provided to ESMA.

(3) National rules on the recognition of third-country CSDs for the provision of notary services and of central maintenance services in relation to financial instruments constituted under the law of a Member State will no longer apply from 17 January 2027. From that date, the recognition by ESMA of third-country CSDs and their activities will be required for the provisions of such services. It is therefore necessary for ESMA to obtain additional information on the provision of notary services and central maintenance services by third-country CSDs in the Union, to ensure an orderly phase-out of the grand-fathering clause for notary services and central maintenance services and to prepare for an effective use of the ESMA recognition process ahead of potential applications for recognition from third-country CSDs.

(4) Information on the number and country of incorporation of the entities to which services are provided both within and outside the EU should enable ESMA to obtain a more detailed view of the geographical coverage of each third-country CSD. Information relating to the number, value, currency and relevant laws under which the financial instruments are constituted is necessary to enable ESMA to better understand the significance of the provision of notary services and central maintenance services by third-country CSDs in relation to such financial instruments constituted under the law of a Member State. To ensure that the requested information is limited to what is strictly necessary, the scope of the information to be notified by third-country CSDs should be narrowed down for issuers and for participants located outside of the EU.

(5) In accordance with Regulation (EU) No 909/2014 the service relating to the initial recording of securities in a book-entry system, or notary service, is provided to issuers while the provision and maintenance of securities accounts at the top tier level, or central maintenance service, is provided to participants. It is therefore relevant to specify that third-country CSDs should notify information in relation to the issuers to which they provide notary services, and in relation to the participants to which they provide central maintenance services.

(6) To enable ESMA to assess the activities of those third-country CSDs in the Union, it is necessary for ESMA to obtain information on the provision of the settlement services by third-country CSDs in relation to financial instruments constituted under the law of a Member State. In particular, it is necessary for ESMA to obtain detailed information concerning the extent to which third-country CSDs are providing settlement services to participants located in the EU and in relation to financial instruments constituted under the law of Member State, in order to assess potential dependencies on such third-country entities.

(7) An initial view of the activity of each third-country CSD within the EU should be obtained based on information on the number and country of incorporation of the participants located in the EU to which third-country CSDs are providing settlement services at the time of notification. More granular information on settlement instructions for all financial instruments constituted under the law of a Member State and on transactions settled by participants incorporated in the EU are essential for ESMA to complement this initial view with an in-depth analysis by type of financial instrument, currency, country of incorporation of the issuer, country of constitution of financial instrument, and where applicable and available, type and mode of settlement instructions.

(8) To ensure an adequate monitoring of the data pertaining to settlement services provided in the Union, it is necessary to specify the cases for which third-country CSD would be required to update the information notified to ESMA.

(9) In order to ensure that the competent authorities of the Member States under whose laws the financial instruments are constituted remain up to date on the activities from third-country



CSDs of direct relevance to them, ESMA should provide without undue delay the information notified by the third-country CSDs in relation to settlement services to each of the relevant competent authorities.

(10) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).

(11) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>1</sup>,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Notification in relation to notary services and to central maintenance services**

1. The notification to be provided to ESMA by a third-country CSD as referred to in the second subparagraph of Article 69(4a) of Regulation (EU) No 909/2014 shall include the following information:
  - (a) general information on the third-country CSD as follows;
    - (i) corporate name and Legal Entity Identifier of the third-country CSD;
    - (ii) address and country of incorporation of the third-country CSD;
    - (iii) name of the securities settlement system operated by the third-country CSD;
    - (iv) date of the provision of the notification to ESMA;
    - (v) start date and end date of the period covered by the notification;
    - (vi) name, function, phone number and email address of the person responsible for the notification;

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<sup>1</sup> 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 (OJ L 331, 15.12.2010, p. 84).

- (b) the number of issuers and of participants to which services are provided, specifying the country of incorporation of the issuer or participant;
- (c) the total number and value of financial instruments in respect of which services are provided, broken down as follows:
  - (i) by type of financial instruments, as follows:
    - transferable securities referred to in point (a) Article 4(1)(44) of Directive 2014/65/EU;
    - sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU,
    - transferable securities referred to in point (b) of Article 4(1)(44) of Directive 2014/65/EU, other than sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU;
    - transferable securities referred to in point (c) of Article 4(1)(44) of Directive 2014/65/EU;
    - exchange-traded funds as defined in Article 4(1)(46) of Directive 2014/65/UE (ETF);
    - units in collective investment undertakings, other than ETFs;
    - money-market instruments, other than sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU;
    - emission allowances;
    - other financial instruments;
  - (ii) by country where the issuer is incorporated under corporate or similar law;
  - (iii) by country where the financial instruments are constituted under corporate or similar law;
  - (iv) by currency in which the financial instruments are denominated.

2. By way of derogation from point (b) of paragraph 1, third-country CSDs shall not be required to specify the country of incorporation of issuers and of participants incorporated outside of the Union.

3. By way of derogation from points (c) (ii) (iii) and (iv) of paragraph 1, third-country CSDs shall not be required to notify the country of incorporation of the issuer, the country of constitution of financial instruments and the currency of denomination of the financial instrument when notifying information on the total number and value of financial instruments in respect of notary and central maintenance services provided to issuers and to participants incorporated outside of the Union.

## *Article 2*

### **Notification in relation to settlement services**

1. The notification to be provided to ESMA by a third-country CSD as referred to in Article 25(2a) of Regulation (EU) No 909/2014 shall include the following information:
  - (a) general information on the third-country CSD as follows:
    - (i) corporate name and Legal Entity Identifier of the third-country CSD;
    - (ii) address and country of incorporation of the third-country CSD;
    - (iii) name of the securities settlement system operated by the third-country CSD;
    - (iv) date of the provision of the notification to ESMA;
    - (v) start date and end date of the period covered by the notification;
    - (vi) name, function, phone number and email address of the person responsible for the notification;
  - (b) the number of participants located in the Union, specifying the country of incorporation of the participant;
  - (c) the total number and the value of the settlement instructions in financial instruments constituted under the law of a Member State during the previous calendar year, broken down as follows:
    - (i) by type of financial instruments, as follows:
      - transferable securities referred to in point (a) of Article 4(1)(44) of Directive 2014/65/EU;

- sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU,
  - transferable securities referred to in point (b) of Article 4(1)(44) of Directive 2014/65/EU, other than sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU;
  - transferable securities referred to in point (c) of Article 4(1)(44) of Directive 2014/65/EU;
  - exchange-traded funds as defined in Article 4(1)(46) of Directive 2014/65/UE (ETF);
  - units in collective investment undertakings, other than ETFs;
  - money-market instruments, other than sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU;
  - emission allowances;
  - other financial instruments;
- (ii) by country where the issuer is incorporated under corporate or similar law;
- (iii) by country where the financial instruments are constituted under corporate or similar law;
- (iv) by currency in which the financial instruments are denominated;
- (v) where applicable and available, by type of settlement instructions, as follows:
- a free of payment (FOP) settlement instructions that consist of deliver free of payment (DFP) and receive free of payment (RFP) settlement instructions;
  - delivery versus payment (DVP) and receive versus payment (RVP) settlement instructions;
  - delivery with payment (DWP) and receive with payment (RWP) settlement instructions;
  - payment free of delivery (PFOD) settlement instructions;

- (vi) where applicable and available, for settlement instructions against payment, by whether the cash leg is settled in accordance with Article 40(1) or (2) of Regulation (EU) No 909/2014;
  - (d) the total number and the aggregate value of transactions settled in the third-country CSD by participants incorporated in the Union during the previous calendar year, broken down as follows:
    - (i) by country of incorporation of the participant;
    - (ii) by currency in which the financial instruments are denominated.
    - (iii) where applicable and available, by type of settlement instructions, as follows:
      - a free of payment (FOP) settlement instructions that consist of deliver free of payment (DFP) and receive free of payment (RFP) settlement instructions;
      - delivery versus payment (DVP) and receive versus payment (RVP) settlement instructions;
      - delivery with payment (DWP) and receive with payment (RWP) settlement instructions;
      - payment free of delivery (PFOD) settlement instructions;
    - (iv) where applicable and available, for settlement instructions against payment, by whether the cash leg is settled in accordance with Article 40(1) or (2) of Regulation (EU) No 909/2014.
2. Third-country CSDs shall update the information included in the notification referred to in the first paragraph each time they intend to provide settlement services in relation to:
- (a) financial instruments of a type that was not included in a previous notification, as broken down in point (c) (i) of the first subparagraph;
  - (b) financial instruments constituted under the law of a Member State that was not included a previous notification;

- (c) settlements instruments of a type that was not included in a previous notification, as broken down in point (c) (v) of the first subparagraph; or
- (d) financial instruments constituted under the law of a Member State denominated in a currency that was not included in a previous notification.

Third-country CSDs shall provide updated information to ESMA once a year, where applicable.

### *Article 3*

#### **Entry into force and application**

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

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

Done at Brussels, DD MMMM 2025.

*For the Commission*

*The President*

