

Targeted consultation on integration of EU capital markets – Part 1

Fields marked with * are mandatory.

For technical reasons, the questionnaire has been divided into 2 parts.

This is part 1

Part 2 on **horizontal barriers to trading and post-trading infrastructures, asset management and funds, supervision, and horizontal questions on the supervisory framework** is available here:

[Respond to part 2](#)

Also note that the **question numbering might differ compared to the original pdf version** of the consultation document published on 15 April.

Introduction

Implementation of the [savings and investments union \(SIU\) strategy](#), as presented in the **Commission Communication of 19 March 2025**, is a top priority of the Commission. The [SIU](#) will be a key enabler of wider efforts to boost competitiveness in the EU economy by improving the way the EU financial system mobilises savings for productive investment, thereby creating more and better financial opportunities for citizens and businesses.

The development and integration of EU capital markets should be a market-driven process, but various barriers to that market-driven process must first be removed. Despite the harmonisation of regulatory frameworks and the existence of financial services passports, the persistent fragmentation due to these barriers is limiting the potential benefits of the EU's single market. Financial-market participants cannot fully benefit from scale economies and improved operational efficiency, or are not adequately incentivised to facilitate cross-border investments, raising the costs and restricting the choice of financial services available to businesses and citizens. By delivering better and cheaper financial services, the SIU will be a key element in boosting economic competitiveness.

More integrated and modernised EU capital markets should also allow us to explore and benefit from technological developments and innovation. The use of newer generation technologies such as distributed ledger technology, tokenisation of financial instruments, will allow us to empower our capital markets and equip them for the opportunities and challenges ahead.

The Communication on the SIU announced legislative proposals in the fourth quarter of 2025 to remove barriers to cross-border trading and post-trading, cross-border distribution of investment funds and cross-border operations of asset managers. This reflects [President von der Leyen's mission letter to Commissioner Albuquerque](#), which includes the task to “*explore further measures to [...] promote scaling up of investment funds, and remove barriers to the consolidation of stock exchanges and post-trading infrastructure*”. To this end, the Commission has already launched external studies to identify barriers affecting the consolidation of trading and post-trading infrastructures and the scaling up of investment funds in the EU. These barriers include those of an economic, legal (at national and EU level), technological, behavioural and operational nature.

Divergences in supervisory practices can also act as a specific barrier to capital-market integration, as financial-market participants operating across borders must manage different requirements across the single market. Accordingly, any strategy to integrate EU capital markets naturally leads to the need for more efficient and harmonised supervision. The aforementioned studies also seek to identify barriers to integration that are linked to supervision and the Commission will propose legislative measures in the fourth quarter of 2025 to strengthen supervisory convergence and to transfer certain supervisory tasks for capital markets to the EU level.

As part of implementing the SIU strategy, this targeted consultation seeks stakeholders' feedback on several issues and possible measures, legislative or non-legislative on 2 main areas:

- barriers in general to the integration and modernisation of trading and post-trading infrastructures, the distribution of funds across the EU and efficient cross-border operations of asset management
- and barriers specifically linked to supervision

In line with the [simplification communication](#), simplification will underpin all efforts to implement the SIU strategy and respondents are invited to indicate any areas in which regulatory simplification would be appropriate.

As a swift action is required under the savings and investments union strategy to untap EU enormous potential and give it the means to secure its economic future, this consultation must be completed within eight weeks. It is acknowledged that this consultation is extensive and to the extent that not all questions will be relevant to all stakeholders, respondents are invited to reply only to those questions that are most relevant to them.

Responding to this consultation

In this targeted consultation, the Commission is interested in the views of a wide range of stakeholders. Contributions are particularly sought from financial institutions and other markets participants, national supervisors, national ministries, the ESAs, EU institutions, non-governmental organisations, think tanks, consumers, users of financial services and academics. Market participants include operators and users of trading and post-trading infrastructures in the EU, notably trading venues, broker-dealers, issuers, institutional and retail investors, clearing counterparties (CCPs), central securities depositaries, trade repositories, other financial market infrastructure operators, asset managers, investment funds, regardless of where they are domiciled or where they have established their principal place of business.

This consultation should be seen as a distinct exercise from any targeted queries received by relevant stakeholders in relation to the currently ongoing external studies to identify barriers affecting the consolidation of trading and post-trading infrastructures and the scaling up of investment funds in the EU.

Responses to this consultation are expected to be most useful where issues raised in response to the questions are supported with a clear and detailed narrative, evidenced by data (where possible), concrete examples, legal references and qualitative evidence, and accompanied by specific suggestions for solutions to address them in the Regulation.

Urgent action is required to address persistent fragmentation that limits the benefits to be gained from the EU's single market and contribute to secure EU's prosperity and economic strength. All interested stakeholders are invited to reply by 10 June 2025 at the latest to the online questionnaires below.

Please note that to ensure a fair and transparent consultation process only responses received through the online questionnaires will be taken into account and included in the report summarising responses.

Recognising the comprehensive nature of this consultation, it has been decided to divide it into six key topics: simplification, trading, post trading, horizontal barriers to trading and post-trading, asset management and funds and supervision. This approach aims to streamline the response process and ensure each aspect is thoroughly addressed, thereby making it more manageable for respondents to engage with and contribute their insights effectively. By organising the consultation in this manner, the aim is to encourage detailed and focused feedback on each specific area, ultimately leading to a more robust and inclusive dialogue.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-markets-integration-supervision@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [savings and investments union](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐ Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐

- ☐ French
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Irish
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish
- ☐ Portuguese
- ☐ Romanian
- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Company/business
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority
- ☒ Trade union
- ☐ Other

* First name

Ben

* Surname

van der Velpen

* Email (this won't be published)

ben.vandervelpen@dacsi.nl

* Organisation name

255 character(s) maximum

Dutch Advisory Committee Securities Industry (DACSI)

* Organisation size

- ☒ Micro (1 to 9 employees)
- ☐ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☐ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
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| <input type="radio"/> Bangladesh | <input type="radio"/> French Southern and Antarctic Lands | <input type="radio"/> Moldova | <input type="radio"/> South Georgia and the South Sandwich Islands |
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- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Lesotho
- ☐ Liberia
- ☐ Saint Helena
Ascension and
Tristan da Cunha
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Zimbabwe

* Field of activity or sector (if applicable)

- ☐ Auditing
- ☐ Central bank
- ☐ Central Counterparty (CCP)
- ☐ Central Securities Depository (CSD)
- ☐ Clearing house
- ☐ Credit institution
- ☐ Credit rating agency
- ☐ Energy trading company (non-financial)
- ☐ European supervisory authority
- ☐ Insurance
- ☐ Investment firm
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Market infrastructure operation (except CCPs, CSDs, stock exchanges)
- ☐ Member State Authority other than a national supervisory authority
- ☐ Multilateral development bank
- ☐ National supervisory authority
- ☐ Organisation representing European consumers' interests
- ☐ Organisation representing European retail investors' interests
- ☐ Pension provision
- ☐ Public authority
- ☐ Publicly guaranteed undertaking
- ☐ Settlement agent
- ☐ Stock exchange
- ☐ System operator
- ☐ Technology company
- ☒

Other

☐ Not applicable

* Please specify your activity field(s) or sector(s)

Post-Trade Securities

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ **Anonymous**

Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

☒ **Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☒ I agree with the [personal data protection provisions](#)

Select the topics

To the extent that not all questions will be relevant to all stakeholders, respondents are invited to reply only to those questions that are most relevant to them within the questionnaires they have chosen to respond to.

Choose the section(s) you want to respond to:

- ☐ 1. Simplification and burden reduction
- ☐ 2. Trading
- ☒ 3. Post-trading

For technical reasons, the questionnaire has been divided into 2 parts.

This is part 1

Part 2 on **horizontal barriers to trading and post-trading infrastructures, asset management and funds, supervision, and horizontal questions on the supervisory framework** is available here:

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3. Post-trading

Issues with respect to post trading identified to date fall into three main areas:

- barriers to cross-border settlement
- barriers to the application of new technology and new market practices
- unharmonised and inefficient market practices and application of law, as well as disproportionate compliance costs.

This consultation aims to further specify the above barriers, as well as understand current market practices and costs borne by market participants, be they fees or other compliance costs. This section seeks feedback on possible measures, legislative or non-legislative, to achieve more integrated, modern post-trading infrastructures. Respondents are asked to provide concrete examples to support answers provided, and, where possible, quantitative and qualitative information.

3.1. Barriers to cross-border settlement and other CSD services

3.1.1. Cross-border provision of CSD services and freedom of issuance

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1. What are the main barriers to the provision of cross-border CSD services in the EU and to freedom of issuance in any CSD in the EU?

Please select as many answers as you like

- ☐ procedures mandated by EU or national laws (e.g. passporting)
- ☒ other legal or regulatory requirements (national or EU)
- ☒ lack of clarity and/or complexity on the applicable legal or regulatory framework (national or EU)
- ☒ supervisory practice (national or EU)
- ☒ market practice (national or EU)
- ☒ operational requirements (national or EU)
- ☒ differences in national legal, regulatory or operational requirements
- ☐ technical/technological aspects
- ☐ language
- ☐ Other

Please explain the reasoning for your answer to question 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The main barriers to the provision of cross-border Central Securities Depository (CSD) services and freedom of issuance across the EU can be grouped into several categories:

1. Legal and Regulatory Barriers

- Diverging national laws: Despite harmonisation efforts, significant differences persist in corporate law, insolvency law, securities ownership rules, and settlement finality across EU Member States.
- Lack of legal certainty: Legal uncertainty about which national laws apply in cross-border settings makes market participants hesitant to engage in cross-border issuance or settlement.

2. Operational and Technical Barriers

- Non-harmonised settlement cycles and cut-off times: Variations in operational practices (e.g. cut-off times, settlement windows) hinder smooth cross-border settlement.
- Lack of standardisation: Differences in messaging standards, formats (e.g., ISO 20022 vs proprietary systems), and corporate actions processing create friction.
- Incompatible IT systems: Legacy systems and varying levels of IT investment across CSDs limit interoperability.

3. Market Practice Barriers

- Diverse market conventions: Market-specific practices (e.g., handling of corporate actions, tax procedures) lead to complexity and increased risk when dealing across borders.
- Limited mutual recognition: CSDs often face barriers in having their services recognised or accepted in other Member States, even when technically compliant.

4. Tax-Related Barriers

- Withholding tax complexity: Varied and cumbersome procedures to claim tax relief or refunds across

jurisdictions discourage cross-border investments and issuance. The project FASTER will promote standardised procedures and digital documentation and will significantly remove complexity and improve the environment for cross-border investments and issuance as of 2030.

- Lack of harmonised documentation requirements: Investors must deal with multiple forms and varying deadlines, often manually processed, across Member States.

5. Licensing and Access Barriers

- Cumbersome passporting procedures: While the CSDR allows for passporting of services, in practice, CSDs face delays and obstacles due to inconsistent application by national competent authorities (NCAs).
- National protectionism: Some Member States informally or formally favour local infrastructures, which limits effective competition and freedom of issuance.

6. Economic and Commercial Barriers

- Lack of commercial incentives: Limited demand and high adaptation costs discourage CSDs from offering cross-border services.
- Fragmented liquidity: Issuers and investors may prefer to concentrate activity in domestic CSDs to maintain liquidity and lower costs.

Overall, while the regulatory framework allows for cross-border CSD services and freedom of issuance in theory, the practical and legal barriers continue to restrict its full implementation and effectiveness across the EU.

Question 2. Are there barriers to the freedom of issuance in the EU (e.g. requirements to use domestic CSDs for issuance/immobilisation /dematerialisation of securities, requirements in the corporate or similar law of the Member State under which the securities are constituted)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to freedom of issuance have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Freedom of issuance

	Describe barrier 1 to freedom of issuance
Explanation of the barrier	Despite the objectives of the Capital Markets Union and the CSDR to facilitate cross-border activity, several Member States maintain legal and practical requirements that limit the ability of issuers to choose any EU-based central securities depository (CSD) for the issuance, immobilisation, or dematerialisation of securities.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to freedom of issuance:

- ☐ High priority
- ☒ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Freedom of issuance

	Describe barrier 2 to freedom of issuance
Explanation of the barrier	Some national laws mandate the use of a domestic CSD for issuing securities, particularly in cases where securities are governed by the corporate or securities law of that Member State. This requirement often stems from legal traditions or the need to comply with local rules concerning shareholder rights, corporate registers, and securities constitution. In addition, differences in national company laws and conflict-of-law rules create legal uncertainty around the recognition and enforcement of securities issued via a foreign CSD.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 to freedom of issuance:

- ☐ High priority
- ☒ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Freedom of issuance

	Describe barrier 3 to freedom of issuance
Explanation of the barrier	These legal barriers are compounded by market practices, tax procedures, and investor preferences that further discourage issuers from using non-domestic CSDs. For example, some countries may impose additional regulatory or tax burdens on securities issued outside their domestic market, making cross-border issuance less attractive.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 to freedom of issuance:

- ☐ High priority
 - ☒ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 3. Are there barriers to cross-border asset servicing and processing of corporate actions, e.g. how Member States compile the list of key relevant provisions of their corporate or similar law, which apply in the context of cross-border issuance (Article 49, [Central Securities Depositories Regulation \(CSDR\)](#))?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to cross-border asset servicing and processing have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Cross-border asset servicing and processing

	Describe barrier 1 to cross-border asset servicing and processing
Explanation of the barrier	<p>Yes, there are several barriers to cross-border asset servicing and the processing of corporate actions within the EU, particularly in the context of how Member States implement Article 49 of the Central Securities Depositories Regulation (CSDR), which requires them to publish key relevant provisions of their corporate or similar law that apply in the context of cross-border issuance. These barriers include:</p> <ol style="list-style-type: none">Inconsistent Implementation of Article 49: Member States differ significantly in how they identify, interpret, and publish the key legal provisions under Article 49. Some provide comprehensive, detailed legal texts, while others offer limited or vague summaries. This inconsistency makes it difficult for issuers and CSDs to understand and comply with relevant laws when operating across borders.Lack of Harmonisation in Corporate Law: Corporate law provisions governing shareholder rights, voting processes, dividend distributions, and other corporate actions vary widely across Member States. These legal differences complicate the standardisation of asset servicing processes and increase legal and operational risk for cross-border issuances.Language Barriers and Accessibility: The legal texts published under Article 49 are often in national languages without translations, making them less accessible to foreign issuers, CSDs, and intermediaries. This limits transparency and creates uncertainty in interpreting and applying local rules.Operational Complexity in Corporate Actions Processing: Differences in timelines, formats, and communication standards for corporate actions (e.g. for dividends, general meetings, mergers) result in significant operational burden when servicing assets cross-border. This also affects the ability to automate and streamline processes across markets.Limited Use of Market Standards: While European market standards for corporate actions and asset servicing exist, their adoption remains voluntary and uneven across Member States. The lack of binding rules or harmonised enforcement undermines consistency and efficiency in cross-border servicing.Unclear Legal Responsibilities:

	<p>In cross-border contexts, it may be unclear which party—issuer, CSD, or intermediary—is responsible for ensuring compliance with national corporate law requirements. This legal uncertainty can lead to disputes and reduced confidence in cross-border operations.</p> <p>These barriers collectively hinder the efficiency, transparency, and legal certainty of cross-border asset servicing in the EU, despite the intention of CSDR to facilitate a more integrated capital market.</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to cross-border asset servicing and processing:

- ☒ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 4. Are there barriers stemming from national laws, regulatory /supervisory or operational requirements?

For example:

- setting out **restrictions for the place of settlement** for primary or secondary market transactions
 - preventing securities issued by entities from **other EU Member States** from being issued, maintained or settled in the national CSD
 - imposing **additional requirements on CSDs**, established in another Member State, wishing to provide services to national issuers and/or participants)
- ☒ Yes
 - ☐ No
 - ☐ Don't know / no opinion / not applicable

How many barriers stemming from national laws, regulatory/supervisory or operational requirements have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Stemming from national laws, regulatory/supervisory or operational requirements

	Describe barrier 1 stemming from national laws, regulatory/supervisory or operational requirements
Explanation of the barrier	<p>Yes, there are several barriers stemming from national laws, regulatory/supervisory, or operational requirements in the EU that affect the freedom of settlement and provision of cross-border CSD services. These include:</p> <ol style="list-style-type: none">1. Restrictions on the Place of Settlement: Some national laws or regulatory frameworks implicitly or explicitly favour the use of domestic CSDs for the settlement of securities issued under their jurisdiction, particularly in the primary market. This can result in practical limitations on choosing a foreign CSD for issuance and settlement, even if no formal legal prohibition exists.2. Limitations on Foreign Securities in National CSDs: Certain national CSDs may face regulatory or operational restrictions that limit their ability to hold, process, or settle securities issued by entities from other EU Member States. These constraints can arise from legal definitions of eligible instruments, requirements linked to investor protection or market infrastructure regulation, or lack of operational links with foreign CSDs.3. Additional Requirements for Foreign CSDs: When a CSD established in one Member State wishes to provide services in another (either directly or via links), some national authorities impose additional conditions, such as local licensing, reporting obligations, or compliance with domestic investor protection or AML rules. These additional layers of regulation may go beyond what is required under the CSDR and create legal and operational hurdles.4. Supervisory Fragmentation: National competent authorities may interpret EU legislation differently, apply divergent supervisory practices, or require separate approvals or notifications, even where the CSDR provides for a passporting regime. This lack of supervisory convergence undermines the principle of a single EU market for CSD services.5. Operational Barriers and Infrastructure Fragmentation: The lack of fully interoperable IT systems, common messaging standards, and harmonised corporate action processes between CSDs across Member States continues to limit the ability to seamlessly offer cross-border services. This creates higher costs and complexity for market participants.

	These barriers collectively hamper the development of an integrated post-trade environment in the EU and hinder the goals of the Capital Markets Union. Addressing them would require greater harmonisation of national laws, consistent supervisory approaches, and strengthened interoperability among market infrastructures.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance Suggestions for solutions can include for instance legislative changes (specifying which changes are being	

suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 stemming from national laws, regulatory/supervisory or operational requirements:

- ☒ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 5. Are there any **additional barriers to the provision of cross-border CSD services which are not mentioned above?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

3.1.2. Links

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6. What are the main barriers to building an efficient network of links between EU CSDs?

Please select as many answers as you like

- ☒ legal or regulatory requirements (or lack thereof)
- ☒ fiscal requirements
- ☒ supervisory practice
- ☒ market practice
- ☒ operational requirements
- ☒ differences in national legal, regulatory or operational requirements
- ☒ technical/technological aspects
- ☒ other

Barrier due to legal or regulatory requirements (or lack thereof) - Links

	Describe the barrier due to legal or regulatory requirements (or lack thereof)
Explanation of the barrier	<ul style="list-style-type: none">o Differences in national corporate, insolvency, and securities laws create legal uncertainty and increase complexity for cross-border links.o Lack of a harmonised legal framework across the EU for CSD links results in fragmented implementation of CSDR provisions, leading to delays and additional legal due diligence.o Some jurisdictions may impose domestic CSD usage for certain securities, limiting link usability.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier and an explanation of how these costs could be reduced

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to legal or regulatory requirements (or lack thereof):

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to fiscal requirements - Links

	Describe the barrier due to fiscal requirements
Explanation of the barrier	<ul style="list-style-type: none">o Tax withholding and reclaim procedures differ across Member States, discouraging investors and intermediaries from using cross-border links due to administrative burdens and uncertainty.o Lack of harmonised tax relief at source mechanisms and varying interpretations of beneficial ownership further complicate cross-border servicing.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to fiscal requirements:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to supervisory practice - Links

	Describe the barrier due to supervisory practice
Explanation of the barrier	<ul style="list-style-type: none">o Divergent interpretations of regulatory requirements by national competent authorities (NCAs) can lead to inconsistent supervision of CSD links.o Slow or uncoordinated approval processes for new or enhanced links impede network development. <p>4. Market Practice:</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to supervisory practice:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to market practice - Links

	Describe the barrier due to market practice
Explanation of the barrier	<ul style="list-style-type: none">o Differences in settlement cycles, cut-off times, and asset servicing processes reduce the attractiveness and reliability of links.o Local market participants may prefer national solutions due to familiarity and perceived lower risk, limiting demand for cross-border link use.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to market practice:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to operational requirements - Links

	Describe the barrier due to operational requirements
Explanation of the barrier	<ul style="list-style-type: none">o Establishing and maintaining links involves high costs, particularly when accommodating bespoke operational processes.o Differences in message standards, reference data formats, and corporate actions processing hinder automation and increase reconciliation efforts.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier and an explanation of how these costs could be reduced	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing the barrier due to operational requirements:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to differences in national legal, regulatory or operational requirements - Links

	Describe the barrier due to differences in national legal, regulatory or operational requirements
Explanation of the barrier	<ul style="list-style-type: none">o Non-harmonised frameworks create operational and compliance risks for CSDs and their clients when settling or safekeeping securities cross-border.o Requirements for local agent presence, language, or documentation further complicate interoperability.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier and an explanation of how these costs could be reduced

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to differences in national legal, regulatory or operational requirements:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to technical/technological aspects - Links

	Describe the barrier due to technical /technological aspects
Explanation of the barrier	<ul style="list-style-type: none">o Legacy systems and lack of standardisation in IT infrastructures limit seamless connectivity.o Absence of common APIs or interoperable DLT frameworks reduces scalability and speed of integration.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to technical /technological aspects:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

How many other main barriers to building an efficient network of links between EU CSDs have you identified?

- ☐ 1 barrier
- ☒ 2 barriers
- ☐ 3 barriers

Barrier 1 - Other main barriers - Links

	Describe other main barrier 1
Explanation of the barrier	Commercial disincentives: CSDs may view link creation as unprofitable due to low transaction volumes or the lack of cost-sharing models.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the other main barrier 1 to building an efficient network of links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Other main barriers - Links

	Describe other main barrier 2
Explanation of the barrier	Political and national interest considerations may slow cross-border integration to preserve domestic market infrastructure roles.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the other main barrier 2 to building an efficient network of links:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 7. Are there barriers related to the establishment of links?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the establishment of links have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Establishment of links

	Describe barrier 1 related to the establishment of links
Explanation of the barrier	1.Legal and Regulatory Barriers: Differences in national laws on securities ownership, settlement finality, and insolvency can complicate link creation.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 related to the establishment of links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Establishment of links

	Describe barrier 2 related to the establishment of links
Explanation of the barrier	2.Operational and Technical Barriers: Variations in settlement cycles, IT systems, messaging standards, and corporate action processes make integration between CSDs challenging.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 related to the establishment of links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Establishment of links

	Describe barrier 3 related to the establishment of links
Explanation of the barrier	3. Economic and Commercial Barriers: High costs of establishing and maintaining links, low transaction volumes in some markets, and competitive concerns may discourage cooperation.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 related to the establishment of links:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 8. Are there barriers related to the maintenance of links?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the maintenance of links have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Maintenance of links

	Describe barrier 1 related to the maintenance of links
Explanation of the barrier	1.Ongoing Compliance and Regulatory Requirements: CSDs must continuously meet CSDR obligations, including risk assessments, reporting, and monitoring of linked entities.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 related to the maintenance of links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Maintenance of links

	Describe barrier 2 related to the maintenance of links
Explanation of the barrier	2. Operational Complexity: Maintaining links requires consistent coordination of settlement cycles, cut-off times, and corporate action processing, which can be resource-intensive.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 related to the maintenance of links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Maintenance of links

	Describe barrier 3 related to the maintenance of links
Explanation of the barrier	3.IT System Upgrades and Compatibility: Continuous updates to technology and standards across CSDs may require frequent adjustments to ensure interoperability.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 related to the maintenance of links:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 9. Are there barriers related to the **classification (i.e. customised, standard indirect, interoperable) and/or whether they are **unilateral or bilateral links**?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the classification and/or unilateral or bilateral links have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Classification and/or unilateral or bilateral links

	Describe barrier 1 related to the classification and/or unilateral or bilateral links
Explanation of the barrier	1.Complexity of Link Types: Different link types (e.g. customised vs. standard indirect) involve varying levels of integration, risk, and operational complexity, making some more difficult or costly to implement and maintain.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 related to the classification and/or unilateral or bilateral links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Classification and/or unilateral or bilateral links

	Describe barrier 2 related to the classification and/or unilateral or bilateral links
Explanation of the barrier	4.Lack of Harmonisation: No uniform EU-wide framework governs the structure or classification of links, leading to inconsistent practices and regulatory interpretations.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 related to the classification and/or unilateral or bilateral links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Classification and/or unilateral or bilateral links

	Describe barrier 3 related to the classification and/or unilateral or bilateral links
Explanation of the barrier	3.Legal and Contractual Challenges: Unilateral links may lead to legal asymmetries or weaker contractual protections compared to bilateral arrangements, increasing legal risk.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 to freedom of issuance:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 10. Are there barriers related to the improper use of existing links?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the improper use of existing links have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Improper use of existing links

	Describe barrier 1 related to the improper use of existing links
Explanation of the barrier	2. Operational Inefficiencies: Using links for purposes they were not designed for (e.g. backdoor market access) can cause delays, errors, or mismatches in settlement and corporate actions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 related to the improper use of existing links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Improper use of existing links

	Describe barrier 2 related to the improper use of existing links
Explanation of the barrier	4. Increased Supervisory Scrutiny: Authorities may increase oversight or restrict access if links are used improperly, raising uncertainty and compliance costs.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 related to the improper use of existing links:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Improper use of existing links

	Describe barrier 3 related to the improper use of existing links
Explanation of the barrier	1. Regulatory Compliance Risks: Improper use may lead to non-compliance with CSDR requirements, especially regarding transparency, risk management, and access conditions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier and an explanation of how these costs could be reduced	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 related to the improper use of existing links:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 11. Is the cost of settlement via links taken into account when negotiating securities transactions?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please justify your answer to question 11, in particular identifying potential risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This cost can influence the overall transaction price, especially in cross-border trades. Factors such as fees for using CSD links, settlement delays, and currency conversion costs can all impact the final cost of the transaction.

Additionally, market participants may factor in the complexity and efficiency of the settlement process, with more efficient links potentially lowering transaction costs. However, these costs are not always transparent and can vary based on the type of link, the parties involved, and the jurisdictions.

Overall, while the cost of settlement via links is a consideration, it is one of many factors, including liquidity, market conditions, and the specific terms of the trade.

Question 12. In view of the growing use of 'relayed links', does Art. 48, CSDR adequately capture current market practice?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 12:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Article 48 of the CSDR may not fully capture current market practice, especially with the growing use of 'relayed links'. Relayed links, which involve intermediaries facilitating settlement between CSDs that do not have a direct link, are becoming more common as a solution to barriers in establishing direct links. However,

Article 48 primarily focuses on direct links between CSDs, which may not adequately address the complexities and risks involved in relayed arrangements.

These relayed links often introduce additional counterparty risks, operational challenges, and regulatory uncertainties, which Article 48 does not comprehensively cover. Additionally, the regulatory framework may not be flexible enough to accommodate the evolving nature of cross-border settlement arrangements or ensure consistent transparency and accountability in these indirect settlement pathways.

Thus, CSDR may need updates to better reflect the realities of relayed link usage and to provide clearer guidance on the responsibilities and risks associated with such arrangements.

Question 13. Is the use of relayed links creating barriers to cross-border settlement?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the use of 'relayed links' have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Use of 'relayed links'

	Describe barrier 1 related to the use of 'relayed links'
Explanation of the barrier	<p>These links introduce additional intermediaries, increasing operational complexity, settlement times, and costs. They may also lead to reduced transparency and greater counterparty and legal risks, as the end-to-end settlement chain becomes less direct and harder to monitor.</p> <p>Furthermore, the lack of specific regulatory guidance on relayed links under frameworks like the CSDR adds legal uncertainty, potentially discouraging their use or complicating compliance. These factors can undermine the efficiency and reliability of cross-border settlement processes.</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier and an explanation of how these costs could be reduced	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 related to the use of 'relayed links':

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 14. Does the use of relayed links improve cross-border settlement?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 14:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

by providing alternative access to markets where direct links between CSDs are not available or feasible. They help bypass legal, technical, or regulatory barriers to establishing direct connections, thus enabling broader market reach and enhancing connectivity.

Relayed links can also support greater flexibility and efficiency for market participants by facilitating settlement across multiple jurisdictions without requiring numerous bilateral links. However, the benefits must be weighed against the added complexity, cost, and risk they introduce.

Question 15. Who should be involved in the process for the authorisation of establishing a link as well as the ongoing supervision thereof?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The authorisation and ongoing supervision of a link between CSDs should involve multiple stakeholders:

- Within the CSD:
 - o The CSD's management, including risk management, compliance, legal, and IT teams, prepares documentation and ensures operational readiness.
 - o The Board of Directors provides oversight and final approval of the strategy and associated risks.
- Regulatory and Supervisory Authorities:
 - o National competent authorities (such as financial regulators or central banks) assess and authorise the link to ensure it meets CSDR and local legal requirements.
 - o Ongoing oversight is typically conducted by these regulators, who work in coordination for cross-border settlements and ensure consistent supervision across jurisdictions.
- Inter-jurisdictional Coordination:
 - o In cross-border settings, involvement of multiple national regulators and, in some cases, pan-EU bodies is essential to address legal, operational, and risk aspects uniformly.

This multi-layered involvement helps ensure that both the initial establishment and the continuing supervision of the link are robust and aligned with regulatory standards.

Question 16. Should all links be standard links?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 16:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 17. Should all links be interoperable links?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 17:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While interoperable links offer high efficiency and direct access, they also involve greater complexity, higher costs, and stricter regulatory requirements under CSDR. These are not always justified, especially for markets with low volumes or limited cross-border activity.

Other link types, such as standard or indirect links, may be more appropriate in certain cases due to their lower cost, simpler setup, and reduced operational burden. The choice of link type should be based on market needs, risk considerations, and cost-effectiveness, rather than a one-size-fits-all approach.

Question 18. Should all links be bilateral?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 18:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While bilateral links offer mutual access and balanced governance, they can be costly and complex to establish and maintain, especially when traffic is one-sided or limited.

In some cases, unilateral links may be more practical and efficient, particularly when only one CSD's participants need access to the other's market. The choice between unilateral and bilateral links should depend on market demand, cost-benefit analysis, and operational needs, rather than applying a uniform model.

Question 19. Should all CSDs be mandated to establish a minimum number of links with other EU CSDs?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 19:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Such a requirement may be inefficient or impractical, especially for smaller CSDs or those in markets with low cross-border activity. It could lead to unnecessary costs, operational burdens, and underused links. Instead, link establishment should be based on market demand, risk assessments, and commercial viability, with incentives or facilitation measures to encourage links where they add value. A flexible, needs-based approach is more effective than imposing a fixed minimum.

Question 20. Should the comprehensive risk assessment for the validation of a link be carried out by ESMA?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 20:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

the comprehensive risk assessment for link validation should not be carried out solely by ESMA. While ESMA can play a valuable role in ensuring consistency and coordination across the EU, the primary responsibility should remain with the national competent authorities, who are more familiar with the specific legal, operational, and market context of the CSDs involved. A collaborative approach, where national authorities lead the assessment with input and oversight from ESMA, would balance local expertise with EU-wide harmonisation and help ensure effective and proportionate supervision.

Question 21. Are there any barriers or material challenges to the establishment of links between CSDs and other infrastructures?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to establishment of links between CSDs and other infrastructures have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Establishment of links between CSDs and other infrastructures

	Describe barrier 1 to establishment of links between CSDs and other infrastructures
Explanation of the barrier	<ul style="list-style-type: none">• Legal and regulatory misalignment, especially across jurisdictions.• Operational and technical incompatibilities, such as differing standards, messaging protocols, and system architectures.• High setup and maintenance costs, including risk management and compliance burdens.• Limited scalability and low transaction volumes, which may not justify the investment.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier and an explanation of how these costs could be reduced	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	<p>To reduce settlement costs through CSD links, the following could help:</p> <ul style="list-style-type: none">• Greater standardisation of processes and IT systems across infrastructures.• Regulatory harmonisation to streamline approval and oversight.• Incentives or cost-sharing mechanisms to support link development in low-volume markets.• Enhanced interoperability frameworks and clearer guidance under EU law.
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to establishment of links between CSDs and other infrastructures:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 22. Have you had a request for a link refused?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

3.1.3. Settlement services in the EU

Question 23. How could settlement in T2S be further enhanced in order to build a deeper and more integrated market in the EU and facilitate cross-CSD settlement?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 24. Should links between CSDs participating in T2S no longer be required to enable settlement in T2S in any of the financial instruments available in T2S?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 24:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 25. Are there any national market practices, laws, rules/regulations, or operational requirements which hinder the participation in T2S or cross-CSD settlement?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 25 and provide details:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 26. What can be done to ensure progress and take-up by T2S participants of already agreed harmonised standards and market practices (e.g. market standards for corporate actions, SCoRE corporate actions standards, T2S corporate action standards, other T2S harmonisation standards, other relevant global or European market standards and market practices)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 27. Do you comply with the abovementioned standards and market practices (e.g. market standards for corporate actions, SCoRE corporate actions standards, T2S corporate action standards, other T2S harmonisation standards, other relevant global or European market standards and market practices)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 27:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 28. Should T2S harmonisation standards be applied more widely across the EU, in order to create a more harmonised settlement environment across the EU?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Which standards are most needed in the non-T2S EU settlement environment?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

T2S harmonisation standards should be applied more widely across the EU to promote a more consistent and efficient settlement environment. Wider adoption would reduce fragmentation, improve cross-border settlement efficiency, and support greater market integration.

The most needed standards in the non-T2S EU settlement environment include:

- Corporate actions processing standards (e.g. messaging formats, timelines)
- Settlement discipline practices, including penalty mechanisms and matching standards
- Cut-off times and settlement cycles alignment
- Standardised communication protocols and ISO messaging

Applying these standards more broadly would help remove barriers to interoperability and enhance the overall resilience and efficiency of EU financial markets.

Please explain your answer to question 28:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 29. Should the costs of settlement be reduced?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain what could be done to reduce the costs settlement?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

, the costs of settlement should be reduced to promote more efficient, accessible, and competitive financial markets in the EU.

To reduce settlement costs, the following measures could be taken:

- Further harmonisation of rules, standards, and processes across CSDs to lower fragmentation and duplication.
- Wider adoption of T2S and its harmonisation standards to improve efficiency and reduce infrastructure costs.
- Encouraging competition and transparency in CSD pricing to drive down fees.
- Promoting interoperability and standardisation to simplify cross-border settlements.
- Investing in automation and technology to reduce manual processing and operational errors.

These steps would enhance economies of scale, reduce complexity, and ultimately lower the cost burden on market participants.

Question 30. Should the transparency of settlement pricing and CSD services be improved (in substance and format), for example with a standard template that would facilitate comparison of prices and service offering?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 30:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A standard template would help market participants easily compare prices and service offerings, fostering competition, clarity, and informed decision-making.

Improving transparency in both substance (detailed breakdown of costs) and format (standardised presentation) would allow firms to better assess value for money and select the most suitable services. This could lead to more competitive pricing, greater market efficiency, and reduced barriers to entry for smaller players.

Question 31. Should all CSDs settling the cash leg in Euro be required to connect to T2S?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 31:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This would promote harmonisation, reduce fragmentation, and enhance the efficiency of Euro-denominated settlements across the EU. Connecting to T2S would streamline processes, ensure consistent settlement practices, and improve cross-border interoperability. Additionally, it would enable CSDs to benefit from the economies of scale and cost reductions that come with a unified settlement platform.

Question 32. Are there difficulties in accessing settlement in foreign currencies, not only in the T2S environment?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How could the settlement of transactions in foreign currency be facilitated?

Please provide a quantitative assessment of the main benefits and costs of such a solution:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

especially outside the T2S environment, due to the complexity of multi-currency settlement systems, currency conversion risks, and lack of standardisation across different infrastructures.

To facilitate the settlement of transactions in foreign currency, the following steps could help:

1. Developing centralised multi-currency settlement platforms: Similar to T2S but for foreign currencies, offering standardised processes for cross-border settlements.
2. Improving interoperability between CSDs, payment systems, and foreign exchange infrastructures to simplify settlement across currencies.
3. Creating currency-specific linkages that integrate smoothly with existing settlement systems, reducing manual intervention and complexity.
4. Enhancing clearing and settlement risk management to mitigate the challenges of currency volatility.

Benefits:

- Reduced operational costs from standardisation and automation.
- Improved liquidity management by allowing seamless multi-currency transactions.
- Increased market efficiency, attracting more cross-border transactions.

Costs:

- Infrastructure setup costs for multi-currency platforms and linkages.
- Ongoing operational costs related to maintaining and upgrading systems.
- Regulatory compliance costs for new currency-specific arrangements and risk management protocols.

A quantitative assessment would depend on specific market data, but the expected benefits in terms of cost savings, increased cross-border trade, and improved efficiency would likely outweigh the initial setup and operational costs over time.

Question 33. Is there a need for additional currencies to be settled in T2S?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 33:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

to further enhance cross-border settlement efficiency and market integration. Expanding T2S to include more currencies would:

- Reduce fragmentation in settlement systems, streamlining multi-currency transactions.
- Lower costs for market participants by simplifying processes and eliminating the need for multiple settlement systems.
- Enhance liquidity by providing a centralised platform for a wider range of transactions, promoting greater market access.

However, the inclusion of additional currencies would require careful consideration of market demand, regulatory frameworks, and operational readiness to ensure a smooth integration and mitigate associated risks.

Question 34. Should T2S be able to provide other CSD services, including issuance services and asset servicing services?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 34:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Not necessarily. While T2S excels in settlement of securities transactions, expanding its scope to include services like issuance or asset servicing could introduce significant complexity, operational risks, and regulatory challenges. These services require a high level of legal oversight, corporate action management, and issuer-related processes that go beyond T2S's core focus.

Instead, T2S could interoperate with other CSDs that offer these services, allowing for a more specialised,

efficient, and flexible ecosystem while maintaining T2S's primary role in settlement. This approach would enable better focus on T2S's strengths while benefiting from the expertise of CSDs in other areas.

Question 35. What improvements (e.g. organisational, operational, contractual, etc.) could be introduced to T2S to support a broader and more resilient use of it?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To support a broader and more resilient use of T2S, the following improvements could be introduced:

1. Organisational Improvements:
 - o Enhance governance structures to include more diverse stakeholders, ensuring better representation of market participants' needs.
 - o Strengthen coordination between T2S and other financial infrastructures, such as CCPs and payment systems, to foster greater interoperability.
 2. Operational Improvements:
 - o Introduce more flexible settlement options (e.g., extended settlement cycles or multi-currency support) to accommodate diverse market requirements.
 - o Improve resilience by ensuring greater system redundancy, disaster recovery plans, and more frequent testing of system capacity during peak periods.
 3. Contractual Improvements:
 - o Standardise and simplify contractual agreements between CSDs, market participants, and T2S to reduce operational friction.
 - o Include clearer service level agreements (SLAs), detailing expected performance, risk management, and recovery procedures.
 4. Regulatory Improvements:
 - o Foster harmonisation of settlement regulations across the EU to ensure smoother integration and compliance, particularly for cross-border transactions.
 - o Streamline the access conditions for non-Eurozone CSDs to encourage broader participation.
- These changes would enhance efficiency, scalability, and resilience, making T2S more adaptable to evolving market needs.

3.1.4. Legal certainty

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 36. Are there barriers from national legal or regulatory requirements that affect legal certainty of acquisitions and dispositions in financial instruments, or cash or cash equivalent cross-border?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers that affect legal certainty of acquisitions and dispositions

have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Legal certainty of acquisitions and dispositions

	Describe barrier 1 that affect legal certainty of acquisitions and dispositions
Explanation of the barrier	1. Differences in national laws regarding securities ownership, settlement finality, and collateral management, which can cause legal ambiguity and increase the complexity of cross-border settlements.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 that affect legal certainty of acquisitions and dispositions:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Legal certainty of acquisitions and dispositions

	Describe barrier 2 that affect legal certainty of acquisitions and dispositions
Explanation of the barrier	2. Varying insolvency laws, which can impact the priority of claims on financial instruments or cash in the event of a default, leading to uncertainty in cross-border transactions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 2 that affect legal certainty of acquisitions and dispositions:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Legal certainty of acquisitions and dispositions

	Describe barrier 3 that affect legal certainty of acquisitions and dispositions
Explanation of the barrier	3.Divergent regulatory frameworks governing taxation, withholding, and reporting obligations, making it harder for market participants to navigate cross-border operations consistently.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 3 that affect legal certainty of acquisitions and dispositions:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 37. Does the law applicable to the assets and to the CSD influence a decision to acquire or dispose of financial instruments cross-border?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to acquire or dispose of financial instruments cross-border have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Acquisition or disposal of financial instruments cross-border

	Describe barrier 1 to acquire or dispose of financial instruments cross-border
Explanation of the barrier	<p>Differences in national laws governing securities ownership, settlement rules, legal enforceability, and insolvency can create legal uncertainties and risks, which may deter market participants from engaging in cross-border transactions.</p> <p>The choice of CSD also matters, as CSD-specific legal frameworks and operational practices (such as how they handle collateral, settlement finality, and investor rights) can impact the cost, speed, and safety of cross-border settlements. Investors and institutions may prefer jurisdictions with more predictable and transparent legal frameworks, which could affect their decision to enter certain markets. Investigating ways to overcome these issues are time consuming and costly.</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to acquire or dispose of financial instruments cross-border:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 38. Are there barriers for issuers to obtain legal certainty on the ownership of the securities issued in a CSD or any other registrar?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers for issuers to obtain legal certainty have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Issuers to obtain legal certainty

	Describe barrier 1 for issuers to obtain legal certainty
Explanation of the barrier	1. Differences in national legal frameworks regarding securities ownership, registration, and record-keeping, which can cause uncertainty in determining the true holder of securities, especially in cross-border contexts.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 for issuers to obtain legal certainty:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Issuers to obtain legal certainty

	Describe barrier 2 for issuers to obtain legal certainty
Explanation of the barrier	3. Lack of standardisation in securities registers and reporting mechanisms, which can hinder the ability to consistently track and confirm ownership across different jurisdictions. Even the definition of shareholder or beneficial owner is opaque in some cases
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 2 for issuers to obtain legal certainty:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Issuers to obtain legal certainty

	Describe barrier 3 for issuers to obtain legal certainty
Explanation of the barrier	4. Inconsistent enforcement of investor rights, especially in the case of nominee accounts or intermediary structures, which may complicate the issuer's ability to determine actual ownership.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 for issuers to obtain legal certainty:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 39. Are there barriers for investors to obtain legal certainty on their rights and powers (e.g. ownership rights, rights in relation to corporate events) and for intermediaries to have legal certainty on their duties in relation to financial instruments, cash or cash equivalent, issued in /maintained in/settled by a CSD?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 39.1. Are the barriers the same or are there different barriers where the provision of CSD services are made through DLT?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These barriers include:

1. Complexity in Ownership Chains: In intermediated systems, where securities are held in book-entry form through multiple custodians, it can be challenging to clearly determine actual ownership and associated rights, especially for corporate actions or voting rights.
2. Divergent National Legal Frameworks: Different jurisdictions have varying rules on ownership, settlement finality, and investor rights, creating uncertainty for both investors and intermediaries, particularly in cross-border transactions.
3. Lack of Transparency: In some cases, insufficient transparency in the registration of securities can make it hard for investors to confirm their entitlements or for intermediaries to ensure compliance with their duties.

Regarding DLT-based CSD services, additional barriers may arise:

1. Legal Recognition: DLT systems may face challenges in ensuring legal recognition of digital ownership records, as many legal frameworks are not yet adapted to recognise distributed ledger entries as official proof of ownership. Some countries like Germany and Luxembourg are more advanced in this respect.
2. Regulatory Uncertainty: The use of DLT can create regulatory and compliance challenges, particularly around the enforceability of digital records, smart contracts, and dispute resolution.
3. Technical and Legal Integration: DLT-based systems may not easily integrate with existing traditional CSD infrastructures and legal frameworks, creating uncertainty around how legal rights and duties are enforced in a decentralised setting.

In summary, while the barriers to legal certainty are similar in traditional CSDs and those using DLT, the use

of DLT introduces additional complexities related to legal recognition and regulatory adaptation, making the legal landscape more challenging in DLT-based systems.

How many barriers for investors to obtain legal certainty have you identified?

- ☐ 1 barrier
 - ☐ 2 barriers
 - ☐ 3 barriers
-

Question 40. Are there any barriers to pool assets from different jurisdictions?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to pool assets have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Pool assets

	Describe barrier 1 to pool assets
Explanation of the barrier	Inconsistent Enforcement of Rights: Differences in how investor rights are enforced, such as corporate actions, voting rights, or dispute resolution, can create uncertainty and operational challenges when pooling assets.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to pool assets:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Pool assets

	Describe barrier 2 to pool assets
Explanation of the barrier	Taxation Issues: Different tax treatments (e.g., withholding taxes, VAT) across jurisdictions can create additional compliance burdens and increase the cost of managing pooled assets.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

<p>Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are</p>	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
<p>Data on the potential costs and benefits of the suggested solution(s)</p>	

Assess the priority level for addressing barrier 2 to pool assets:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Pool assets

	Describe barrier 3 to pool assets
Explanation of the barrier	Legal and Regulatory Differences: Each jurisdiction has its own laws and regulations governing securities ownership, taxation, and settlement procedures, which can complicate the pooling of assets across borders.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 3 to pool assets:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 41. Are there barriers, e.g. due to the lack of certainty on the applicable law, to the cross-border provision of services (e.g. issuance or asset servicing) and/or use of services?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the cross-border provision and/or use of services have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Cross-border provision and/or use of services

	Describe barrier 1 to the cross-border provision and/or use of services
Explanation of the barrier	Jurisdictional Uncertainty: Varying laws between jurisdictions regarding ownership, settlement procedures, and investor rights can create confusion over which legal system governs transactions, affecting the clarity of rights and obligations for market participants.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to the cross-border provision and/or use of services:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Cross-border provision and/or use of services

	Describe barrier 2 to the cross-border provision and/or use of services
Explanation of the barrier	Legal Recognition of Services: Differences in how services such as issuance or asset servicing are regulated or recognised across borders can hinder the ability to offer services seamlessly across multiple jurisdictions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 2 to the cross-border provision and/or use of services:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Cross-border provision and/or use of services

	Describe barrier 3 to the cross-border provision and/or use of services
Explanation of the barrier	Cross-border Enforcement Issues: Discrepancies in the enforceability of contracts or dispute resolution mechanisms across borders can complicate the delivery and use of services, leading to operational risks.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 3 to the cross-border provision and/or use of services:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 42. Are there barriers to the cross-border provision or use of CSD services due to the lack of certainty on the applicable law?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the cross-border provision and/or use of CSD services have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Cross-border provision and/or use of CSD services

	Describe barrier 1 to the cross-border provision and/or use of CSD services
Explanation of the barrier	1. Jurisdictional Conflicts: Different jurisdictions have distinct rules governing securities ownership, settlement finality, and legal enforceability, making it unclear which law applies to cross-border transactions, thus creating legal uncertainty for both issuers and investors.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

<p>Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are</p>	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
<p>Data on the potential costs and benefits of the suggested solution(s)</p>	

Assess the priority level for addressing barrier 1 to the cross-border provision and/or use of CSD services:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Cross-border provision and/or use of CSD services

	Describe barrier 2 to the cross-border provision and/or use of CSD services
Explanation of the barrier	2. Legal Recognition of CSD Activities: Some CSD activities, like issuance or corporate actions, may not be universally recognised across jurisdictions, complicating the provision of services across borders.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 to the cross-border provision and/or use of CSD services:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Cross-border provision and/or use of CSD services

	Describe barrier 3 to the cross-border provision and/or use of CSD services
Explanation of the barrier	3. Operational Discrepancies: Varying legal frameworks for collateral management, taxation, and custody can lead to operational inefficiencies, increasing costs and complexity when using CSD services across multiple jurisdictions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 3 to the cross-border provision and/or use of CSD services:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 43. Are there barriers to pooling assets from different jurisdictions?

- ☐ Yes
 - ☐ No
 - ☐ Don't know / no opinion / not applicable
-

Question 44. Are there legal certainty barriers to the provision of cross-border asset servicing?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the provision of cross-border asset servicing have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Provision of cross-border asset servicing

	Describe barrier 1 to the provision of cross-border asset servicing
Explanation of the barrier	1. Jurisdictional Confusion: Different legal frameworks across jurisdictions can lead to uncertainty regarding the applicable law for asset servicing activities, such as custody, corporate actions, and settlement finality, complicating the delivery of services.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to the provision of cross-border asset servicing:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Provision of cross-border asset servicing

	Describe barrier 2 to the provision of cross-border asset servicing
Explanation of the barrier	2. Diverging Legal Standards: Variations in rules concerning ownership, taxation, and investor rights can create discrepancies in how assets are treated, which may affect the consistency and reliability of asset servicing across borders.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 2 to the provision of cross-border asset servicing:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Provision of cross-border asset servicing

	Describe barrier 3 to the provision of cross-border asset servicing
Explanation of the barrier	3. Enforcement Issues: Differences in how legal rights (e.g., voting rights or dividend entitlements) are enforced and recognised across jurisdictions can result in delays or disputes, reducing the legal certainty of cross-border transactions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	

Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 to the provision of cross-border asset servicing:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 45. Are there barriers stemming from national laws affecting the legal certainty of acquisitions and dispositions in financial instruments, or cash or cash equivalent?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to acquisitions and dispositions in financial instruments, or cash or cash equivalent have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Acquisitions and dispositions in financial instruments, or cash or cash equivalent

	Describe barrier 1 to acquisitions and dispositions in financial instruments, or cash or cash equivalent
Explanation of the barrier	1. Differences in Ownership and Transfer Laws: National laws vary in their treatment of securities ownership and the legal transfer of financial instruments, making it difficult to clearly determine ownership and the transfer process across borders.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to acquisitions and dispositions in financial instruments, or cash or cash equivalent:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Acquisitions and dispositions in financial instruments, or cash or cash equivalent

	Describe barrier 2 to acquisitions and dispositions in financial instruments, or cash or cash equivalent
Explanation of the barrier	2. Divergent Settlement and Collateral Rules: Variations in settlement procedures, finality of transactions, and collateral management rules create legal uncertainty, especially in cross-border settlements where jurisdictions may have different practices and standards.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 2 to acquisitions and dispositions in financial instruments, or cash or cash equivalent:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Acquisitions and dispositions in financial instruments, or cash or cash equivalent

	Describe barrier 3 to acquisitions and dispositions in financial instruments, or cash or cash equivalent
Explanation of the barrier	3. Inconsistent Enforcement of Rights: Legal rights, such as voting rights, dividends, or liquidation preferences, may be enforced differently depending on the jurisdiction, leading to uncertainty in the treatment of financial instruments and cash.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 3 to acquisitions and dispositions in financial instruments, or cash or cash equivalent:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 46. Are there new barriers that create legal uncertainty in the provision of issuance / maintenance / settlement services via new technologies (e.g. where bridges are used between different distributed ledgers in the issuing and minting process)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the provision of issuance / maintenance / settlement services via new technologies have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Provision of issuance / maintenance / settlement services via new technologies

	Describe barrier 1 to the provision of issuance / maintenance / settlement services via new technologies
Explanation of the barrier	1. Lack of Legal Recognition: Many jurisdictions do not yet recognise distributed ledger technology (DLT) as a valid means for ownership or issuance of financial instruments, leading to uncertainty about the legal status of assets recorded on different DLTs.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 to the provision of issuance / maintenance / settlement services via new technologies:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Provision of issuance / maintenance / settlement services via new technologies

	Describe barrier 2 to the provision of issuance / maintenance / settlement services via new technologies
Explanation of the barrier	5. Uncertainty Around Smart Contracts: The use of smart contracts to automate issuance or settlement processes raises questions about their enforceability and legal interpretation, as many legal systems are not fully adapted to deal with contract execution on distributed networks.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 2 to the provision of issuance / maintenance / settlement services via new technologies:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Provision of issuance / maintenance / settlement services via new technologies

	Describe barrier 3 to the provision of issuance / maintenance / settlement services via new technologies
Explanation of the barrier	4. Dispute Resolution and Jurisdictional Issues: When assets are issued and maintained on different ledgers, it can be difficult to determine which jurisdiction’s laws apply, particularly in the event of a dispute or insolvency.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	

Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 3 to the provision of issuance / maintenance / settlement services via new technologies:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 47. Is there a legal certainty barrier due to the absence of a conflict of law rule, related to proprietary, contractual and system-related aspects, under the CSDR (to complement those under the SFD/FCD etc.)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 47.1. Are the barriers the same or are there different barriers where DLT is used, considering the divergences and uncertainties on the substantive law on the creation, holding and transfer of digital assets/tokens?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

there is a legal certainty barrier due to the absence of a conflict of law rule under the CSDR (Central Securities Depositories Regulation) that addresses proprietary, contractual, and system-related aspects. While the SFD (Settlement Finality Directive) and FCD (Financial Collateral Directive) provide some conflict of law provisions, they do not fully cover the complexities of cross-border issues in securities settlement under the CSDR, especially regarding ownership, transfer, and enforceability in different legal systems. In particular, the lack of clear rules on jurisdiction and the applicable law for cross-border transactions creates uncertainty around the legal status of securities, dispute resolution, and settlement finality, making it difficult for market participants to navigate cross-border transactions with legal certainty.

When it comes to the use of DLT (Distributed Ledger Technology), there are additional barriers:

1. Divergence in Substantive Law: Different jurisdictions have varying views on the legal creation, holding, and transfer of digital assets/tokens, leading to uncertainty in their legal treatment. DLT-based assets may not be consistently recognised across borders, complicating ownership and transfer.
2. Lack of Clear Legal Framework for Digital Assets: Most legal systems do not have established or harmonised rules specifically addressing digital tokens and their proprietary rights, making it difficult to determine the legal rights of holders, especially in cross-border situations.
3. Incompatibility with Traditional Legal Systems: The decentralised nature of DLTs poses challenges for traditional conflict of law rules, as DLT operates outside traditional jurisdictional boundaries and may not align with established legal frameworks for assets like securities.

These barriers are different from traditional securities systems due to the novelty of DLT and digital assets. The absence of clear, consistent rules on the legal nature of digital assets adds complexity to their recognition and use in cross-border transactions, requiring a tailored approach to conflict of law under the CSDR.

How many barriers related to proprietary, contractual and system-related aspects, under the CSDR have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Question 48. Can the existing approach to conflict of laws under the SFD and the FCD be applied to DLT based networks/systems and collateral transactions?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 48:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The existing approach to conflict of laws under the SFD (Settlement Finality Directive) and FCD (Financial Collateral Directive) may not be fully applicable to DLT-based networks/systems and collateral transactions due to several key differences:

1. Decentralization of DLT: DLT operates in a decentralised manner, often with no central authority or clear geographical jurisdiction. This makes it difficult to apply traditional conflict of law rules that are based on centralised, jurisdiction-bound systems.
 2. Legal Recognition of Digital Assets: Traditional legal frameworks, as outlined in the SFD and FCD, are designed for physical or centrally held financial instruments. DLT-based assets (such as digital tokens) may not be uniformly recognised across jurisdictions, leading to uncertainty about their legal status, ownership, and transfer in cross-border contexts.
 3. Jurisdictional Challenges: In the case of DLT, where assets are often spread across multiple jurisdictions and lack a centralised point of control, the traditional jurisdictional principles used in the SFD and FCD may not be sufficient to address the complexities of digital asset ownership and collateral management.
 4. Smart Contracts and Automation: The use of smart contracts in DLT adds another layer of complexity, as they are self-executing and governed by code rather than traditional legal contracts. This raises questions about the enforceability and legal interpretation of such contracts across jurisdictions.
- In summary, while the principles in the SFD and FCD provide a solid foundation for managing conflict of laws in traditional systems, they may need to be adapted or supplemented to address the unique challenges posed by DLT-based networks and collateral transactions involving digital assets.

Question 49.1. What is the preferred connecting factor in relation to proprietary aspects related to transactions on a DLT system?

Please select as many answers as you like



The law chosen by the participants to a transaction

- ☐ The law chosen by the network participants
- ☐ The law of the legal entity operating the DLT-based system on which digital assets are recorded
- ☐ In relation to a digital asset of which there is an issuer, the domestic law of the State where the issuer is established
- ☐ The place of the relevant operating authority/administrator (PROPA)
- ☐ The primary residence of the encryption private master keyholder (PREMA)
- ☒ Other

Please specify to what other connecting factor(s) in relation to proprietary aspects you refer in your answer to question 49.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

When determining the preferred connecting factors for conflict of laws in relation to transactions on a DLT system, the following considerations are relevant for proprietary, contractual, and system-related aspects:

(a) Proprietary Aspects:

- Preferred Connecting Factor: The law chosen by the participants to the transaction or the domestic law of the state where the issuer is established (if the digital asset has an issuer) are generally the most appropriate factors for proprietary aspects. These factors provide clarity on ownership and rights over digital assets, especially where the asset has a clear issuer and associated rights.
- Why: In proprietary matters (such as ownership), clarity on which jurisdiction's laws apply is critical, especially given the cross-border nature of DLT systems. The issuer's jurisdiction provides an anchor for the validity of digital asset ownership, whereas the law chosen by participants allows for flexibility and legal certainty based on the parties' agreement.

(b) Contractual Aspects:

- Preferred Connecting Factor: The law chosen by the participants to the transaction is typically the most relevant for contractual matters, as parties involved in a transaction can often agree on the law that governs their relationship. This is particularly important in smart contract arrangements where the terms are embedded in code.
- Why: Contractual aspects are usually best governed by party autonomy, meaning that the contracting parties should be free to choose the law under which their agreements (including those facilitated via smart contracts) are interpreted and enforced.

(c) System-Related Aspects:

- Preferred Connecting Factor: The law of the legal entity operating the DLT-based system or the place of the relevant operating authority/administrator (PROPA) is a useful factor for system-related aspects. This pertains to the operation and regulation of the DLT system itself, such as governance, dispute resolution, and the underlying technology.
- Why: The entity operating the DLT system is usually responsible for the rules and operation of the network, and its jurisdiction provides stability for participants. The administrator's location also matters because it may control the system's protocol and governance, influencing how transactions are processed and how disputes are resolved.

Differences Between Permissioned and Permissionless DLT Systems:

- Permissioned DLT Systems: These are typically governed by a known central authority, and participants are subject to pre-defined rules. Here, the law of the legal entity operating the system or the law chosen by the participants is often a suitable connecting factor. Since the system is more controlled, the

operational rules may be more predictable, making it easier to apply a clear legal framework.

- **Permissionless DLT Systems:** These are decentralised and operate without a single controlling entity. The place of the relevant operating authority or the law chosen by network participants could be more relevant. However, since there is no central authority in a permissionless network, it may be more challenging to identify a single jurisdiction that applies uniformly to all users, raising the possibility that different jurisdictions' laws could apply depending on the circumstances.

Additional Considerations:

- **Encryption Private Master Keyholder (PREMA):** This factor may be relevant in determining ownership or control of digital assets, especially in cases where access to assets is determined by a private key. However, the jurisdiction of the keyholder may be less relevant than other factors, such as the legal status of the asset or the system on which it is recorded.

Conclusion:

The preferred connecting factor depends on the aspect of the transaction:

- For proprietary matters: The law of the issuer's jurisdiction or the law chosen by participants.
- For contractual matters: The law chosen by the participants.
- For system-related aspects: The law of the system's operator or the law of the operating authority.

The differences between permissioned and permissionless DLT systems may warrant different conflict of laws rules, particularly when it comes to governance and jurisdictional certainty. Permissioned systems may benefit from clearer legal frameworks based on centralised control, whereas permissionless systems could face more complexity due to decentralisation and lack of a single controlling entity.

Question 49.2. What is the preferred connecting factor in relation to contractual aspects related to transactions on a DLT system?

Please select as many answers as you like

- ☐ The law chosen by the participants to a transaction
- ☐ The law chosen by the network participants
- ☐ The law of the legal entity operating the DLT-based system on which digital assets are recorded
- ☐ In relation to a digital asset of which there is an issuer, the domestic law of the State where the issuer is established
- ☐ The place of the relevant operating authority/administrator (PROPA)
- ☐ The primary residence of the encryption private master keyholder (PREMA)
- ☐ Other

Question 49.3. What is the preferred connecting factor in relation to system-related aspects related to transactions on a DLT system?

Please select as many answers as you like

- ☐ The law chosen by the participants to a transaction
- ☐ The law chosen by the network participants
- ☐ The law of the legal entity operating the DLT-based system on which digital assets are recorded

- ☐ In relation to a digital asset of which there is an issuer, the domestic law of the State where the issuer is established
- ☐ The place of the relevant operating authority/administrator (PROPA)
- ☐ The primary residence of the encryption private master keyholder (PREMA)
- ☐ Other

Question 49.4. Would the differences between permissioned and permissionless DLT systems, warrant different rules on conflict of laws)?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 49.4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 50. Considering various new types of settlement assets (including tokenised central bank money, electronic money tokens and tokenised commercial bank money) and the different nature of native (only created and represented on the DLT) and non-native (existing outside of the DLT) assets, should the same conflict of law rules apply to all these settlement assets?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 50:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

the same conflict of law rules should not necessarily apply to all types of settlement assets, such as tokenised central bank money, electronic money tokens, and tokenised commercial bank money, especially considering the differences between native (created and represented solely on the DLT) and non-native (existing outside the DLT) assets.

Reasons:

1. Nature of Assets:
 - o Native Assets (those created and represented exclusively on the DLT): These assets are fully digital

and embedded within the DLT ecosystem. Their legal status may need to be defined based on the DLT's jurisdiction or the network rules, as they do not have a counterpart outside the system.

- o Non-Native Assets (those existing outside the DLT but represented on it, such as tokenised versions of fiat money): These assets maintain their legal identity and value outside the DLT. The conflict of law rules for non-native assets may need to refer to the jurisdiction of the underlying asset (e.g., the country where the commercial bank or central bank operates).

2. Regulatory and Legal Frameworks:

- o Tokenised Central Bank Money and Tokenised Commercial Bank Money: These assets are closely tied to existing fiat currencies and their respective legal and regulatory frameworks. Their legal treatment should reflect the rules governing the underlying money, making the jurisdiction of the issuing authority (central or commercial bank) more relevant.

- o Electronic Money Tokens: These are issued by electronic money institutions and might be subject to different legal regimes, especially in terms of payment services regulations, consumer protection, and financial conduct laws. The conflict of law rules here could be based on the issuer's jurisdiction or the jurisdiction of the consumer in the transaction.

3. Cross-Border Transactions:

The nature of cross-border transactions for these assets also varies. For example:

- o Tokenised commercial bank money may involve international payment networks, meaning that the conflict of law rules must account for the jurisdictions of the banks involved.

- o For native DLT assets, which may operate in a decentralised and borderless environment, the conflict of law rules may need to focus on the network's governance and protocol rules, which may differ from traditional financial asset structures.

Conclusion:

Different types of settlement assets (especially native vs. non-native assets) have varying legal, regulatory, and operational considerations. Thus, applying a uniform set of conflict-of-law rules to all of them could be problematic. Instead, tailored approaches should be developed that account for the nature of the asset, its regulatory environment, and its relationship to the underlying financial system.

Question 51. Are there any other barriers to legal certainty which are not mentioned above?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please justify your answer to question 51, in particular identifying potential risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

3.1.5. Barriers and other aspects under the SFD

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 52. What are the main barriers to the smooth operation of the settlement finality framework in the EU?

Please indicate how many barriers have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Please justify your answer to question 52, in particular identifying potential risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The main barriers to the smooth operation of the settlement finality framework in the EU include:

1. **Jurisdictional Challenges:** Cross-border transactions within the EU face uncertainty regarding which national laws apply, especially when DLT-based or tokenised assets are involved. The conflict of laws between different jurisdictions can hinder the finality of transactions.
 2. **Legal Certainty Issues:** There is a lack of legal clarity on the ownership, transfer, and enforcement of digital assets across jurisdictions, particularly for non-native assets and assets created on DLT systems.
 3. **Regulatory Fragmentation:** Different EU member states have varying regulatory approaches to settlement finality, especially with respect to digital assets and tokenisation. This fragmentation leads to inconsistent application of the framework across the EU.
 4. **Operational Complexity:** The complex interactions between different settlement systems, CSDs, and market infrastructures create operational inefficiencies, particularly when multiple systems must synchronise to ensure the finality of transactions.
 5. **Incompatibility of Legal Frameworks:** The current settlement finality framework may not be fully adaptable to new technologies like DLT, resulting in uncertainties about the enforceability of transactions involving tokenised or digital assets.
 6. **Market Participants' Uncertainty:** Some market participants may lack confidence in the legal enforceability of transactions involving digital assets, particularly in decentralised systems or when bridging between different DLT systems.
 7. **Settlement Failures:** Technical and procedural failures in the settlement process, such as system downtime, errors in transaction reconciliation, or failures in the settlement of the cash leg of transactions, can undermine the finality of settlements.
 8. **Lack of Harmonised Standards:** There is insufficient harmonisation in operational standards for settlement systems across EU countries, which can lead to delays or mismatches in settlement processes.
 9. **Dispute Resolution Mechanisms:** The absence of clear and universally accepted dispute resolution mechanisms in cross-border transactions can impede the smooth operation of settlement finality.
- These barriers hinder the effective functioning of the EU's settlement finality framework, particularly in light of evolving technologies and regulatory practices.

Question 53. Are there any aspects of the SFD that have created barriers for the market or market participants, in particular in a cross-border environment?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers for the market or market participants, in particular in a cross-border environment, have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Market or market participants, in particular in a cross-border environment

	Describe barrier 1 for the market or market participants, in particular in a cross-border environment
Explanation of the barrier	<p>several aspects of the SFD have created barriers for the market, especially in a cross-border environment:</p> <ol style="list-style-type: none">1. Limited Scope of Designation: The SFD applies only to designated systems and participants. This can exclude newer market players (e.g. fintechs or DLT-based entities), creating barriers to participation in cross-border settlement.2. Inconsistent National Implementation: EU member states have implemented the SFD differently, leading to regulatory fragmentation and legal uncertainty in cross-border contexts.3. Lack of Adaptability to New Technologies: The SFD was designed for traditional financial systems and does not fully address the operational or legal characteristics of DLT-based systems or tokenised assets, limiting their integration into cross-border settlement.4. Unclear Conflict of Laws Rules: The SFD does not provide comprehensive guidance on applicable law for all aspects of cross-border transactions (e.g. proprietary or contractual issues), creating uncertainty in legal enforceability.5. Recognition of Foreign Participants and Systems: There are challenges related to the recognition of non-EU participants or systems, which complicates cross-border participation and the finality of transactions involving third countries. <p>These barriers can reduce efficiency, increase costs, and deter innovation in cross-border settlement activity within the EU.</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	

Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 for the market or market participants, in particular in a cross-border environment:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 54. Do the definitions, in particular the definition of a “system” and “transfer orders”, result in barriers related to the change in market practice in the set-up of systems as well as the use of DLT?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the change in market practice in the set-up of systems as well as the use of DLT have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Change in market practice in the set-up of systems as well as the use of DLT

	Describe barrier 1 related to the change in market practice in the set-up of systems as well as the use of DLT
Explanation of the barrier	current definitions—especially of a “system” and “transfer orders” under regulations such as the Settlement Finality Directive (SFD)—can create barriers to the adoption of new market practices and technologies like Distributed Ledger Technology (DLT). These definitions are often based on traditional, centralised infrastructures and may not adequately capture the decentralised nature or operational logic of DLT-based systems. As a result, uncertainty or misalignment with regulatory requirements can hinder innovation, delay implementation, and increase legal risk for market participants adopting DLT-based solutions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 related to the change in market practice in the set-up of systems as well as the use of DLT:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 55. Is SFD protection important for settlement systems, such as those based on DLT, that settle trades instantly and atomically, and not on a deferred net basis or in settlement batches?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 55:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

SFD protection remains important even for DLT-based settlement systems that settle trades instantly and atomically. Despite real-time and atomic settlement features, legal certainty regarding finality, protection against insolvency-related clawbacks, and recognition of transfer orders are still crucial. Without SFD protection, these systems may face legal and regulatory uncertainty, limiting their adoption and integration into the broader financial market infrastructure.

Question 56. Should settlement systems that achieve probabilistic (operational) settlement finality be designated and benefit from SFD protections?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain how settlement finality could be achieved in such a case and why this would be desirable:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, settlement systems with probabilistic finality should be considered for SFD protection if they meet clear and transparent criteria ensuring a high degree of settlement certainty. While such systems do not guarantee absolute finality at a specific moment, legal frameworks could define the point at which settlement is

considered final based on operational thresholds (e.g. elapsed time, number of confirmations). Granting SFD protection would support innovation, legal clarity, and trust in emerging technologies while ensuring systemic stability.

Question 57. Are the criteria that need to be met for a system to be designated under the SFD creating unjustified barriers to entrance?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to entrance have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Entrance

	Describe barrier 1 to entrance
Explanation of the barrier	the current criteria for SFD designation may create unjustified barriers to entry, particularly for innovative or smaller systems using new technologies like DLT. These criteria can be overly rigid or outdated, making it difficult for non-traditional systems to qualify, even if they are secure and efficient. This can hinder competition, innovation, and the development of a more integrated and technologically advanced financial market in the EU.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to entrance:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 58. Do diverging national practices for notifying systems create an uneven level playing field or legal uncertainty?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers creating an uneven level playing field or legal uncertainty have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Uneven level playing field or legal uncertainty

	Describe barrier 1 creating an uneven level playing field or legal uncertainty
Explanation of the barrier	Yes, diverging national practices for notifying systems under the SFD can create an uneven playing field and lead to legal uncertainty. Differences in how Member States interpret and implement notification procedures may result in inconsistent protection levels and operational requirements, disadvantaging certain systems and reducing overall market efficiency.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 creating an uneven level playing field or legal uncertainty:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 59. For the purposes of designating a system under the SFD, are the current list of participants, the designation process and the focus on entities rather than on the service provided creating barriers for new entities to provide settlement services in a system designated under that Directive?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers for new entities to provide settlement services have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - New entities to provide settlement services

	Describe barrier 1 for new entities to provide settlement services
Explanation of the barrier	the current approach under the SFD, which focuses on designating entities rather than specific services, along with rigid participant lists and a complex designation process, can create barriers for new entrants. This setup may limit flexibility, hinder innovation (especially in emerging models like DLT-based systems), and discourage competition in the provision of settlement services.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 for new entities to provide settlement services:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 60. Does the non-aligned definition of 'collateral security' (SFD) and 'financial collateral' (FCD) create complexities for efficient collateral management?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to efficient collateral management have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Efficient collateral management

	Describe barrier 1 to efficient collateral management
Explanation of the barrier	the non-aligned definitions of ‘collateral security’ under the Settlement Finality Directive (SFD) and ‘financial collateral’ under the Financial Collateral Directive (FCD) create legal and operational complexities, which can hinder efficient and consistent collateral management across EU markets.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to efficient collateral management:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 61. Is there legal certainty on the scope of the settlement finality protection under SFD?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 61:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

There is some legal uncertainty regarding the scope of settlement finality protection under the Settlement Finality Directive (SFD), particularly in complex or evolving market structures such as those involving Distributed Ledger Technology (DLT). Ambiguities may arise around which transactions and systems are covered, and when finality is achieved, especially when national interpretations or implementations vary. This can affect market confidence and cross-border consistency.

Question 62. Is the lack of harmonised settlement finality moments in SFD (i.e. leaving it to the rules of the system or national law) creating legal uncertainty and preventing the development of a single capital market?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the development of a single capital market have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Development of a single capital market

	Describe barrier 1 to the development of a single capital market
Explanation of the barrier	the lack of harmonised settlement finality moments under the SFD, by allowing each system or national law to define when finality occurs, creates legal uncertainty. This fragmentation can hinder cross-border settlement efficiency, complicate risk management, and ultimately obstruct the development of a fully integrated and unified EU capital market. Consistent finality rules would support greater legal clarity and foster trust in cross-border transactions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the development of a single capital market:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 63. The SFD does not apply to third-country systems, however, Member States can extend the protections in the SFD to domestic institutions participating directly in third-country systems and to any relevant collateral security ('extension for third-country systems').

Is the lack of transparency related to Member States extending for third-country systems creating barriers to the provision of services in the single market or creating a non-level playing field for EU entities?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the provision of services in the single market have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Provision of services in the single market

	Describe barrier 1 to the provision of services in the single market
Explanation of the barrier	the lack of transparency regarding Member States' decisions to extend SFD protections to third-country systems can create barriers to the provision of services within the single market. This opacity may lead to legal uncertainty for EU entities participating in or interacting with these systems and result in an uneven playing field. Some institutions may benefit from protection while others do not, depending on national discretion, thereby undermining consistency, regulatory clarity, and competitive neutrality across the EU.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the provision of services in the single market:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 64. Stakeholders have indicated they would like to have an overview of all participants in different SFD designated systems, e.g. shared on one website publicly accessible.

Is the lack of transparency related to the participants of designated systems creating barriers to the single market?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the single market created by the lack of transparency related to the participants have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Single market - created by the lack of transparency related to the participants

	Describe barrier 1 to the single market created by the lack of transparency related to the participants
Explanation of the barrier	<p>The lack of transparency regarding participants in designated systems can indeed create barriers to the single market, particularly in areas where competition, access to services, and fair market conditions are crucial. Here's why:</p> <ol style="list-style-type: none">1. Market Entry and Competition: If potential participants cannot see who is already involved in designated systems, they may be discouraged from entering the market. This is particularly true in sectors that require significant investments or compliance with specific regulations. Lack of visibility on who the other players are can create uncertainty or perception of exclusivity, leading to reduced competition.2. Information Asymmetry: When stakeholders do not have access to information about who participates in these systems, it can lead to information asymmetry. This creates an uneven playing field, where some participants might have advantages due to insider knowledge, while others struggle to enter or compete fairly. Transparency helps to level the playing field and allows all market participants to make informed decisions.3. Trust and Market Confidence: Transparency about the participants in designated systems fosters trust among consumers, businesses, and other stakeholders. If market participants can verify who is involved in these systems, it can increase their confidence in the system's integrity and fairness. Without such transparency, there may be concerns about the reliability or fairness of the designated systems, which could ultimately deter engagement from both consumers and businesses.4. Cross-Border Transactions and Integration: For the single market to function smoothly, participants in different countries need to know who the relevant actors are in various systems across borders. If information about participants is hidden, it could impede cross-border trade, investments, and collaborations, all of which are essential for a fully integrated single market.5. Regulatory Compliance and Monitoring: Transparency is essential for effective regulatory oversight. Without access to data about who is participating in designated systems, regulators may find it difficult to ensure compliance with relevant laws and standards. This could lead to enforcement challenges, as well as gaps in the monitoring of systemic risks or market abuses.

	Having a publicly accessible overview of participants in these systems can enhance market transparency, encourage fair competition, reduce information asymmetry, and improve market confidence—all of which are necessary for an efficiently functioning single market. Therefore, the lack of such transparency could indeed create barriers, potentially undermining the goals of the single market initiative.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the single market created by the lack of transparency related to the participants:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 65. Has the fact that SFD designation is not mandatory for all systemically important systems (except when mandated under Art. 2(1) and 2 (10) CSDR and Art. 17(4)(b) EMIR), including payment systems, created barriers to the single market?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the single market created by the fact that SFD designation is not mandatory for all systemically important systems have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Single market - created by the fact that SFD designation is not mandatory for all systemically important systems

	Describe barrier 1 to the single market created by the fact that SFD designation is not mandatory for all systemically important systems
Explanation of the barrier	<p>Here are a few key points on why this could be problematic:</p> <ol style="list-style-type: none">1. Fragmentation of Regulation: The lack of a mandatory SFD designation across all systemically important infrastructures (like payment systems, clearinghouses, etc.) means that some critical systems may not be subject to the same level of regulatory scrutiny or oversight as others. This could result in regulatory fragmentation across the EU, undermining the goal of a unified, seamless Single Market. Some financial market infrastructures (FMIs) may operate under different standards or face different regulatory burdens depending on the jurisdiction, creating inefficiencies.2. Competitive Disadvantages: If systemically important infrastructures are not designated SFD across the board, cross-border interoperability can be compromised. For example, a payment system or clearing system operating in one member state may face more stringent oversight than a similar system in another state, leading to competitive imbalances. This lack of consistency could discourage firms from participating in cross-border activities or utilising infrastructures across different EU member states, which in turn can inhibit the free flow of capital, services, and payments within the EU.3. Risk of Regulatory Arbitrage: The absence of a mandatory SFD designation for all important infrastructures may incentivize firms to choose jurisdictions with less stringent regulatory requirements for their operations. This could increase the risks to the financial system as such systems might not be subject to the appropriate levels of supervision, potentially leaving gaps in regulatory coverage, particularly in critical areas like payments, clearing, and settlement.4. Financial Stability Concerns: The exclusion of some key infrastructures from the mandatory SFD designation could create potential risks to financial stability in the Single Market. If a critical infrastructure does not meet the required regulatory standards or is not subject to appropriate oversight, it could lead to vulnerabilities in the overall

	<p>financial system, especially in cross-border activities where risks can propagate quickly across the EU.</p> <p>5. Limited Progress Toward Financial Integration: The ultimate goal of the Single Market is to achieve greater financial integration across the EU, where firms can freely provide services and engage in cross-border financial activities. If some systemically important infrastructures are excluded from the mandatory SFD designation, it could slow the harmonisation of financial rules and reduce the incentives for operators to adopt uniform standards that would enable a fully integrated financial system.</p> <p>While the non-mandatory SFD designation allows some flexibility for jurisdictions or specific systems, it does have the potential to create barriers to the Single Market, mainly through regulatory fragmentation, competitive disadvantages, and risks to financial stability. A more uniform approach to systemically important financial infrastructures could foster better integration, reduce regulatory arbitrage, and contribute to stronger market stability across the EU.</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the single market created by the fact that SFD designation is not mandatory for all systemically important systems:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 66. Are there any national barriers in relation to legal certainty arising from how the SFD is transposed in the Member States?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to legal certainty arising from the SFD transposition have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Legal certainty arising from the SFD transposition

	Describe barrier 1 to legal certainty arising from the SFD transposition
Explanation of the barrier	1. Divergent Transposition Approaches: Each Member State may transpose the SFD requirements differently into its national legal system, leading to varying levels of legal certainty. Some countries may impose stricter or more lenient requirements than others, creating confusion for businesses operating across borders.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to legal certainty arising from the SFD transposition:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Legal certainty arising from the SFD transposition

	Describe barrier 2 to legal certainty arising from the SFD transposition
Explanation of the barrier	2. Inconsistent Designation Criteria: The criteria used by Member States to designate systemically important infrastructures may not be harmonised, resulting in discrepancies in which entities are subject to SFD oversight. This inconsistency can create uncertainty for market participants about which regulations apply to them.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 to legal certainty arising from the SFD transposition:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Legal certainty arising from the SFD transposition

	Describe barrier 3 to legal certainty arising from the SFD transposition
Explanation of the barrier	3. Varying Regulatory Oversight: Different national regulators may interpret and enforce the SFD rules in slightly different ways, leading to inconsistencies in how financial infrastructures are supervised. This can affect the legal certainty of cross-border operations, as firms may face differing regulatory expectations depending on where they operate.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 to legal certainty arising from the SFD transposition:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 67. Some stakeholders suggested a centralised overview over the insolvency of participants of all SFD designated systems is needed, ie. published on a common centralised website.

Is a lack of transparency related to the insolvency of participants of designated systems creating barriers to the single market?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the single market created by the lack of transparency related to the insolvency of participants have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Single market created by the lack of transparency related to the insolvency of participants

	Describe barrier 1 to the single market created by the lack of transparency related to the insolvency of participants
Explanation of the barrier	<p>These barriers include:</p> <ol style="list-style-type: none">1. Increased Risk and Uncertainty: If insolvencies of participants in systemically important infrastructures are not made transparent or easily accessible, it can create uncertainty for other market participants. In cross-border transactions, this lack of visibility can heighten counterparty risk and make it difficult for firms to assess the financial health of their partners, leading to increased caution and possibly higher transaction costs.2. Market Fragmentation: Without a central platform for insolvency information, each Member State or system may handle insolvency disclosure differently. This could lead to fragmented access to crucial information, hindering the ability of market participants to make informed decisions. Firms that rely on cross-border operations could face different standards of disclosure and transparency, making it difficult to operate efficiently in a harmonised market.3. Reduced Legal Certainty: A lack of a centralized and uniform insolvency reporting system could create legal uncertainty for market participants, as they may not know the implications of an insolvency in a particular system. This uncertainty could increase operational risk, especially for firms with exposure to insolvencies in multiple jurisdictions, as they may not have a clear understanding of how insolvency proceedings will unfold across different systems or countries.4. Inefficient Risk Management: Transparency about insolvencies is critical for effective risk management. Without a clear, centralized source of information, firms may find it difficult to gauge the systemic risks arising from a participant's insolvency. This could lead to poor risk management practices, where firms fail to fully account for potential disruptions in the system, thus increasing the likelihood of financial instability.5. Hindrance to Financial Stability: The lack of transparency can also undermine the financial stability of the entire system. If insolvency events are not publicly disclosed in a standardized and timely manner, it becomes more difficult for regulators and market participants to identify emerging risks to financial stability. The delayed or incomplete dissemination of insolvency information could result in market instability, as firms may be caught unaware, exacerbating the potential ripple effects of an insolvency in a key participant.6. Cross-Border Barriers: Market participants, especially those operating in multiple jurisdictions, may face

	<p>difficulties navigating insolvency proceedings that vary between Member States. If insolvency information is not centrally available or standardized, businesses could face higher legal and administrative costs, deterring cross-border business and potentially fragmenting the Single Market further.</p> <p>A lack of transparency regarding the insolvency of participants in SFD-designated systems does create barriers to the Single Market, as it introduces uncertainty, increases risk, and complicates legal and operational processes. A centralized, standardised overview of insolvency events would foster greater transparency, improve legal certainty, and promote more efficient risk management, ultimately contributing to a more integrated and stable Single Market.</p>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the single market created by the lack of transparency related to the insolvency of participants:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 68. Are there any other barriers created by the SFD which are not mentioned above?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please justify your answer to question 68, in particular identifying potential risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 69. How should irrevocability of “reserved” or “booked” digital assets be achieved?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This can be achieved through a combination of technological, legal, and operational measures:

1. Blockchain and Distributed Ledger Technology (DLT): Using blockchain ensures immutability, where once an asset is reserved, it is recorded in a tamper-proof ledger that cannot be altered or reversed without consensus.
2. Smart Contracts: Smart contracts automate the process, locking assets once conditions are met, preventing unauthorised changes and enforcing the terms of reservation.
3. Tokenisation and Proof of Ownership: Tokenised assets provide verifiable ownership on a digital ledger, ensuring that once booked, the asset is irrevocably committed.
4. Legal Framework: Clear legal definitions and binding agreements ensure that booked assets are treated as irrevocable under the law, with penalties for unauthorised changes.
5. Centralised Custodians and Clearing Systems: Trusted custodians can securely manage and hold assets, preventing unauthorised changes and ensuring transparency.
6. Multi-Signature and Threshold Approval: Requiring multiple approvals or signatures before modifying

reserved assets adds another layer of security, ensuring that no single party can alter the status of the asset.

7. Timestamping and Audit Trails: Immutable records and audit trails confirm the reservation time, providing a transparent history that guarantees irrevocability.

Together, these mechanisms ensure that once digital assets are reserved or booked, they cannot be altered, reversed, or disputed, providing certainty and security for all parties involved.

Question 70. Is the point in time when a disposition becomes irrevocable problematic to pinpoint in DLT-based settlement systems, and in particular those with probabilistic settlement?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 70:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

pinpointing the exact point in time when a disposition becomes irrevocable can be problematic in DLT-based settlement systems, particularly those with probabilistic settlement. In these systems, the finality of a transaction is not guaranteed immediately, and it may only become more certain over time as more blocks are added or more confirmations occur.

With probabilistic settlement, the transaction's irrevocability depends on the likelihood that it will not be reversed, which increases over time as the transaction is further embedded in the blockchain. This uncertainty in finality makes it difficult to determine exactly when a disposition is irrevocable, as the transaction might still be subject to reversal or dispute until it reaches a sufficient level of certainty.

This creates challenges for legal certainty and operational processes, as participants may not have a clear, immediate assurance that a transaction is final, especially in cross-border or time-sensitive scenarios.

3.2. Barriers to the application of new technology and new market practices

3.2.1. Applicability of the CSDR to DLT-based CSDs and the provision of services

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 71. Considering the core functions of a CSD, i.e. those of notary, central maintenance and settlement, is the current legal framework appropriate to mitigate and control risks that could arise from the use of DLT?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 71:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The current legal framework is not yet fully appropriate to mitigate and control risks arising from the use of DLT in the core functions of a CSD (notary, central maintenance, and settlement). Key gaps include legal uncertainty around settlement finality in DLT environments, challenges with applying existing definitions under EU law to decentralised systems, insufficient coverage of new operational and cyber risks, and limited supervisory tools for overseeing distributed networks. Targeted legal updates are needed to ensure clarity, consistency, and effective risk management in a DLT-based environment.

Question 72. What are the main barriers in the EU framework to the use of DLT for the provision of CSD services, also in light of the experience gained through the DLTPR?

Please select as many answers as you like

- ☒ legal or regulatory requirements (or lack thereof)
- ☒ fiscal requirements
- ☒ supervisory practice
- ☐ market practice
- ☒ operational requirements
- ☒ differences in national legal, regulatory or operational requirements
- ☒ technical/technological aspects
- ☒ other

Barrier due to legal or regulatory requirements (or lack thereof) - Use of DLT for the provision of CSD services

	Describe the barrier due to legal or regulatory requirements (or lack thereof)
Explanation of the barrier	<div><div>1.</div><div>Legal and Regulatory Uncertainty:</div><div><div>o</div><div>Ambiguities around how existing EU legislation (e.g., CSDR, SFD) applies to DLT-based systems.</div></div><div><div>o</div><div>Lack of legal definitions and recognition for DLT-specific concepts like smart contracts, digital tokens, and decentralized governance.</div></div><div><div>o</div><div>Legal uncertainty about settlement finality in DLT systems.</div></div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to legal or regulatory requirements (or lack thereof):

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to fiscal requirements - Use of DLT for the provision of CSD services

	Describe the barrier due to fiscal requirements
Explanation of the barrier	<div>2. Supervisory Practice:</div> <div><div>o Diverging interpretations and approaches by national competent authorities create fragmentation and uncertainty for cross-border services.</div><div>o Limited supervisory experience and tools for DLT-specific risks.</div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to fiscal requirements:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to supervisory practice - Use of DLT for the provision of CSD services

	Describe the barrier due to supervisory practice
Explanation of the barrier	<div>3. Market Practice and Operational Requirements:</div> <div><div>o Traditional market infrastructures are designed for centralised models, making integration with DLT complex.</div><div>o Existing workflows, especially for corporate actions and asset servicing, are not DLT-compatible.</div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to supervisory practice:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to operational requirements - Use of DLT for the provision of CSD services

	Describe the barrier due to operational requirements
Explanation of the barrier	<div>4. Differences in National Requirements:</div> <div><div>o Inconsistent national laws on securities issuance, legal representation, and CSD licensing hinder cross-border DLT adoption.</div><div>o Some national laws require domestic issuance or maintenance, which conflicts with DLT's borderless nature.</div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to operational requirements:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to differences in national legal, regulatory or operational requirements - Use of DLT for the provision of CSD services

	Describe the barrier due to differences in national legal, regulatory or operational requirements
Explanation of the barrier	<div>5. Technical/Technological Challenges:</div> <div><div>Lack of interoperability between different DLT networks and with traditional systems.</div><div>Scalability and latency issues in some DLT platforms for high-volume settlement.</div><div>Cybersecurity and resilience risks are amplified in decentralized architectures.</div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing the barrier due to differences in national legal, regulatory or operational requirements:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier due to technical/technological aspects - Use of DLT for the provision of CSD services

	Describe the barrier due to technical /technological aspects
Explanation of the barrier	<div>6. Type of Instrument:</div> <div><div>o The DLTPR restricts eligible financial instruments and limits full-scale market testing.</div><div>o Uncertainty around treatment of hybrid or programmable securities under current law.</div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the barrier due to technical /technological aspects:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Other main barriers - Use of DLT for the provision of CSD services

	Describe the other main barriers
Explanation of the barrier	<div>7. Other Barriers:</div> <div><div>o High implementation costs and need for expertise.</div><div>o Resistance to change from market participants due to uncertainty and lack of proven business case.</div><div>o Tax and accounting treatment of DLT-based instruments remains unclear.</div></div>
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing the other main barriers to the use of DLT for the provision of CSD services:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 73. Are there any legal barriers to ensure the integrity of the issue, segregation and custody requirements also in the context of DLT-based issuance and settlement?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to ensure the integrity of the issue, segregation and custody requirements have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - Integrity of the issue, segregation and custody requirements

	Describe barrier 1 to ensure the integrity of the issue, segregation and custody requirements
Explanation of the barrier	These include a lack of legal clarity and harmonisation across Member States, outdated regulatory definitions that do not accommodate DLT models, uncertainty around the recognition of DLT-based registries, unclear rules on asset segregation in smart contracts or wallets, and ambiguity in the role and responsibilities of custodians in decentralised systems. These issues create legal uncertainty and hinder the adoption of DLT for CSD services.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to ensure the integrity of the issue, segregation and custody requirements:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 74. Does the definition of cash need to be refined to take into account technological developments affecting the provision of cash, in particular the emergence of tokenised central bank money, tokenised commercial bank money and electronic money tokens?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please specify how the use of such settlement assets can be facilitated while maintaining a high level of safety for cash settlement in DLT market infrastructures:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, the definition of cash may need to be refined to reflect technological developments such as tokenised central bank money, tokenised commercial bank money, and electronic money tokens. To facilitate their use while ensuring safe cash settlement in DLT infrastructures, clear legal recognition, regulatory clarity, interoperability standards, and robust risk management frameworks are essential. This would support innovation while maintaining financial stability and trust in settlement processes.

Question 75. Could the use of DLT help reduce the reporting burden?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 75:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, the use of Distributed Ledger Technology (DLT) could help reduce the reporting burden by enabling real-time data sharing, improving data accuracy and consistency, and automating reporting processes. DLT can provide regulators with direct access to transaction data, reducing the need for duplicative or manual

reporting by market participants. However, to realise these benefits, regulatory frameworks must adapt to support DLT-based reporting mechanisms.

Question 76. Would a per-service authorisation of CSD services, with compliance requirements proportionate to the risk of the individual service, make the CSDR more technologically neutral and contribute to removing barriers to adoption of new technologies, such as DLT?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 76:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, a per-service authorisation approach with proportionate compliance requirements could enhance the technological neutrality of the CSDR and help remove barriers to adopting new technologies like DLT. It would allow for more flexible and tailored regulatory treatment, better aligned with the risk profile and specific nature of each service, encouraging innovation and competition in the provision of CSD services.

Question 77. Are there any legal barriers for DLT service providers in providing trading, settlement and clearing in an integrated manner, within one entity?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers for DLT service providers have you identified?

- ☒ 1 barrier
- ☐ 2 barriers
- ☐ 3 barriers

Barrier 1 - For DLT service providers

	Describe barrier 1 for DLT service providers
Explanation of the barrier	Financial regulations in many jurisdictions require these functions to be performed by separate entities, each with specific licenses, to manage systemic risk and prevent conflicts of interest. Existing laws are typically designed for traditional intermediaries and may not align with DLT-based models, especially regarding legal and settlement finality. While some jurisdictions offer pilot regimes or regulatory sandboxes that allow integrated DLT operations under certain conditions, these are exceptions and usually temporary. While DLT offers efficiency through integration, regulatory frameworks often prioritize market stability over innovation. Therefore, unless operating within a sandbox or DLT-specific pilot regime, integrated service provision across trading, clearing, and settlement in one DLT entity faces significant legal and regulatory barriers in most major jurisdictions.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	

Estimation of the costs of the barrier	
<p>Potential solution(s) to remove or lower the barrier, in descending order of importance</p> <p>Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).</p>	
Data on the potential costs and benefits of the suggested solution(s)	

Assess the priority level for addressing barrier 1 for DLT service providers:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 78. Are there **any other barriers that you consider relevant for the DLT based provision of CSD services?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many other barriers have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Other barriers

	Describe other barrier 1
Explanation of the barrier	<ul style="list-style-type: none">• Technical Maturity and Scalability: While DLT is rapidly evolving, the technology is still maturing. CSDs handle vast volumes of transactions and ensuring that DLT platforms can achieve the necessary throughput, latency, and scalability to support real-time or near real-time settlement for large-scale markets remains a significant technical challenge.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing other barrier 1:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Other barriers

	Describe other barrier 2
Explanation of the barrier	<ul style="list-style-type: none">• Integration with Cash Leg Settlement: For Delivery Versus Payment (DvP) settlement, a DLT CSD needs a reliable and efficient way to settle the cash leg of a transaction. This requires integration with central bank money or reliable forms of commercial bank money on ledger. The availability and accessibility of suitable digital cash on DLT platforms is still a developing area and a significant operational challenge.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing other barrier 2:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Other barriers

	Describe other barrier 3
Explanation of the barrier	<ul style="list-style-type: none">• Governance Frameworks: Establishing clear and effective governance frameworks for DLT-based CSDs is crucial. This includes defining roles and responsibilities, decision-making processes for protocol upgrades and rule changes, and mechanisms for dispute resolution and error correction on the ledger. The distributed nature of DLT can make traditional governance models challenging to apply.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing other barrier 3:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 79. In particular in permissionless blockchains, validators have the ability to choose which transactions to prioritise for validation and decide on the order of transaction settlement.

Can this feature negatively affect orderly settlement and how can it be mitigated?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 79:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, in permissionless blockchains, the ability of validators to prioritise and order transactions can negatively affect orderly financial settlement. This power allows for practices like front-running, where validators can place their own transactions ahead of others to profit, and transaction reordering, which can disrupt the intended sequence of linked settlements (like Delivery Versus Payment), leading to fails and increased risk. This conflicts directly with the requirements for certainty, predictability, and fairness essential for orderly settlement in financial markets.

Mitigation strategies primarily involve moving away from purely permissionless models for critical financial infrastructure. This includes adopting permissioned or hybrid DLTs where validators are known and regulated entities. Technical solutions include designing protocols with deterministic transaction ordering, using batching and aggregation, or employing trusted sequencers to order transactions before validation. Operational measures like using private transaction pools can limit visibility. Within a regulated environment, strict rules and oversight are crucial. Additionally, atomic settlement designs and the use of on-ledger central bank or regulated commercial bank money can help, although the initial ordering remains a factor.

Ultimately, ensuring orderly settlement typically requires a controlled environment that limits the discretionary power over transaction sequencing inherent in purely permissionless systems.

Question 80. Does the emergence of DLT-based tokenised financial instruments require changes to the provision of CSD services or the requirement to use a CSD?

- ☒ Yes

- ☐ No
- ☐ Don't know / no opinion / not applicable

Which CSD roles or requirements could be meaningfully impacted in a DLT environment?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, potentially requiring changes and redefining roles. Traditionally, CSDs have been central to the securities lifecycle, acting as the central record keeper (notary function) and facilitating settlement. DLT and tokenisation challenge this model because a distributed ledger can inherently record ownership and facilitate near-instantaneous, atomic settlement directly on the chain. This raises the question of whether a central, trusted third party is still necessary for these core functions.

Several CSD roles and requirements could be meaningfully impacted:

- **Notary Function (Record Keeping):** DLT's distributed and immutable ledger can perform the core function of recording securities ownership. This could potentially reduce or change the CSD's role as the sole central register, with the DLT becoming the primary source of truth for ownership.
- **Settlement:** DLT enables atomic settlement (Delivery Versus Payment) directly on the ledger, where the transfer of securities tokens and the corresponding cash or other asset tokens happen simultaneously. This can bypass the traditional multi-step settlement processes facilitated by CSDs, potentially leading to faster and more efficient settlement.
- **Asset Servicing:** While core record-keeping and settlement might be handled on DLT, functions like managing corporate actions (dividend payments, stock splits), tax processing, and proxy voting for tokenised securities still require services traditionally provided by CSDs. These roles would need to be adapted to interact with DLTs and tokenised assets.
- **Custody:** CSDs provide custody services for traditional securities. With tokenised securities, custody involves managing the private keys that control the tokens on the DLT. This requires new technical and operational capabilities and raises questions about how custody will be provided and regulated in a DLT environment.
- **Ensuring Integrity of Issue:** CSDs play a role in ensuring the integrity and authenticity of securities issues. In a DLT world, this might shift towards verifying the smart contracts and processes used to issue and manage tokens on the ledger.
- **Collateral Management:** CSDs are involved in the management of collateral. Tokenisation and DLT can enable more efficient and real-time collateral management, potentially changing the CSD's role in this area.
- **Interoperability:** Even with DLT, a DLT-based CSD or a system providing CSD-like functions needs to be interoperable with other DLT networks and legacy systems, including payment systems. This is a significant technical and operational requirement.
- **Regulatory Compliance:** DLT-based CSD services must adhere to existing and evolving financial regulations regarding areas like know-your-customer (KYC), anti-money laundering (AML), and settlement finality. How these requirements apply to DLT and tokenized assets is still being clarified and may necessitate changes in how compliance is achieved.

The emergence of DLT doesn't necessarily eliminate the need for CSDs entirely, but it compels them to adapt and innovate. Their future role may evolve into providing CSD-like services on DLT platforms, acting as trusted participants in DLT networks, or offering hybrid services that bridge traditional and DLT-based markets. The requirement to use a CSD for certain types of securities may also be re-evaluated as DLT-based alternatives or complementary systems emerge under evolving regulatory frameworks like the EU's DLT Pilot Regime.

Question 81. Can certain functions normally assigned to or reserved for a CSD be safely, securely and effectively be performed by other market participants in a DLT environment?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please specify which functions and which market participants, and state reasons:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- Ownership registration can be handled by the DLT platform itself, acting as the immutable ledger, with oversight from the issuer or platform operator.
- Settlement can be executed through smart contracts or DLT-based settlement agents, enabling real-time, atomic settlement without intermediaries.
- Custody/safekeeping can be managed by digital custodians, investors (via self-custody), or wallet providers, supported by secure key management.
- Corporate actions processing can be automated via smart contracts or managed directly by issuers using on-chain data.
- Reconciliation becomes unnecessary, as the shared ledger provides a single source of truth for all participants.

These reallocations are possible due to the transparency, programmability, and security features inherent in DLT, though some oversight and regulatory roles may still require centralised entities.

3.2.2. Detailed questions on the applicability of the CSDR and SFD to DLT-based CSDs

Question 82. Are there barriers or concerns with the technological neutrality of the CSDR definitions listed below or any other definitions or concepts included in CSDR and SFD in particular in the context of DLT?

	1 (not a concern)	2 (rather not a concern)	3 (neutral)	4 (rather a concern)	5 (strong concern)	Don't know - No opinion - Not applicable
Central securities depository	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Securities settlement system	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Securities account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Book entry form	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Dematerialised form	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Settlement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Delivery versus payment (DVP)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Any other definitions or concepts in CSDR and SFD	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain the exact nature of your concern with the **central securities depository and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The traditional definition implies a centralized entity operating a centralized system. DLT's distributed nature challenges this, raising questions about whether a DLT network or a decentralized arrangement can fit this definition, or if a new category of regulated entity is needed.

Please explain the exact nature of your concern with the **securities settlement system and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Like CSDs, this definition is based on centralized system operations. DLT settlement systems operate differently, potentially directly on the ledger among participants, which may not align perfectly with the current definition.

Please explain the exact nature of your concern with the **securities account and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This concept is deeply rooted in the traditional model of a centralized ledger where intermediaries (CSDs or custodians) maintain accounts for clients. In a DLT environment, ownership is recorded on the distributed ledger using cryptographic addresses, which differs fundamentally from traditional securities accounts. Clarifying how DLT addresses relate to or can be considered equivalent to securities accounts is a significant challenge.

Please explain the exact nature of your concern with the **book entry form and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

CSDR mandates securities to be in book-entry form within a CSD. This is closely linked to the concept of securities accounts in a centralized system. DLT records are not traditional book entries, and aligning this requirement with DLT-based securities representation is a major area of uncertainty.

Please explain the exact nature of your concern with the **settlement and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While DLT performs the function of settlement, the mechanism (atomic settlement via smart contracts) and the concept of "finality" within a distributed and potentially non-person-to-person network may differ from the traditional understanding of settlement completion and finality as defined in CSDR and SFD.

Please explain the exact nature of your concern with the **delivery versus payment (DVP) and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

DLT's atomic settlement directly embodies the principle of DvP. The concern is not with the concept itself, but with ensuring that the technical and legal finality of both the delivery and payment legs on a DLT meet the strict requirements for settlement finality under SFD, particularly in a potentially more decentralized environment.

Please specify to what other definition(s) or concept(s) in CSDR and SFD you refer in your answer to question 82, explain the exact nature of your concern (s) and suggest potential solutions to address it (including drafting suggestions for a new definition, where available):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Several other concepts face challenges. The "notary function" of the CSD (ensuring the integrity of the securities issue) needs to be reinterpreted in a DLT world where the ledger and smart contracts play a key role. Concepts related to asset segregation, reconciliation, corporate actions processing, and collateral management, while still necessary, need to be adapted to the technical and operational realities of DLT. Furthermore, the governing law applicable to tokenized securities and transactions on a DLT can be complex and may not align neatly with the jurisdictional assumptions in CSDR and SFD.

Question 83. Would you have any concerns about the technological neutrality of the following CSDR rules?

	1 (not a concern)	2 (rather not a concern)	3 (neutral)	4 (rather a concern)	5 (strong concern)	Don't know - No opinion - Not applicable
Rules on measures to prevent settlement fails	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on measures to address settlement fails (e.g. cash penalties, monitoring and reporting settlement fails)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on organisational requirements for CSDs	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on outsourcing of services or activities to a third party	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on communication procedures with market participants and other market infrastructures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rules on the protection of securities of participants and those of their clients	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rules regarding the integrity of the issue and appropriate reconciliation measures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on cash settlement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on requirements for participation	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on requirements for CSD links	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Rules on access between CSDs and access between a CSD and another market infrastructure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rules on legal risks, in particular as regards enforceability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Any other rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain the exact nature of your concern with the rules on measures to prevent settlement fails provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These rules often focus on processes within traditional systems like timely matching, confirmation, and pre-settlement matching. While DLT's atomic settlement inherently prevents principal risk fails, operational fails (e.g., insufficient assets on-chain, smart contract errors) can still occur. The existing rules might not fully capture the specific ways fails can happen or be prevented in a DLT environment.

- o Concern: Rules designed for sequential processing may not be directly applicable to atomic settlement. The focus on matching instructions might be less relevant if trading and settlement are integrated on a single ledger.

- o Solutions & Equivalent Risk Mitigation: Adapt the focus of prevention rules to DLT specifics. This could involve emphasizing the validation and testing of smart contracts, ensuring sufficient on-chain liquidity (of both assets and payment tokens), and robust error handling mechanisms within the DLT application. A level playing field is ensured by requiring all providers, regardless of technology, to demonstrate similarly effective prevention of settlement fails, with DLT providers focusing on the unique risk points of their technology. Equivalent risk mitigation is achieved if the adapted measures lead to a demonstrably low incidence of settlement fails and effective handling when they do occur.

Please explain the exact nature of your concern with the rules on measures to address settlement fails provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These measures are designed to incentivize timely settlement and provide data on inefficiencies in traditional systems. Atomic settlement reduces the types of fails, but operational issues can still lead to non-settlement. Applying penalty mechanisms designed for delayed settlement in a T+2 environment to near-instantaneous atomic settlement requires careful consideration.

- o Concern: The concept of a "late" settlement or a "fail" needs redefinition in an atomic settlement context. Penalty calculations based on days of delay may not be suitable.

- o Solutions & Equivalent Risk Mitigation: Adapt monitoring and reporting to focus on instances of non-settlement on the DLT and the reasons why (e.g., insufficient funds, smart contract errors). Penalty mechanisms could be triggered by non-settlement due to participant fault, potentially based on the impact or duration of the issue, rather than a delay against a fixed settlement date. A level playing field requires all providers to have effective deterrents against participant-induced non-settlement. Equivalent risk mitigation is achieved if adapted penalty mechanisms effectively discourage behavior that prevents successful atomic settlement.

Please explain the exact nature of your concern with the rules on outsourcing of services or activities to a third party provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These rules require CSDs to manage the risks of relying on third parties. In a DLT environment, a CSD might rely on external DLT network infrastructure providers, smart contract auditors, or key management services, which may not fit neatly into traditional outsourcing categories.

- o Concern: Existing rules might not adequately capture the risks associated with relying on potentially decentralized or novel DLT service providers, including the risks related to the underlying protocol or network.
- o Solutions & Equivalent Risk Mitigation: Extend the scope of outsourcing rules to explicitly cover reliance on DLT infrastructure providers and related service providers. Require rigorous due diligence on the technology, governance of the DLT network, and the resilience and security of third-party providers. A level playing field requires all CSDs to manage third-party risks effectively, with DLT CSDs applying the principles to their specific technology stack and providers. Equivalent risk mitigation is achieved by ensuring that reliance on DLT components or services does not introduce unmanaged risks to the CSD's operations or the integrity of the ledger.

Please explain the exact nature of your concern with the rules on communication procedures with market participants and other market infrastructures provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

CSDR rules often implicitly or explicitly assume specific messaging standards (e.g., ISO 20022, SWIFT) and communication channels used in traditional financial markets. DLT communication involves transaction broadcasting, smart contract calls, and different data structures.

- o Concern: The prescribed communication standards and procedures are incompatible with native DLT communication methods, creating a barrier to using DLT or requiring complex and inefficient middleware.
- o Solutions & Equivalent Risk Mitigation: Adopt a technology-neutral approach to communication, focusing on the outcome – ensuring timely, accurate, and secure exchange of information and instructions. Allow for the use of DLT-native communication methods (e.g., transaction data on the ledger) provided they meet equivalent standards of reliability, security, and auditability. Develop industry standards for interoperability between DLT networks and traditional systems where necessary. A level playing field is ensured by requiring all providers to meet functional requirements for communication, irrespective of the underlying technology or protocol. Equivalent risk mitigation is achieved if DLT communication methods are proven to be as reliable, secure, and auditable as traditional messaging.

Please explain the exact nature of your concern with the rules on the protection of securities of participants and those of their clients provide

suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These rules mandate asset segregation at the CSD and participant level to protect client assets in case of insolvency. This is based on identifying and segregating securities held in accounts. DLT records ownership via cryptographic addresses, which requires a different approach to segregation and proof of ownership.

- o Concern: Applying traditional account-based segregation rules to DLT addresses and tokenized assets is challenging. Ensuring that client assets on a DLT are truly protected and identifiable in case of insolvency of a CSD or participant operating on DLT needs specific mechanisms.

- o Solutions & Equivalent Risk Mitigation: Develop DLT-specific requirements and guidance for asset segregation. This could involve technical measures on the ledger (e.g., unique client addresses, smart contract-enforced segregation) and legal frameworks that recognize ownership and control of assets held at cryptographic addresses for insolvency purposes. Focus on the outcome of ensuring that client assets are clearly identifiable and insulated from the insolvency of intermediaries. A level playing field requires all providers to offer equivalent levels of asset protection. Equivalent risk mitigation is achieved if DLT-based segregation methods provide the same legal certainty and practical protection as traditional account-based segregation.

Please explain the exact nature of your concern with the rules regarding the integrity of the issue and appropriate reconciliation measures provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

CSDs traditionally ensure issue integrity by maintaining a central register and reconciling it with other records (e.g., issuer records). DLT can ensure integrity through the immutability of the ledger and consensus mechanisms, but reconciliation involves comparing records on the distributed ledger with potentially external records or smart contract parameters.

- o Concern: Traditional reconciliation processes may not be suitable for a distributed ledger. The concept of ensuring the "integrity of the issue" needs clarification when the issuance and recording are inherently linked to a DLT protocol and smart contract.

- o Solutions & Equivalent Risk Mitigation: Adapt reconciliation requirements to the DLT environment. This could involve reconciling records on the DLT with issuer-maintained information (if any exist separately), verifying the total supply of tokens issued according to the smart contract, and monitoring the integrity of the DLT itself. Focus on the outcome of ensuring that the total number of outstanding securities on the ledger is accurate and that ownership records are consistent. A level playing field is ensured by requiring all providers to have robust mechanisms for maintaining issue integrity. Equivalent risk mitigation is achieved if DLT-based integrity and reconciliation measures provide the same assurance regarding the accuracy and completeness of securities records as traditional methods.

Please explain the exact nature of your concern with the rules on cash settlement provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

CSDR specifies requirements for cash settlement, including the use of central bank money where practicable. Settling the cash leg on a DLT requires a compatible form of digital cash (wholesale CBDC, tokenized commercial bank money, e-money tokens) and defining how existing rules apply to settlement processes on a distributed ledger.

- o Concern: The availability of suitable forms of on-ledger cash and the legal framework governing their use for securities settlement on DLTs are still developing. Existing rules may not easily accommodate settlement with novel forms of digital money or the specific finality mechanisms of DLT cash transfers.

- o Solutions & Equivalent Risk Mitigation: Facilitate the availability and use of eligible forms of on-ledger cash for securities settlement on DLTs. Provide regulatory clarity on the legal status and finality of these digital cash forms. Adapt CSDR rules on cash settlement to explicitly include settlement with eligible on-ledger assets, provided they meet the same standards for risk mitigation as traditional cash settlement. A level playing field requires all settlement systems, regardless of technology, to use forms of cash that minimize credit and liquidity risk. Equivalent risk mitigation is achieved if settlement with eligible on-ledger cash provides the same level of finality and safety as settlement in central bank or commercial bank money in traditional systems.

Please explain the exact nature of your concern with the rules on requirements for CSD links provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These rules facilitate interoperability between traditional CSDs and other market infrastructures. Linking DLT-based CSDs with traditional CSDs or other DLT networks presents significant technical, operational, and legal challenges due to differing technologies, protocols, and legal frameworks.

- o Concern: Existing rules and standards for linking traditional infrastructures are not designed for DLT. Achieving interoperability between disparate DLT networks and between DLT and legacy systems is complex and crucial for preventing market fragmentation.

- o Solutions & Equivalent Risk Mitigation: Develop specific frameworks, standards, and technical protocols for linking DLT-based market infrastructures with each other and with traditional systems. This could involve the use of gateways, interoperability layers, or standardized APIs. Regulatory guidance is needed on the legal and operational requirements for establishing and operating DLT links. A level playing field requires all market infrastructures to be able to link effectively to facilitate seamless cross-system settlement. Equivalent risk mitigation is achieved if DLT links are designed and regulated to ensure the same level of security, reliability, and finality for cross-system transactions as traditional links.

Please explain the exact nature of your concern with the rules on measures to prevent settlement fails provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please explain the exact nature of your concern with the rules on legal risks, in particular as regards enforceability provide suggested solutions that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These rules require CSDs to identify and mitigate legal risks. In a DLT environment, new legal risks arise related to the legal status of tokenized securities, the enforceability of smart contracts across jurisdictions, and the legal certainty of finality on the ledger, especially in cross-border contexts.

- o Concern: Existing legal risk frameworks may not fully capture the novel legal challenges introduced by DLT, particularly regarding the interaction of code and law, and the jurisdictional uncertainties of distributed systems.
- o Solutions & Equivalent Risk Mitigation: Provide legal clarity on the status of tokenized securities and the enforceability of smart contracts in relevant jurisdictions. Develop specific conflict-of-laws rules for DLT transactions and assets. Require DLT CSDs to conduct rigorous legal analysis of their DLT protocols, smart contracts, and operational frameworks to identify and mitigate these novel legal risks. A level playing field requires all providers to operate within a clear and certain legal framework. Equivalent risk mitigation is achieved if the legal risks associated with DLT operations are identified, understood, and mitigated to a level comparable to traditional systems.

Please specify to what other CSDR rule you refer in your answer to question 83, explain the exact nature of your concern(s), provide suggested solutions

that would ensure a level playing field between different providers of CSD services, if you have any, and explain how these solutions would ensure an equivalent mitigation of risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Other rules related to prudential requirements (e.g., capital, liquidity) may need to be reviewed to ensure they are appropriately calibrated for the specific risk profile of DLT-based CSDs. Rules related to supervision and oversight will also need to adapt to monitor activities on distributed ledgers effectively.

o Concern: Existing prudential and supervisory frameworks may not fully account for the unique risks (e.g., cyber risk, protocol risk, consensus mechanism risk) and operational transparency (or lack thereof in some DLTs) of DLT systems.

o Solutions & Equivalent Risk Mitigation: Adapt prudential requirements to reflect the specific risk profile of DLT CSDs, potentially including requirements related to technology risk and cyber resilience. Develop supervisory tools and techniques for monitoring activity on DLTs and assessing the health and stability of DLT-based market infrastructures. A level playing field requires all providers to meet prudential standards commensurate with their risk. Equivalent risk mitigation is achieved if adapted frameworks ensure that DLT CSDs are sufficiently capitalized and effectively supervised to manage their unique risks.

In summary, while CSDR aims for technological neutrality, many of its rules are implicitly designed around traditional, centralized infrastructure. Adopting DLT for CSD services requires a careful review and adaptation of these rules to ensure they remain relevant, effective, and provide a level playing field while maintaining equivalent levels of risk mitigation. The solutions often involve focusing on functional equivalence, adapting existing concepts to the DLT environment, and developing new standards and guidance specifically for DLT-based market infrastructures.

3.3. Barriers and other aspects under the FCD

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 84. What are the main barriers to the integration of EU markets and /or consolidation of financial market infrastructures related to the FCD?

How many barriers have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Integration of EU markets and/or consolidation of financial market infrastructures

	Describe barrier 1 to the integration of EU markets and/or consolidation of financial market infrastructures
Explanation of the barrier	1.Lack of harmonisation: Divergent national transpositions of the FCD across EU member states lead to legal uncertainty, especially regarding key concepts like "control" and "possession" in the context of collateral.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the integration of EU markets and/or consolidation of financial market infrastructures:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Integration of EU markets and/or consolidation of financial market infrastructures

	Describe barrier 2 to the integration of EU markets and/or consolidation of financial market infrastructures
Explanation of the barrier	2.Inconsistent recognition of title transfer collateral arrangements (TTCAs): Some jurisdictions restrict or interpret TTCAs differently, limiting their use in cross-border transactions and hindering market efficiency.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 to the integration of EU markets and/or consolidation of financial market infrastructures:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Integration of EU markets and/or consolidation of financial market infrastructures

	Describe barrier 3 to the integration of EU markets and/or consolidation of financial market infrastructures
Explanation of the barrier	3.Legal uncertainty in insolvency scenarios: Variations in how member states apply close-out netting and enforcement rights during insolvency create risks for cross-border collateral arrangements.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 to the integration of EU markets and/or consolidation of financial market infrastructures:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 85. Is there sufficient clarity regarding the use of tokenised assets as financial collateral in the context of financial collateral arrangements under the FCD?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 85:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The directive does not explicitly address digital or tokenised assets, leading to legal uncertainty about whether such assets qualify as eligible collateral (e.g. as "financial instruments" or "cash"). Additionally, there is ambiguity around how key requirements like "possession," "control," and "enforceability" apply in a DLT environment. This lack of clarity poses challenges for the recognition and use of tokenised assets in financial collateral arrangements across the EU.

Question 86. In the last FCD consultation, the addition re-insurers, alternative investment funds (AIF), institutions for occupational retirement provision (IORPs), crypto-asset service providers, all non-natural persons, non-financial market participants which regularly enter into physically or financially settled forward contracts for commodities or EU allowances (EUAs) was suggested by stakeholders. It was also asked if payment institutions, e-money institutions and CSDs should be added to the scope.

Please provide any views you may have of one or several of the suggested potential additional participants:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Stakeholders suggested expanding the scope of the Financial Collateral Directive (FCD) to include additional entities such as re-insurers, alternative investment funds (AIFs), institutions for occupational retirement

provision (IORPs), crypto-asset service providers, payment institutions, e-money institutions, CSDs, and certain non-financial market participants.

In general, including these participants could enhance legal certainty, improve market access to efficient collateral arrangements, and better reflect the current financial landscape. Specifically:

- AIFs, IORPs, and re-insurers: Their inclusion would align the FCD with the broad range of institutions that engage in secured transactions and risk management, improving consistency.
- Crypto-asset service providers: Including them could support the safe use of digital assets as collateral and promote innovation but would require clear regulatory standards and safeguards.
- Payment and e-money institutions: Their growing role in financial markets may justify inclusion, provided they meet equivalent prudential standards.
- CSDs: Already central to collateral processes, formally including them would reflect their operational reality.
- Non-financial counterparties in commodity/EUA markets: Including those that regularly enter into forward contracts could enhance collateral efficiency in these sectors.

Question 87. Are there barriers related to the scope of the FCD (i.e. parties eligible as collateral taker and collateral provider, definition of financial collateral, definition of cash)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the scope of the FCD have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Scope of the FCD

	Describe barrier 1 related to the scope of the FCD
Explanation of the barrier	<ul style="list-style-type: none">• Eligible parties: The FCD excludes many modern market participants such as AIFs, payment institutions, crypto-asset service providers, and certain corporates, limiting its applicability and reducing legal certainty for a broad range of actors.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 related to the scope of the FCD:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Scope of the FCD

	Describe barrier 2 related to the scope of the FCD
Explanation of the barrier	<ul style="list-style-type: none">• Definition of financial collateral: The current definition does not clearly include tokenised assets or crypto assets, creating uncertainty about their eligibility as collateral.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 related to the scope of the FCD:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Scope of the FCD

	Describe barrier 3 related to the scope of the FCD
Explanation of the barrier	<ul style="list-style-type: none">• Definition of cash: The FCD does not account for digital forms of money like e-money or CBDCs, which may hinder their use in collateral arrangements.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 related to the scope of the FCD:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 88. Do you see legal uncertainty related to the recognition of tokenised financial instruments as collateral under the FCD?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 88 and describe these uncertainties:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Key uncertainties include:

- Eligibility: It is unclear whether tokenised assets qualify as "financial instruments" under the FCD, especially if they are issued or recorded on a DLT without a traditional intermediary.
- Control and possession: The FCD relies on concepts like "control" or "possession" that are difficult to apply in a DLT context, where access is typically managed via private keys or smart contracts.
- Enforceability: There is ambiguity around how enforcement of collateral rights would work for on-chain assets, particularly across jurisdictions.
- Legal form and jurisdiction: Differences in national law and the absence of harmonised rules for tokenised assets increase uncertainty about their treatment as collateral.

These issues create barriers to the widespread use of tokenised financial instruments in secured transactions under the FCD.

Question 89. Do the definitions and concepts in the FCD, including the notion of 'possession and control', 'accounts' and 'book-entry' result in barriers or legal uncertainty, e.g. due to the change in market practices, the use of DLT?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 89:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These terms are based on traditional, centralised systems and do not clearly apply to decentralised or tokenised environments. For example:

- 'Possession and control' is difficult to interpret in a DLT setting where ownership is managed via private keys or smart contracts.
- 'Accounts' may not exist in a conventional sense when using blockchain wallets or on-chain holdings.
- 'Book-entry' systems differ significantly from distributed ledgers, which may not fit existing legal definitions.

This lack of alignment between legal concepts and new technologies creates uncertainty around the recognition and enforceability of DLT-based collateral under the FCD.

Question 90. Is the list of collateral providers and collateral takers limiting the applicability of the FCD in a detrimental manner for DLT-based financial collateral arrangements?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 90:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The FCD primarily includes traditional financial institutions and public bodies, excluding newer market participants such as crypto-asset service providers, AIFs, and DLT-based entities. This exclusion creates uncertainty and hinders the ability to use DLT-based assets or new market participants in collateral arrangements, reducing the directive's relevance in modern financial markets.

Question 91. Do you think that collateral other than cash, financial instruments and credit claims should be made eligible under the FCD, in particular in light of DLT based financial collateral arrangements?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please list what other forms of collateral should be considered as eligible and explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These could include:

- Tokenised assets: Digital representations of traditional assets (e.g., tokenised commodities, real estate, or equities) should be eligible as collateral, as they are increasingly used in DLT-based systems.

- **Crypto-assets:** Digital currencies like Bitcoin or Ethereum should be eligible, as they are widely traded and liquid, and their use in collateral arrangements is growing within crypto-financial ecosystems.
 - **NFTs (Non-Fungible Tokens):** For specific asset-backed NFTs that represent ownership or rights to tangible or intangible assets, they could serve as collateral in certain contexts.
 - **Central Bank Digital Currencies (CBDCs):** As CBDCs become more widespread, they should be recognised as collateral due to their potential use in both traditional and digital financial markets.
- These forms of collateral should be considered because they are increasingly used in modern financial markets, and their inclusion would enhance the FCD's relevance and support the efficient use of DLT-based systems for collateral management.

Question 92. Do you see the need to change the current approach that only financial collateral arrangements should be protected where at least one of the parties is a public authority, central bank or financial institution?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 92:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This restriction limits the scope of the FCD and excludes many market participants who engage in substantial collateral arrangements, such as crypto-asset service providers, AIFs, and other non-financial market participants.

Allowing broader eligibility for protection would:

- Promote market efficiency by including a wider range of collateral arrangements.
- Enhance legal certainty for more market participants, fostering innovation and improving access to liquidity.
- Reflect evolving market structures where non-traditional entities are increasingly involved in collateral transactions.

Expanding the protection to include more parties would align the FCD with modern financial practices and ensure that collateral arrangements are protected across diverse market participants.

Question 93. Is the non-aligned definition of 'collateral security' under the SFD and 'financial collateral' under the FCD creating barriers?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers created by the non-aligned definition of 'collateral security' and 'financial collateral' have you identified?

- ☐ 1 barrier

- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’

	Describe barrier 1 created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’
Explanation of the barrier	<ul style="list-style-type: none">• Legal Uncertainty: The differences in the scope of what constitutes eligible collateral under each regulation can result in confusion regarding what is acceptable in securities financing transactions and collateral arrangements. This inconsistency can hinder the use of collateral in cross-jurisdictional markets.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’

	Describe barrier 2 created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’
Explanation of the barrier	<ul style="list-style-type: none">• Operational Challenges: Market participants may face difficulties in structuring collateral agreements that comply with both frameworks, particularly when dealing with tokenised assets, digital currencies, or non-traditional collateral types, which may be recognised under one framework but not the other.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’

	Describe barrier 3 created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’
Explanation of the barrier	<ul style="list-style-type: none">• Fragmentation: The lack of alignment exacerbates fragmentation between market segments, especially when participants are dealing with both securities financing and collateralised transactions that require different regulatory treatments.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 created by the non-aligned definition of ‘collateral security’ and ‘financial collateral’:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 94. Are the opt-out provisions for Member States creating any barriers to the single market?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers to the single market created by opt-out provisions for Member States have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Single market - opt-out provisions for Member States

	Describe barrier 1 to the single market created by opt-out provisions for Member States
Explanation of the barrier	<ul style="list-style-type: none">• Legal uncertainty: Different Member States may apply varying standards, making cross-border transactions more complex and costly.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 to the single market created by opt-out provisions for Member States:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Single market - opt-out provisions for Member States

	Describe barrier 2 to the single market created by opt-out provisions for Member States
Explanation of the barrier	<ul style="list-style-type: none">• Market inefficiency: Disparities in regulations hinder the smooth integration of financial markets and infrastructure, reducing the effectiveness of the single market.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 to the single market created by opt-out provisions for Member States:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Single market - opt-out provisions for Member States

	Describe barrier 3 to the single market created by opt-out provisions for Member States
Explanation of the barrier	<ul style="list-style-type: none">• Competitive imbalance: Member States with more flexible or favorable regulations may attract more business, while others may face reduced market participation.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 to the single market created by opt-out provisions for Member States:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 95. Have you encountered problems with the recognition /application of close-out netting provisions under the FCD (both national and cross-border)?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many barriers related to the recognition/application of close-out netting provisions have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Recognition/application of close-out netting provisions

	Describe barrier 1 related to the recognition /application of close-out netting provisions
Explanation of the barrier	<ul style="list-style-type: none">• National inconsistencies: Different Member States interpret and apply close-out netting provisions differently, creating legal uncertainty and increasing risks for market participants.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 1 related to the recognition /application of close-out netting provisions:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Recognition/application of close-out netting provisions

	Describe barrier 2 related to the recognition /application of close-out netting provisions
Explanation of the barrier	<ul style="list-style-type: none">• Cross-border challenges: Variations in how jurisdictions handle close-out netting, especially in the event of insolvency, complicate cross-border transactions and enforcement of netting agreements.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 2 related to the recognition /application of close-out netting provisions:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Recognition/application of close-out netting provisions

	Describe barrier 3 related to the recognition /application of close-out netting provisions
Explanation of the barrier	<ul style="list-style-type: none">• Legal enforceability: The enforceability of close-out netting in insolvency situations can vary, depending on local laws, leading to potential conflicts and increased risks for counterparties.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	

Potential solution(s) to remove or lower the barrier, **in descending order of importance**

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing barrier 3 related to the recognition /application of close-out netting provisions:

- ☐ High priority
 - ☐ Medium priority
 - ☐ Low priority
 - ☐ Don't know / no opinion / not applicable
-

Question 96. As noted in the [Commission report on the review of SFD and FCD \(COM\(2023\)345 final\)](#), given the FCD deals primarily with financial collateral and only peripherally with netting (only as one of the methods that can be used to enforce collateral arrangements), do you consider that there is a need for further harmonisation of the treatment of contractual netting in general and close-out netting in particular?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 96:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The current differences in how netting is treated across Member States create legal uncertainty and risks for market participants, particularly in cross-border transactions. Clearer, more uniform rules would:

- Enhance legal certainty: A harmonised approach would reduce discrepancies in enforcement and interpretation, making netting agreements more predictable across jurisdictions.
 - Improve risk management: Clearer rules on netting would allow market participants to better manage credit and counterparty risks, especially in cross-border contexts.
 - Facilitate smoother cross-border transactions: A consistent netting framework would simplify the legal and operational landscape for market participants, promoting a more integrated EU financial market.
- Further harmonisation would align the FCD with modern financial practices and improve its overall effectiveness.
-

Question 97. Are there any other barriers created by the FCD which are not mentioned above?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

How many other barriers created by the FCD have you identified?

- ☐ 1 barrier
- ☐ 2 barriers
- ☒ 3 barriers

Barrier 1 - Other barriers created by the FCD

	Describe other barrier 1 created by the FCD
Explanation of the barrier	4. Restricted market participant eligibility: The FCD primarily focuses on financial institutions, excluding other participants like AIFs and crypto-asset service providers.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing other barrier 1 created by the FCD:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 2 - Other barriers created by the FCD

	Describe other barrier 2 created by the FCD
Explanation of the barrier	2. Legal uncertainty in insolvency: Inconsistent application of insolvency laws across Member States can create challenges for enforcing collateral agreements.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing other barrier 2 created by the FCD:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Barrier 3 - Other barriers created by the FCD

	Describe other barrier 3 created by the FCD
Explanation of the barrier	3. Cross-border complexity: National variations in the FCD's application make cross-border collateral arrangements more complex and uncertain.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in descending order of importance	

Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).

Data on the potential costs and benefits of the suggested solution(s)

Assess the priority level for addressing other barrier 3 created by the FCD:

- ☐ High priority
- ☐ Medium priority
- ☐ Low priority
- ☐ Don't know / no opinion / not applicable

Question 98. If there is any other issues you would like to address regarding FCD financial collateral in a DLT environment, please describe them:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In a DLT environment, additional issues regarding the FCD and financial collateral include:

1. Lack of clear definitions for DLT-based assets: The FCD does not explicitly address tokenised assets or crypto-assets, leading to uncertainty about their recognition as eligible collateral.
2. Challenges with control and possession: The traditional concepts of "control" and "possession" are difficult to apply to DLT-based assets, where ownership is often managed via private keys or smart contracts.
3. Regulatory uncertainty for digital assets: There is a need for clear guidelines on how digital and tokenised assets can be used in collateral arrangements under the FCD, especially in terms of enforceability and jurisdictional issues.
4. Lack of harmonisation across jurisdictions: Differences in how countries apply the FCD to DLT-based collateral create regulatory fragmentation, hindering cross-border transactions and market integration.
5. Integration with existing infrastructure: The FCD's existing framework may not be easily compatible with DLT-based systems, requiring updates to enable efficient use of digital assets in collateral arrangements.

These issues highlight the need for modernization of the FCD to address the unique characteristics of DLT-based financial collateral.

3.4. Uneven/inefficient market practices and disproportionate compliance costs

3.4.1. Internalised settlement

Question 99. Does the current reporting obligation of internalised settlement allow for an accurate identification of the risks stemming from settlement outside of a CSD?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Question 99.1. Which additional information (for example the identification of the trading venues where the respective financial instruments are admitted to trading or traded) should be included in the internalised settlement reporting?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

the current reporting obligation does not allow accurate identification of risks from settlement outside a CSD, due to limited data granularity and scope.

- Additional information needed includes: trading venues, instrument types, counterparty categories, settlement fail reasons, transaction types, and client vs. proprietary breakdowns.
- Operational implications for supervisors would include increased data volume, need for enhanced analytics, and better systemic risk monitoring. A centralised approach via ESMA could improve consistency and cross-border oversight.
- Cost implications for internalisers may be moderate to high, especially for smaller firms, due to system upgrades and compliance adjustments.
- High-volume internalisers should be required to publish internalised settlement data and fail rates to increase transparency and market discipline.
- Additional risks include counterparty, liquidity, concentration, transparency, and cybersecurity risks beyond just operational and legal concerns.
- Some CSDR settlement discipline rules should apply to internalised settlement, especially for large internalisers, to ensure consistent standards and reduce systemic risk.

Question 99.2. Which additional information (for example the identification of the trading venues where the respective financial instruments are admitted to trading or traded) should be included in the internalised settlement reporting?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 99.3. What would be the operational implications for supervisors of expanding these reporting obligations?

Should the reporting be done directly to ESMA and not to national competent authorities?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 99.4. What would be the cost implications of such additional reporting?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 100. Should settlement internalisers with very high internalised settlement activity (in terms of value and volume) be required to publish information on their internalised settlement activity including settlement fail rates (similar to the annual data on settlement fails published by CSDs)?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 100:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 101. Would you identify additional risks other than operational and legal risks stemming from internalised settlement?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 101:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 102. Should some/all rules pertaining to settlement discipline and /or other CSDR requirements currently applicable to settlement at CSD level be also applicable to internalised settlement?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 102:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

3.4.2. Information sharing

Question 103. Is the role of the CSDR college as envisaged in CSDR refit sufficient to ensure efficient and complete information sharing between different authorities under CSDR?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 103.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The role of the CSDR college as envisaged in CSDR Refit is a positive step toward improving information sharing between authorities. However, it may not be fully sufficient to ensure efficient and complete coordination. Key concerns include:

- Limited scope of participation: Some relevant authorities (e.g. central banks, conduct authorities) may not be fully integrated or have limited involvement.
- Potential for delays in decision-making due to complex coordination processes.
- Lack of centralised data access or harmonised formats could hinder effective communication.
- Insufficient clarity on the responsibilities and decision-making powers of the college vs. national authorities.

To enhance effectiveness, improvements could include:

- Broader participation from all relevant supervisory and regulatory bodies.
- Clearer procedural rules and timelines.
- Centralised IT infrastructure to support data sharing.
- Stronger role for ESMA in coordinating and mediating across jurisdictions.

Overall, while the college is a valuable mechanism, further refinements may be needed to ensure seamless and timely information flow under CSDR.

Question 104. Are there barriers to information sharing between authorities and/or authorities/market participants that hinder the smooth provision of CSD services and the supervision thereof?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 104.1. Should the document and information flows supporting the process for authorisation of CSDs and the review and evaluation of CSDs and their activities be simplified and streamlined, for example through the use of a central platform in a way that ensures all authorities involved are well informed and able to identify risks and take action to address them in accordance with their roles?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to questions 104 and 104.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These include fragmented communication channels, inconsistent data formats, and delays in information flow. To address this, document and information flows related to the authorisation, review, and supervision of CSDs should be simplified and streamlined. A suggested solution is the use of a centralised platform that

enables real-time access and coordination among all relevant authorities. This would improve transparency, ensure timely risk identification, and support more effective supervisory action in line with each authority's role.

Question 105. Are there duplications and/or overlaps in the reporting requirements between national, European competent or relevant authorities?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 105.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- Multiple authorities often require similar or identical data in different formats and timelines, causing unnecessary duplication.
- Lack of harmonised templates and procedures increases complexity and risk of inconsistent reporting.
- Divergent interpretations of requirements by national authorities lead to fragmentation and uneven supervision.

Possible solutions:

- Harmonise reporting requirements across the EU by aligning data fields, formats, and submission schedules.
- Establish a single EU-wide reporting platform (possibly managed by ESMA) to centralise submissions and distribute reports to relevant authorities.
- Clearly define in regulatory text which authority is responsible for each reporting obligation to avoid overlaps.
- Streamline legal provisions under the CSDR and related regulations (e.g., MiFIR, EMIR) to ensure coherence and eliminate redundant obligations.

This

- Reduces administrative burden and compliance costs for CSDs and participants.
 - Enhances data quality, timeliness, and regulatory oversight.
 - Supports a more integrated and efficient EU capital market by promoting consistency and transparency.
- These changes would make the regulatory framework more efficient and responsive while maintaining high standards of financial stability and market integrity.

3.4.3. Authorisation procedures

Question 106. Is the authorisation procedure for CSDs too long and/or burdensome?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 106 and explain how could the process be simplified.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

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the authorisation procedure for CSDs is considered too long and burdensome, due to extensive documentation requirements, complex coordination between multiple authorities, and lack of standardised timelines.

Possible simplifications:

- Set clear, harmonised deadlines for each phase of the authorisation process.
- Standardise application templates and documentation across Member States.
- Use a centralised digital platform for submitting and tracking applications, accessible to all relevant authorities.
- Enhance ESMA's coordinating role to streamline communication and reduce duplication.

These changes would make the process more efficient, transparent, and predictable, while maintaining robust supervisory standards.

Question 107. Is the procedure for the extension of CSD authorisation and for outsourcing of services and activities too long and/or burdensome?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 107.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, the procedure for extending CSD authorisation and outsourcing services is considered too long and burdensome due to complex requirements, duplicative documentation, and lengthy coordination between authorities. Simplification could be achieved through clearer timelines, standardised processes, and a centralised digital platform to improve efficiency and reduce administrative load.

Question 108. Is the procedure for the authorisation to provide banking ancillary services too long and/or burdensome?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 108 and explain how could the process be simplified.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes due to complex requirements, extensive documentation, and involvement of multiple authorities (including prudential supervisors).

Possible simplifications:

- Streamline and clarify requirements specific to CSDs offering limited banking services.
- Introduce standardised templates and timelines across the EU.
- Enhance coordination between competent authorities to avoid duplication.
- Use a centralised application platform for efficiency and transparency.

These changes would speed up the process, reduce administrative burdens, and support better access to essential banking services within CSD operations.

Question 109. Are the current authorisation/supervisory approval processes under CSDR suitable, or could it benefit from some refinements/streamlining and/or clarifications?

- ☐ the current approval processes are suitable
- ☒ the current approval processes could benefit from some refinements /streamlining and/or clarifications
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 109.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

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The current authorisation and supervisory approval processes under CSDR are seen as overly complex and time-consuming, and could benefit from refinements, streamlining, and clarifications. Key improvements could include:

- Clearer guidelines and requirements to reduce ambiguity.
- Harmonised procedures and timelines across Member States.
- Simplified documentation processes and reduced duplication.
- Enhanced coordination between authorities, possibly through a centralised digital platform.

These changes would improve efficiency, reduce administrative burdens, and ensure more consistent and transparent supervision across the EU.

Question 110. Are the current authorisation processes/supervisory approval under CSDR creating legal barriers for (potential) new entrants wishing to provide CSD services?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 110.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

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These barriers primarily stem from the complex and stringent regulatory requirements designed to ensure stability, security, and transparency in securities markets.

Key challenges include:

1. **Regulatory Complexity:** The CSDR mandates strict governance, operational, and risk management frameworks for CSDs, which may be difficult for new entrants to navigate. The regulatory process requires significant compliance with rules on settlement discipline, transparency, and the safeguarding of financial instruments.
2. **Capital Requirements:** CSDs must meet robust capital and operational requirements to ensure that they can withstand market stresses. These requirements can be a substantial financial burden for new entrants with limited resources.
3. **Approval Delays:** The authorisation process for CSD services can be lengthy and complex, with substantial documentation and evidence needed to demonstrate compliance. This delay can be a deterrent for potential new entrants who are looking for quicker market access.
4. **Ongoing Supervision and Compliance:** After obtaining authorisation, CSDs face continuous regulatory supervision, which requires ongoing compliance with evolving rules. This can be a challenge for newer firms that may not have the infrastructure or experience to manage long-term regulatory obligations.

These factors, while essential for maintaining the integrity of financial markets, can discourage or delay new market participants from entering the CSD sector.

Question 111. Do you consider that market participants, who provide only one core service (for example, notary, central maintenance or settlement) should be covered by some/all elements of CSDR?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 111 and explain what would be the benefits or risks.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

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Benefits:

1. Consistency in Regulation: Extending CSDR coverage to all CSD service providers ensures that all players in the market adhere to consistent standards, improving transparency, operational efficiency, and market integrity.
2. Risk Mitigation: CSDR's provisions, such as settlement discipline and operational safeguards, reduce systemic risks. Even firms offering single services like notary or settlement play a crucial role in ensuring the smooth functioning of the securities markets, and being under CSDR would help mitigate potential risks arising from their operations.
3. Investor Protection: Standardised regulation across all services can improve investor confidence, knowing that all service providers meet certain operational, safety, and transparency standards.
4. Market Integrity: CSDR provisions ensure that settlement processes and record-keeping are robust, reducing the likelihood of operational failures or disputes, which can negatively affect the broader market.

Risks:

1. Increased Compliance Costs: Smaller service providers offering only one core service might face high compliance costs to meet the full range of CSDR requirements, which could be disproportionate relative to their scale and scope of operations.
 2. Regulatory Overreach: Applying the full range of CSDR requirements to firms offering a single service could impose unnecessary regulatory burdens, particularly if their operations do not have the same systemic impact as full-service CSDs.
 3. Market Entry Barriers: Smaller, specialised entrants may be discouraged from entering the market if the regulatory framework is too stringent or complex, potentially limiting innovation and competition.
- Extending CSDR coverage to firms providing individual core services could enhance market stability and protect investors, but it needs to be balanced with considerations around the proportionality of regulatory requirements for smaller or more specialised service providers.

Question 112. Could there be benefits to a tiered authorisation (i.e. per service) for CSDs being introduced, e.g. to enable the requirements to reflect the different nature of different core services?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 112.1. Should there be a process to enable requests to extend the authorisation for additional services?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 112.

If you consider that there is an issue, please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

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Benefits of Tiered Authorisation:

1. **Proportional Regulation:** A tiered system would allow for more proportionate regulation, where CSDs offering simpler or less complex services would face lighter regulatory burdens. This would enable firms to focus on the specific regulatory requirements relevant to their service offerings, without being burdened by unnecessary rules meant for more complex operations.
2. **Market Entry Facilitation:** For smaller or specialised providers, tiered authorisation could lower entry barriers, making it easier for them to enter the market and focus on one core service initially. This could foster competition and innovation in the market for CSD services, enhancing efficiency.
3. **Operational Efficiency:** By aligning regulatory requirements with the specific nature of services, CSDs could operate more efficiently. This would prevent the misallocation of resources and reduce unnecessary overheads for CSDs providing only basic or limited services.
4. **Flexibility for Expansion:** A tiered system would also allow for a smooth process when firms decide to expand their services. Instead of going through the full re-authorisation process, a CSD could request an extension of its authorisation to include additional services as needed, making the process more dynamic.

Process for Extending Authorisation:

There should be a process that allows CSDs to request the extension of their authorisation to provide additional services. This process could include:

1. **Clear Application Process:** The CSD would submit a formal request to the relevant regulatory authority, detailing the new services they wish to provide and how they intend to meet the additional regulatory requirements.
2. **Assessment of Capacity:** The regulatory authority would assess whether the CSD has the necessary infrastructure, risk management frameworks, and operational capacity to handle the new service, based on the complexity and risks associated with the new service.
3. **Tailored Requirements:** The authority could tailor the regulatory requirements for the new service depending on its nature, ensuring that they are proportionate to the scale and risk involved.
4. **Transition Period:** A reasonable transition period could be allowed for CSDs to meet the additional requirements, ensuring they can adapt and comply without disrupting their existing operations.

Issues and Legal/Regulatory Amendments:

1. **Issue:** The current CSDR framework is designed around the assumption that CSDs provide a full suite of services, which may not be the case for all participants.

- a. Regulatory Amendment Needed: The CSDR could be amended to introduce specific provisions for tiered authorisation, with different levels of compliance based on the type of services offered. This could involve adjusting the definitions of core services within the regulation and offering specific authorisation processes for each.
 2. Issue: A one-size-fits-all approach to authorisation may result in overregulation or underregulation depending on the service provided.
 - a. Regulatory Amendment Needed: A detailed framework should be created that defines the requirements for each core service (e.g., notary, central maintenance, settlement). This would include defining the risks associated with each service and tailoring compliance obligations accordingly.
 3. Solution: The introduction of tiered authorisation could be operationalised through an updated annex in the CSDR, listing different levels of services and corresponding regulatory requirements. Drafting suggestions might include language such as:
 - a. "CSDs may apply for authorisation to provide one or more core services, with the regulatory requirements adjusted according to the type of service offered. The regulatory authority shall issue separate guidance on the minimum operational, risk management, and capital requirements based on the nature and complexity of each core service."
- Potential Impact:
- For Smaller Providers: A tiered authorisation system could make it easier for smaller or specialised service providers to enter the market without facing the full regulatory burden meant for large, multi-service CSDs.
 - For Market Stability: The system could lead to a more balanced regulatory environment, where firms offering fewer complex services are not overwhelmed by requirements designed for more systemic operations, maintaining market stability while allowing flexibility.
 - For Innovation: By reducing barriers to entry, the system could encourage innovation and the development of new services, potentially improve market efficiency and enhancing competition.
- Tiered authorisation based on specific core services would allow for a more

3.5. Interaction between the CSDR and other EU legislation

Question 113. Are there are issues between the CSDR and other EU legislation?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 113.

Please clearly describe the issue, which legal, regulatory or operational requirements should be amended to resolve it, the solution(s) you have in mind to resolve it (including drafting suggestions, where possible), and the potential impact of the solution(s) you propose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, there are a few potential issues between the CSDR (Central Securities Depositories Regulation) and other EU legislation. These issues often arise due to overlaps or inconsistencies in the regulatory

frameworks governing securities markets, settlement systems, and financial institutions. Key issues include conflicts with other regulations, such as those related to MiFID II, EMIR, and the Settlement Finality Directive (SFD).

Key Issues:

1. Conflict with MiFID II (Markets in Financial Instruments Directive II):
 - a. Issue: MiFID II imposes extensive transparency and reporting obligations on trading venues and financial institutions, while CSDR focuses on settlement discipline and securities settlement systems. The regulation of trade reporting, transparency, and best execution under MiFID II may sometimes conflict with settlement obligations under CSDR, particularly where settlement cycles and reporting deadlines do not align.
 - b. Impact: This misalignment can create operational difficulties for market participants, as they may need to adhere to different reporting timelines or methods under MiFID II and CSDR, leading to inefficiencies, delays, and increased compliance costs.
 - c. Proposed Solution: A coordination mechanism should be introduced between MiFID II and CSDR to harmonize reporting requirements, particularly regarding post-trade transparency and settlement information. This could involve creating a single reporting window that satisfies the requirements of both MiFID II and CSDR.
2. Overlap with EMIR (European Market Infrastructure Regulation):
 - a. Issue: EMIR addresses the regulation of over the counter (OTC) derivatives, central clearing, and risk mitigation, while CSDR focuses on securities settlement and the functioning of CSDs. Some securities transactions may be subject to both EMIR (for derivatives) and CSDR (for settlement), leading to regulatory overlap, particularly for transactions that involve collateral management or require clearing.
 - b. Impact: This can lead to confusion for market participants who must navigate the two regulations, ensuring compliance with both clearing and settlement obligations. This overlap can also lead to double regulation of certain transactions or risks, increasing compliance costs and complexity.
 - c. Proposed Solution: Amendments could clarify the interactions between EMIR and CSDR, particularly around the treatment of collateral in securities transactions. A specific exemption or carve-out could be introduced to prevent redundant compliance with both sets of regulations.
3. Inconsistencies with the Settlement Finality Directive (SFD):
 - a. Issue: The SFD governs the finality of settlement systems and the protection of transactions in insolvency situations. However, there is a potential conflict between the provisions of the SFD and CSDR regarding settlement finality and dispute resolution in cases of failed settlements.
 - b. Impact: In cases where a settlement fails, CSDR imposes strict penalties and measures (e.g., buy-ins) that might conflict with the SFD's provisions on finality and the protection of transactions. This creates ambiguity around the priority of rules governing settlement finality versus settlement discipline.
 - c. Proposed Solution: Amendments to CSDR should clarify how the settlement finality provisions of the SFD interact with CSDR's settlement discipline mechanisms, ensuring that the finality of transactions is maintained without undermining the integrity of the settlement discipline framework.

Potential Impact of the Solutions:

1. Operational Efficiency: Streamlining the regulatory requirements across MiFID II, EMIR, and CSDR would reduce operational complexity, improve market efficiency, and lower compliance costs for financial institutions.
2. Reduced Regulatory Burden: Clarifying the interaction between these regulations would help market participants better understand which rules apply in which situations, leading to a more coherent regulatory environment.
3. Improved Market Stability: By ensuring consistency between regulations, financial markets would benefit from greater predictability and stability, as market participants would know which rules to follow in various scenarios.

While CSDR is a crucial regulation for the functioning of European securities markets, it could benefit from greater coordination with other EU regulations, such as MiFID II, EMIR, and the SFD. By amending these

regulations to address overlaps and conflicts, a more efficient and cohesive framework could be established, benefiting both market participants and regulators.

3.6. Other issues on post-trading

Question 114. Other matters that could potentially contribute to removing barriers to the consolidation of post-trading infrastructure, to improving the EU's capital markets attractiveness while reducing fragmentation and to improving integration in post-trade services might also be important.

Please provide any further suggestions to improve the integration, competitiveness, and efficiency of post-trade services (including clearing and settlement) in the EU. Please provide supporting evidence for any suggestions:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Reporting:

Double sided reporting: the reporting requirements in the EU result in significant duplication of data submissions. For instance, double-sided reporting mandates that both counterparties in a transaction independently report their respective sides of the trade.

Non-EU Branches: the regulatory obligations imposed on non-EU branches of EU-based firms create a considerable reporting burden without delivering substantial benefits to EU regulators.

Operational Resilience:

ECB Opening Hours: The current operating hours of the European Central Bank (ECB) under TARGET II do not align with the need of global financial markets, particularly those in the US and APAC. As international trading and financial transactions continue to expand across time zones, it is essential to extend these hours to accommodate. This adjustment would enhance market efficiency, reduce settlement risks, and strengthen Europe's position within the global financial system by ensuring seamless cross-border operations and liquidity management. It would reduce the dependency of EU clearing members and CCPs on USD payments for their late in the day margin calls.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

[More on this consultation \(https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-integration-eu-capital-markets-2025_en\)](https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-integration-eu-capital-markets-2025_en)

[Consultation document \(https://finance.ec.europa.eu/document/download/8c77fb5f-4fe6-4fa0-8fe6-293a94c43b26_en?filename=2025-markets-integration-supervision-consultation-document_en.pdf\)](https://finance.ec.europa.eu/document/download/8c77fb5f-4fe6-4fa0-8fe6-293a94c43b26_en?filename=2025-markets-integration-supervision-consultation-document_en.pdf)

[More on savings and investments union \(https://finance.ec.europa.eu/regulation-and-supervision/savings-and-investments-union_en\)](https://finance.ec.europa.eu/regulation-and-supervision/savings-and-investments-union_en)

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Contact

fisma-markets-integration-supervision@ec.europa.eu