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COMMISSION DELEGATED REGULATION (EU) No …/..

of 11.11.2016

supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on certain prudential requirements for central securities depositories and designated credit institutions offering banking-type ancillary services

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 909/2014 ('the Regulation')[1] establishes the requirements and conditions under which Central Securities Depositories ('CSDs') provide their services in the Union. In particular, the Regulation provides a set of harmonised capital, credit and liquidity requirements applicable to CSDs.

Against this background, it empowers the Commission to adopt, following submission of draft regulatory technical standards by the European Banking Authority ('EBA'), and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 establishing EBA[2], a Delegated Regulation further specifying the capital, credit and liquidity requirements applicable to CSDs under the Regulation. This includes, in particular, the measures to harmonise: the level and calculation of capital requirements applicable to all CSDs; an additional risk-based capital surcharge; and prudential requirements covering credit and liquidity risks applicable to CSDs with banking licence.

In accordance with Article 10(1) of Regulation (EU) No 1093/2010, the Commission shall decide within three months of receipt of the draft regulatory technical standards whether to endorse the draft submitted. The Commission may also endorse the draft regulatory standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in this Article.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, EBA carried out a public consultation from February to April 2015 on the draft technical standards submitted to the Commission. A Consultation Paper containing the draft regulatory technical standards was published on 27 February 2015 on the EBA internet site, and the consultation closed on 27 April 2015.

Additionally, EBA involved the European Securities Markets Authority (ESMA) and the members of the European System of Central Banks (ESCB) in the development of these technical standards where close cooperation was required under the Regulation.

Together with the draft regulatory technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, EBA submitted its impact assessment, including its analysis of the costs and benefits of the draft regulatory standards, and a detailed report on how the outcome of the public consultation has been taken into account. This analysis is available in Section 4 of the Final Report on the draft technical standards under the Regulation that can be found at:

https://www.eba.europa.eu/-/eba-defines-harmonised-prudential-requirements-for-central-securities-depositories-csds-

The Commission has also taken note of the views expressed by the relevant European Parliament's rapporteurs on the content of the draft regulatory technical standards submitted to the Commission.

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[1] Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directive 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

[2] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The right to adopt a Delegated Regulation is provided for under Articles 47(3), 54(8) and 59(5) of the Regulation. Under these provisions, the Commission is empowered to adopt a delegated Regulation to specify:

(a) the level and calculation of capital requirements applicable to all CSDs (Article 47(3) of the Regulation);

(b) the level and calculation of an additional risk-based capital surcharge applicable to CSDs with a banking licence or designated credit institutions which reflects their intra-day credit and liquidity risks (Article 54(8) of the Regulation);

(c) the frameworks and tools for the monitoring, measuring, management, reporting and public disclosure of intraday credit and liquidity risks of CSDs and their designated credit institutions (Article 59(5) of the Regulation).

The EBA submitted to the Commission one draft regulatory technical standard bundling the three empowerments in one legal act. Including the three empowerments into a single Regulation ensures coherence between the provisions, which should enter into force at the same time and facilitate a comprehensive view by the persons and entities subject to those obligations. In addition the provisions of this Regulation are closely linked in terms of substance since they all deal with the prudential requirements applicable to the CSDs.

3.1. Title I, Articles 1 to 7

This Delegated Regulation harmonises the levels and calculations of capital requirements applicable to all Union CSDs.

The Delegated Regulation specifies the definition of capital, which follows the definition of capital in Regulation (EU) No 648/2012 (EMIR) applicable to central counterparties (CCPs). Given that CSDs with banking licence need in parallel to comply with the capital requirements set out in Regulation (EU) No 575/2013 (CRR), the Delegated Regulation addresses possible differences between these requirements by ensuring that the stricter prudential rules apply. In particular, CSDs with banking licence are allowed to hold capital instruments that qualify as own funds instruments under CRR to fulfil their capital requirements under this Delegated Regulation.

In accordance with Article 47 of the Regulation, this Delegated Regulation introduces two layers of capital requirements: a first layer covering the risks of a CSD on a going concern basis and a second layer that aims at guaranteeing that sufficient capital is available to manage an orderly winding-down or restructuring of the CSD activities.

Under the first layer of capital requirements, a CSD is required to hold capital that is proportionate to the risks stemming from its activities. The capital should be sufficient to ensure that the CSD is adequately protected against operational, legal, custody, investment and business risks so that it can continue providing services as a going concern.

The calculation of capital requirements for operational, legal and investment risks follow the approach developed in Commission Delegated Regulation (EU) No 152/2013 for CCPs, with direct application of CRR provisions addressing such risks. Custody risk is included in the operational risk charge.

To fulfil its capital requirement for business risks, a CSD shall hold the highest of the following: 25% of its annual gross operational expenses or its own estimate of the capital

necessary to cover business losses resulting from stress scenarios relevant to its business model.

Standardised methods for calculation of capital requirements are provided for each type of risk. Advanced approaches to measure the risks are permitted but are conditional upon supervisory approval.

Under the second layer of capital requirements, a CSD is required to hold capital equal to its monthly gross operational expenses multiplied by the timespan considered as appropriate to ensure an orderly winding down or restructuring of CSD activities under a range of potential stress scenarios. Such a timespan cannot be shorter than six months.

3.2. Title II, Article 8

Article 54 of the Regulation requires CSDs with a banking licence and credit institututions designated by CSDs to provide banking services facilitating securities settlement ('CSD-banking service providers') to be subject to an additional risk-based capital surcharge to reflect their specific risks resulting, in particular, from the provision of intra-day credit to their users. The *rationale* of this provision is to appropriately address intra-day credit exposures that are not covered by banking regulation (CRD-CRR).

This Delegated Regulation determines how this additional risk-based capital surcharge should be applied to CSD-banking service providers. The methodology provided is based on the average of the five highest aggregated intra-day credit exposures of a CSD-banking service provider over the most recent calendar year and the assumption that the corresponding collateral provided may lose 5% of its market value. CSD-banking service providers are therefore required to hold additional capital against such residual exposures that shall be calculated in accordance with the credit risk methodologies set out in the CRR assuming that these exposures are end-of-the-day exposures.

3.3. Title III, Chapter I, Articles 9 to 16

Article 59 of the Regulation requires CSD-banking service providers to fully cover their credit exposures with collateral or other equivalent financial resources. The Delegated Regulation specifies the conditions for collateral management.

The Delegated Regulation defines different types of acceptable collateral and the haircuts and concentration limits that should be applied. As a rule, CSD-banking service providers should accept first highly liquid collateral with minimal credit and market risk available in the securities accounts of their users and only then other available collateral of a lower quality under the conditions specified in the Delegated Regulation.

The definition of highly liquid collateral with minimal credit and market risk follows the approach provided in Commission Delegated Regulation (EU) No 153/2013 covering CCPs. As such, only collateral in the form of debt instruments, transferable securites and money market instruments issued by governments, certain public authorities and issuers with low credit risk may qualify subject to specific conditions ensuring that it can be liquidated within one day.

Other collateral that does not meet the definition of highly liquid collateral with minimal credit and market risk may also be accepted to the extent that CSD-banking service providers have access to routine credit with their central banks that accept such collateral ('highly liquid collateral'). Other types of collateral that are not eligible with the central banks may still be

accepted insofar as CSD-banking service providers hold other qualifying liquid sources to cover the time required to liquidate such collateral, which should not be longer than five days.

The Delegated Regulation provides for the conditions to be applied to the haircuts and concentration limits for collateral that follow the approach provided in Commission Delegated Regulation (EU) No 153/2013 covering CCPs. CSD-banking service providers need to have a collateral valuation system in place to set haircuts and concentration limits for collateral that take into account the criteria listed in the Delegated Regulation such as the type, maturity, price volatility, credit risk, the country of issuance and liquidity of the underlying assets. In particular, when the collateral is considered eligible at the central bank, the haircuts applied by CSD-banking service provider should not be lower than haircuts applied by the central bank to that type of collateral. Haircuts shall be reviewed on at least a daily basis to take into account the volatility of the value of collateral.

The frequency of the collateral valuation is also in line with Commission Delegated Regulation (EU) No 153/2013 covering CCPs. CSD-banking service providers shall monitor on a near- to real-time basis values of highly liquid collateral with minimum credit and market risk. For other collateral, in particular collateral that is not eligible at central banks, monitoring should be based on mark-to-market or mark-to-model valuation.

Financial resources equivalent to collateral are limited to letters of credit to cover credit risk exposures between CSDs interoperable links, central bank guarantees and commercial bank guarantees to the extent that they are collateralised.

3.4. Title III, Chapter II, Articles 18 to 28

The Delegated Regulation specifies the requirements for measuring, monitoring and managing intra-day credit risk.

The Delegated Regulation requires CSD-banking service providers to measure and monitor on an ongoing basis their intraday and overnight credit exposures for each banking service provided, per borrowing user and type of collateral covering exposures. It also requires CSD-banking service providers to establish credit limits for each borrowing user based on their creditworthiness and types of collateral posted as well as effective reimbursement procedures to discourage overnight credit exposures. Finally, CSD-banking service provider should report monthly to their supervisors their credit exposures and immediately any breaches of this Regulation and publicly disclose on an annual basis a qualitative statement specifying how their intraday credit risks are measured, monitored and managed.

3.5. Title III, Chapter II, Articles 29 to 42

As for credit risks, the delegated Regulation specifies the requirements for measuring, monitoring and management of intraday liquidity risks.

The Delegated Regulation requires CSD-banking service providers to measure and monitor on an ongoing for each settlement currency the maximum intraday liquidity usage, total available liquid resources and liquidity inflows and outflows.

To manage its liquidity risks, the Delegated Regulation requires CSD-banking service providers to hold sufficient liquid resources to cover the default of at least two borrowing users to which they have the largest exposures. Such liquid resources should consist of cash deposited at central banks of issue or other creditworthy financial institutions, committed lines of credit and highly liquid collateral or other financial instruments that should be easily

converted into cash through highly reliable funding arrangements. In addition, the sufficiency of liquid resources should be subject to rigurous stress-testing.

Finally, CSD-banking service providers should report to their supervisors regularly their intrady liquidity risks and immediately any breaches of this Regulation and publicly diclose on annual basis how their intrady liquidity risks are measures, monitored and managed.

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012[3], and in particular the third subparagraph of Article 47(3), the third subparagraph of Article 54(8) and the third subparagraph of Article 59(5) thereof,

Whereas:

(1) Regulation (EU) No 909/2014 establishes prudential requirements for central securities depositories (CSDs) to ensure that they are safe and sound and comply at all times with capital requirements. Such capital requirements ensure that a CSD is at all times adequately capitalised against the risks to which it is exposed and that it is able to conduct an orderly winding-down or restructuring of its activities if necessary.

(2) Given that the provisions of Regulation (EU) No 909/2014 concerning credit and liquidity risks relating to CSDs and designated credit institutions explicitly require that their internal rules and procedures allow them to monitor, measure and manage exposures and liquidity needs not only with respect to the individual participants but also with respect to participants that belong to the same group and who are counterparties of the CSD, such provisions should apply to groups of undertakings consisting of a parent undertaking and its subsidiaries.

(3) For the purposes of this Regulation, the relevant recommendations of the Principles for Financial Market Infrastructures issued by the Committee on Payment and Settlement Systems and the International Organization of Securities Commissions ('CPSS-IOSCO Principles')[4] have been taken into account. The treatment of capital of credit institutions under Regulation (EU) No 575/2013 of the European Parliament and

[3] OJ L 257, 28.8.2014, p. 1.

[4] Principles for Financial Market Infrastructures, Committee on Payment and Settlement Systems -Bank for International Settlements, and Technical Committee of the International Organisation of Securities Commissions, April 2012.

of the Council[5] has also been taken into account given that CSDs are to a certain extent exposed to risks that are similar to the risks incurred by credit institutions.

(4) It is appropriate for the definition of capital in this Regulation to mirror the definition of capital laid down in Regulation (EU) No 648/2012 of the European Parliament and of the Council[6] (EMIR). Such a definition is the most suitable in relation to the regulatory requirements given that the definition of capital in Regulation (EU) No 648/2012 was specifically designed for market infrastructures. CSDs authorised to provide banking-type ancillary services under Regulation (EU) No 909/2014 are required to meet capital requirements under this Regulation and own funds requirements under Regulation (EU) No 575/2013 simultaneously. They are required to meet the own funds requirements laid down in Regulation (EU) No 575/2013 with instruments that meet the conditions of that Regulation. In order to avoid conflicting or duplicative requirements and considering that the methodologies used for the calculation of the additional capital surcharge for CSDs under Regulation (EU) No 909/2014 are closely related to the ones provided in Regulation (EU) No 575/2013, CSDs offering banking-type ancillary services should be allowed to meet the additional capital requirements of this Regulation with the same instruments meeting the requirements laid down in either Regulation (EU) No 575/2013 or Regulation (EU) No 909/2014.

(5) In order to ensure that, if required, a CSD would be able to organise the restructuring of its activities or an orderly winding-down, a CSD should hold capital together with retained earnings and reserves that are sufficient, at all times, to withstand operational expenses over a period of time during which the CSD is able to reorganise its critical operations, including by recapitalising, replacing management, revising its business strategies, revising cost or fee structures and restructuring the services that it provides. Given that during the winding-down or restructuring of its activities, a CSD still needs to continue its usual operations and even though the actual expenses during a wind-down or restructuring of the operations of a CSD may be significantly higher than the gross annual operational expenses because of the restructuring or wind-down costs, the use of gross annual operational expenses as a benchmark for calculating the capital required should be an appropriate approximation of the actual expenses during the winding-down or restructuring of the operations of a CSD.

(6) Similarly to point (a) of Article 36(1) of Regulation (EU) No 575/2013, which requires institutions to deduct losses for the current financial year from the Common Equity Tier 1 capital, the role of net income in covering or absorbing the risks arising from adverse changes in the business conditions should also be recognised in this Regulation. Therefore, only in cases where the net income is insufficient to cover losses arising from the crystallisation of business risk, those losses have to be covered by own funds. Expected figures for the current year to take into account new circumstances should also be considered where data from the previous year are not available, such as in the case of newly established CSDs. In line with similar provisions in Commission Delegated Regulation (EU) 152/2013, CSDs should be required to hold a minimum prudential amount of capital against business risk in order to guarantee a minimum prudential treatment.

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

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

(7) In accordance with the CPSS-IOSCO Principles, tangible and intangible assets' amortisation and depreciation costs can be deducted from gross operational expenses for the calculation of the capital requirements. Since those costs do not generate actual cash flows that need to be backed by capital, such deductions should be applicable to the capital requirements for business risk and to those covering winding-down or restructuring.

(8) Since the time necessary for an orderly winding-down or restructuring strictly depends on the services provided by any individual CSD and on the market environment in which it operates, in particular on the possibility that another CSD can take on part or all of its services, the number of months required for restructuring of its activities or winding-down should be based on the CSD's own estimate. However, this period of time should not be less than the minimum number of months required for restructuring or winding-down provided for in Article 47 of Regulation (EU) No 909/2014 in order to ensure a prudent level of capital requirements.

(9) A CSD should design scenarios for restructuring of its activities or winding-down that are adapted to its business model. However, in order to obtain a harmonised application of the requirements on restructuring or winding-down in the Union and to ensure that prudentially sound requirements are satisfied, the discretion on the design of such scenarios should be limited by well-defined criteria.

(10) Regulation (EU) No 575/2013 is the relevant benchmark for the purpose of establishing the capital requirements for CSDs. In order to ensure consistency with that Regulation, the methodologies for the calculation of operational risk laid down in this Regulation should also be understood as covering legal risk for the purposes of this Regulation.

(11) Where there is a failure in the safekeeping of securities on behalf of a participant, such a failure would materialise as either a cost to the participant or as a cost for the CSD that would face legal claims. Therefore, rules for the calculation of the regulatory capital for operational risk already take into account the custody risk. For the same reasons, custody risk for securities held through a link with another CSD should not be subject to any additional regulatory capital charge but should be considered as part of the regulatory capital for operational risk. Similarly, custody risk faced by a CSD on own assets held by a custodian bank or other CSDs should not be double-counted and no additional regulatory capital should be required.

(12) A CSD may also face investment risks with regard to the assets that it owns or with regard to the investments that it makes using collateral, participants' deposits, loans to the participants or any other exposure under the allowed banking-type ancillary services. Investment risk is the risk of loss faced by a CSD when it invests its own or its participants' resources, such as collateral. Provisions set out in Directive 2013/36/EU of the European Parliament and of the Council[7], Regulation (EU) No 575/2013 and Delegated Regulation (EU) No 152/2013[8] are the appropriate benchmark for the purpose of establishing capital requirements to cover credit risk,

[7] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

[8] Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties (OJ L 52, 23.2.2013, p.37).

counterparty credit risk and market risks that may arise from the investments of a CSD.

(13) Given the nature of the activities of CSDs, a CSD assumes business risk due to potential changes in general business conditions that are likely to impair its financial position following a decline in its revenues or an increase in its expenses and that result in a loss that should be charged against its capital. Given that the level of business risk is highly dependent on the individual situation of each CSD and it can be caused by various factors, the capital requirements of this Regulation should be based on a CSD's own estimate and the methodology used by a CSD for such an estimate should be proportional to the scale and complexity of the CSD's activities. A CSD should develop its own estimate of the capital required against business risk under a set of stress scenarios in order to cover the risks that are not already captured by the methodology used for operational risk. In order to ensure a prudent level of the capital requirements for business risk when making a calculation based on self-designed scenarios, a minimum level of capital, should be introduced in the form of a prudential floor. The minimum level of required capital for business risk should be aligned to similar requirements for other market infrastructures in related Union Acts such as Commission Delegated Regulation on capital requirements for central counterparties ('CCPs').

(14) The additional capital surcharge for risks related to banking-type ancillary services should cover all the risks related to the provision of intraday credit to participants or other CSD users. Where overnight or longer credit exposures result from the provision of intraday credit, the corresponding risks should be measured and addressed by using the methodologies already laid down in Part Three, Title II, Chapter 2, for the Standardised Approach, and Chapter 3, for the Internal Ratings Based Approach (IRB Approach), of Regulation (EU) No 575/2013, given that that Regulation provides prudential rules for measurement of credit risk resulting from overnight or longer credit exposures. Intraday credit risks, however, require special treatment since the methodology for their measurement is not explicitly provided for in Regulation (EU) No 575/2013 or other applicable Union legislation. As a result, the methodology that specifically addresses intraday credit risk should be sufficiently risk-sensitive to take into account the quality of the collateral, the credit quality assessment of the participants and the actual observed intraday exposures. At the same time, the methodology should provide proper incentives to the providers of banking-type ancillary services, including the incentive to collect the highest quality of collateral and select creditworthy counterparties. Although providers of banking-type ancillary services have the obligation to properly assess and test the level and value of collateral and haircuts, the methodology used to determine the additional capital surcharge for intraday credit risk should nevertheless cater to and provide enough capital for the case where a sudden decrease in the value of the collateral exceeds estimates and results in partially uncollateralised residual credit exposures.

(15) The calculation of the capital surcharge for risks arising from providing banking-type ancillary services requires taking into account past information on intraday credit exposures. As a result, in order to be able to calculate that capital surcharge, entities that provide banking-type ancillary services to users of CSD services in accordance with Article 54(2) of Regulation (EU) No 909/2014 ("CSD-banking service providers") should record at least one year of data concerning their intraday credit exposures. Otherwise they are not able to identify the relevant exposures based on which the calculation is done. Consequently, CSD-banking service providers should

not be required to meet the own funds requirement corresponding to the capital surcharge until after they are able to collect all the information necessary to perform the calculation of the surcharge.

(16) Article 54(8) of Regulation (EU) No 909/2014 requires the development of rules to determine the additional capital surcharge referred to in point (d) of Article 54(3) and point (e) of Article 54(4) of that Regulation. Further, Article 54 of that Regulation requires that additional surcharge reflects the intra-day credit risk resulting from the activities under Section C of the Annex to Regulation (EU) No 909/2014, and in particular the provisions of intraday credit to participants in a securities settlement system or other users of CSD services. Therefore, intraday credit risk exposure should also include the loss that a CSD-banking service provider would face if a borrowing participant were to default.

(17) Point (d) of Article 59(3) of Regulation (EU) No 909/2014 relating to the credit risk of a CSD-banking service provider requires the collection of 'highly liquid collateral with minimal credit and market risk'. Point (d) of Article 59(4) of Regulation (EU) No 909/2014 relating to the liquidity risk of a CSD-banking service provider, requires availability of 'qualifying liquid resources'. One such qualifying liquid resource is 'highly liquid collateral'. While it is understandable that the terminology used in each of the two cases is different , given the different nature of the risks involved and the correspondence to different concepts in the regulation of credit and liquidity risk, they both relate to a similarly high quality of providers or assets. Therefore, it would be appropriate to require that the same conditions are met before a collateral or a liquidity resource in the form of collateral can qualify as pertaining to either the 'highly liquid collateral with minimal credit and market risk' category', or to the 'qualifying liquid resources' category, respectively.

(18) Point (d) of Article 59(3) of Regulation (EU) No 909/2014 requires that a CSD-banking service provider accepts highly liquid collateral with minimal credit and market risk to manage its corresponding credit risk. The same allows for other types of collateral than highly liquid collateral with minimal credit and market risk to be used in specific situations, with the application of an appropriate haircut. To facilitate this, a clear hierarchy of the collateral quality should be set in order to distinguish which collateral should be acceptable to fully cover credit risk exposures, which collateral is acceptable as liquidity resource and which collateral, although remaining acceptable for mitigating credit risk, requires qualifying liquidity sources. Collateral providers should not be impeded from freely substituting collateral depending on their availability of resources or their asset-liability management strategies. Thus, common collateral practices, such as the reliance on participants' pledge accounts, where the collateral is deposited by the participant in its pledged accounts in order to fully cover any credit exposure should be allowed to be used for substituting collateral as long as the quality and liquidity of the collateral is monitored and complies with the requirements of this Regulation. Under such pledge account arrangements, the collateral is deposited by the participant in his pledged accounts in order to fully cover any credit exposure. In addition, a CSD-banking service provider should accept collateral taking into account the hierarchy specified, but may perform the liquidation of the accepted collateral, where necessary, in the most efficient way following a participant's default. However, from a prudential viewpoint, a CSD-banking service provider should be able to monitor the availability of collateral, its quality and its liquidity on an ongoing basis to fully cover credit exposures. It should also have

arrangements in place with the borrowing participants to ensure that all the collateral requirements of this Regulation are met at all times.

(19) For the purposes of measuring intraday credit risk, CSD-banking service providers should be in a position to anticipate peak exposures for the day. This should not require a forecast of the exact number but should identify trends in those intraday exposures. This is further supported by the reference to 'anticipate peak exposures' also in Basel Committee on Banking Supervision standards[9].

(20) Title II of Part Three of Regulation (EU) No 575/2013 establishes the risk weights to be applied to credit exposures to the European Central Bank and other exempted entities. When measuring credit risk for regulatory purposes, such risk weights are widely understood as the best available reference. Therefore, the same methodology may be applied to intraday credit exposures. However, in order to guarantee the conceptual soundness of that approach, some correction is needed, in particular, when carrying out the computations using the credit risk framework of Part Three, Title II, Chapter 2 for the Standardised Approach, and Chapter 3 for the IRB Approach, of Regulation (EU) No 575/2013, the intraday exposures should be considered as end-of-day exposures as this is the assumption of that Regulation.

(21) In accordance with Article 59(5) of Regulation (EU) No 909/2014, which includes an explicit reference to Article 46(3) of Regulation (EU) No 648/2012, bank guarantees or letters of credit, where appropriate, should be aligned to the CPSS-IOSCO Principles and meet similar requirements as those laid down in Regulation (EU) No 648/2012. These include the requirement that bank guarantees and letters of credit are fully collateralised by the guarantors. In order to preserve the efficiency of security settlement within the Union, however, when bank guarantees or letters of credit are used in relation to credit exposures that may arise from interoperable CSD links, appropriate alternative risk mitigants should be allowed to be considered as long as they provide an equal or higher level of protection than the provisions laid out in Regulation (EU) No 648/2012. This special treatment should only apply to bank guarantees or letters of credit protecting an interoperable CSD link and should cover exclusively the credit exposure between the two linked CSDs. Since the bank guarantee or the letter of credit protects the non-defaulting CSDs against credit losses, the liquidity needs of the non-defaulting CSDs should also be addressed by either a timely settlement of the guarantors' obligations, or alternatively, by holding qualifying liquidity resources.

(22) Point (d) of Article 59(4) of Regulation (EU) No 909/2014 requires that CSD-banking service providers mitigate liquidity risks with qualifying liquid resources in each currency. As a result, non-qualifying liquid resources cannot be used to meet the requirements set out in that Article. Nevertheless, nothing precludes non-qualifying liquid resources, such as currency swaps, from being used in the daily liquidity management in addition to the qualifying liquid resources. This is also consistent with international standards reflected in CPSS-IOSCO Principles. Non-qualifying liquid resources should therefore be measured and monitored for that purpose.

(23) Liquidity risk can potentially arise from any of the banking-type ancillary services performed by the CSD. The management framework for liquidity risks should identify the risks arising from the different banking-type ancillary services, including securities lending and distinguish their management as appropriate.

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[9] Basel Committee on Banking Supervision 'Monitoring tools for intraday liquidity management' April 2013

(24) In order to cover all of the liquidity needs, including the intraday liquidity needs of a CSD-banking service provider, CSD's liquidity risk management framework should ensure that the payment and settlement obligations are effected as they fall due, including intraday obligations, in all settlement currencies of the securities settlement system operated by a CSD.

(25) Given that all liquidity risks, except intraday, are already covered by Directive 2013/36/EU and Regulation (EU) No 575/2013, this Regulation should focus on intraday risks.

(26) Given that CSD-banking service providers are systemically-important market infrastructures, it is essential to ensure that a CSD-banking service provider manages its credit and liquidity risks in a conservative manner. As a result, a CSD-banking service provider should be permitted to grant only uncommitted credit lines to borrowing participants in the course of the provision of banking-type ancillary services as referred to in Regulation (EU) No 909/2014.

(27) In order to ensure that the risk management procedures of a CSD-banking service provider are sufficiently sound even in adverse conditions, the stress testing of the CSD-banking service provider's liquid financial resources should be rigorous and forward looking. For the same reason, tests should consider a range of extreme but plausible scenarios and be conducted for each relevant currency offered by the CSD-banking service provider taking into account the possible failure of one of the prearranged funding arrangements. Scenarios should include but not be limited to the default of two of the CSD-banking service provider's largest participants in that currency. This is necessary in order to establish a rule that is on the one hand prudent, as it takes into account the fact that other participants are also capable of generating liquidity risk, besides the largest one; and, on the other hand, a rule that is also proportionate to the objective, as it does not take into account those other participants that present a lesser potential for generating liquidity risk.

(28) Point (c) of Article 59(4) of Regulation (EU) No 909/2014 requires CSD-banking service providers to ensure sufficient liquid resources in all relevant currencies under a wide range of potential stress scenarios. Therefore, rules specifying the frameworks and tools for the managing of liquidity risk in stress scenarios, should prescribe a methodology for the identification of currencies that are relevant for the management of liquidity risk. The identification of relevant currencies should be based on materiality considerations, rely on the net cumulative liquidity exposure identified and based on data collected over an extended and well-defined period of time. In addition, in order to maintain a coherent regulatory framework in the Union, the most relevant Union currencies identified under the [Commission Delegated Act XX/… on CSD requirements] *[OP: add reference and footnote with full title and OJ reference please]* under Article 12 of Regulation (EU) No 909/2014 should be included by default as relevant currencies.

(29) The collection of sufficient data for identifying all other currencies than the most relevant Union currencies requires a minimum time period to elapse from the date of authorisation of the CSD-banking service providers until the end of that time period. Therefore, the use of alternative methods to identify all other currencies than the most relevant Union currencies should be allowed for the first year following the authorisation of CSD-banking service providers under the new regulatory framework established by Regulation (EU) No 909/2014 for those CSD-banking service providers that already provide banking-type ancillary services at the date of entry into force of

the technical standards referred to in Article 69 of Regulation (EU) No 909/2014. This transitional arrangement should not affect the requirement for CSD-banking service providers to ensure sufficient liquid resources as such, but only the identification of those currencies that are subject to stress testing for the purpose of liquidity management.

(30) Point (d) of Article 59(4) of Regulation (EU) No 909/2014 requires the CSD-banking service providers to have prearranged and highly reliable funding arrangements in place to ensure that collateral that is provided by a defaulting client can be converted into cash even in extreme but plausible market conditions. The same Regulation requires the CSD-banking service provider to mitigate intraday risks with highly liquid collateral with minimal credit and market risk. Given that liquidity has to be readily available, a CSD-banking service provider should be able to address any liquidity need on a same day basis. Given that CSD-banking service providers may operate in multiple time-zones, the provision of converting collateral into cash via prearranged funding arrangements on the same-day basis should be applied in consideration of the opening hours of the local payment systems of each individual currency it applies to.

(31) The provisions in this Regulation are closely linked, since they deal with the prudential requirements for CSDs. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include all of the regulatory technical standards required by Regulation (EU) No 909/2014 into a single Regulation.

(32) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

(33) The European Banking Authority has worked in close cooperation with the European System of Central Banks (ESCB) and the European Securities and Markets Authority (ESMA) before submitting the draft technical standards on which this Regulation is based. It has also conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and Council[10],

HAS ADOPTED THIS REGULATION:

TITLE I

CAPITAL REQUIREMENTS FOR ALL CSDS REFERRED TO IN ARTICLE 47 OF REGULATION (EU) NO 909/2014

Article 1

Overview of requirements regarding the capital of a CSD

1. For the purposes of Article 47(1) of Regulation (EU) 909/2014, a central securities depository ('CSD') shall hold at all times, together with retained earnings and reserves, the amount of capital specified in Article 3 of this Regulation.

[10] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

2. The capital requirements referred to in Article 3 shall be met with capital instruments that meet the conditions set out in Article 2 of this Regulation.

Article 2
Conditions regarding capital instruments

1. For the purposes of Article 1, a CSD shall hold capital instruments that meet all of the following conditions:

   (a) they are subscribed capital within the meaning of Article 22 of Council Directive 86/635/EEC[11];

   (b) they have been paid up, including the related share premium accounts;

   (c) they fully absorb losses in going concern situations;

   (d) in the event of bankruptcy or liquidation, they rank after all other claims in insolvency actions or under the applicable insolvency law.

2. In addition to the capital instruments that meet the conditions in paragraph 1, a CSD authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services may, in order to meet the requirements in Article 1, use capital instruments that:

   (a) meet the conditions in paragraph 1;

   (b) are 'own funds instruments' as defined in point 119 of Article 4(1) of Regulation (EU) No 575/2013;

   (c) are subject to the provisions of Regulation (EU) No 575/2013.

Article 3
Level of capital requirements for a CSD

1. A CSD shall hold capital, together with retained earnings and reserves, which shall be at all times more than or equal to the sum of:

   (a) the CSD's capital requirements for operational, legal and custody risks, referred to in point (a) of Article 47(1) of Regulation (EU) No 909/2014, calculated in accordance with Article 4;

   (b) the CSD's capital requirements for investment risks, referred to in point (a) of Article 47(1) of Regulation (EU) No 909/2014, calculated in accordance with Article 5;

   (c) the CSD's capital requirements for business risks, referred to in point (a) of Article 47(1) of Regulation (EU) No 909/2014, calculated in accordance with Article 6;

   (d) the CSD's capital requirements for winding-down or restructuring its activities, referred to in point (b) of Article 47(1) of Regulation (EU) No 909/2014, calculated in accordance with Article 7.

2. A CSD shall have procedures in place to identify all sources of the risks referred to in paragraph 1.

[11] Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).

Article 4

Level of capital requirements for operational, legal and custody risks

1. A CSD authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services and with permission to use the Advanced Measurement Approaches ('AMA') referred to in Articles 321 to 324 of Regulation (EU) No 575/2013, shall calculate its capital requirements for operational, legal and custody risks in accordance with Articles 231 to 234 of Regulation (EU) No 575/2013.

2. A CSD authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services and using the Standardised Approach for operational risk as referred to in Articles 317 to 320 of Regulation (EU) No 575/2013, shall calculate its capital requirements for operational, legal and custody risks in accordance with the provisions of that Regulation applicable to the Standardised Approach for operational risk referred to in Articles 317 to 320 thereof.

3. A CSD that satisfies any the following conditions shall calculate its capital requirements for operational, legal and custody risks in accordance with the provisions of the Basic Indicator Approach referred to in Articles 315 and 316 of Regulation (EU) No 575/2013:

   (a) A CSD that is not authorised in accordance with Article 54(2) of Regulation (EU) No 909/2014;

   (b) a CSD that is authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 but which does not have permission to use the AMA referred to in Articles 321 to 324 of Regulation (EU) No 575/2013;

   (c) A CSD that is authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 but which does not have permission to use the Standardised approach referred to in Articles 317 to 320 of Regulation (EU) No 575/2013.

Article 5

Level of capital requirements for investment risk

1. A CSD shall calculate its capital requirements for investment risk as the sum of the following:

   (a) 8% of the CSD's risk-weighted exposure amounts relating to both of the following:

      (i) credit risk in accordance with paragraph 2;

      (ii) counterparty credit risk in accordance with paragraph 3;

   (b) the CSD's capital requirements for market risk in accordance with paragraphs 4 and 5.

2. For the calculation of a CSD's risk-weighted exposure amounts for credit risk, the following shall apply:

   (a) where the CSD is not authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services, the CSD shall apply the Standardised Approach for credit risk referred to in Articles 107 to 141 of Regulation (EU) No 575/2013 in combination with Article 192 to 241 of that Regulation on credit risk mitigation;

(b) where a CSD is authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services but does not have permission to use the Internal Ratings Based Approach (IRB Approach) set out in Articles 142 to 191 of Regulation (EU) No 575/2013, the CSD shall apply the Standardised Approach for credit risk set out in Articles 107 to 141 of Regulation (EU) No 575/2013 in combination with the provisions on credit risk mitigation set out in Articles 192 to 241 of Regulation (EU) No 575/2013;

(c) where a CSD is authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services and has permission to use the IRB Approach, the CSD shall apply the IRB Approach for credit risk provided for in Articles 142 to 191 of Regulation (EU) No 575/2013 in combination with the provisions on credit risk mitigation set out in Articles 192 to 241 of Regulation (EU) No 575/2013.

3. For the calculation of a CSD's risk-weighted exposure amounts for counterparty credit risk, a CSD shall use both of the following:

(a) one of the methods set out in Articles 271 to 282 of Regulation (EU) No 575/2013;

(b) the Financial Collateral Comprehensive Method applying the volatility adjustments provided for in Articles 220 to 227 of Regulation (EU) No 575/2013.

4. A CSD that satisfies any of the following conditions shall calculate its capital requirements for market risk, in accordance with the provisions of Articles 102 to 106 and 325 to 361 of Regulation (EU) No 575/2013, including through the use of derogation for small trading book business provided in Article 94 of that Regulation:

(a) a CSD that is not authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014;

(b) a CSD that is authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 but is not permitted to use internal models to calculate own funds requirements for market risk.

5. A CSD authorised in accordance with point (a) of Article 54(2) of Regulation (EU) No 909/2014 to provide banking-type ancillary services and permitted to use internal models to calculate own funds requirements for market risk, shall calculate its capital requirements for market risk in accordance with Articles 102 to 106 and 362 to 376 of Regulation (EU) No 575/2013.

Article 6
Capital requirements for business risk

1. The capital requirements of a CSD for business risk shall be whichever of the following is higher:

(a) the estimate resulting from the application of paragraph 2, minus whichever of the following is the lowest:

(i) the net income after tax of the last audited financial year;

(ii) the expected net income after tax for the current financial year;

(iii) the expected net income after tax for the most past financial year where audited results are not yet available;

(b) 25% of the CSD's annual gross operational expenses referred to in paragraph 3.

2. For the purposes of point (a) of paragraph 1, a CSD shall apply all of the following:

(a) estimate the capital necessary to cover losses resulting from business risk on reasonably foreseeable adverse scenarios relevant to its business model;

(b) document the assumptions and the methodologies used to estimate the expected losses referred to in point (a);

(c) review and update the scenarios referred to in point (a) at least annually.

3. For the calculation of a CSD's annual gross operational expenses, the following shall apply:

(a) the CSD's annual gross operational expenses shall consist of at least the following:

(i) total personnel expenses including wages, salaries, bonuses and social costs;

(ii) total general administrative expenses, and, in particular, marketing and representation expenses;

(iii) insurance expenses;

(iv) other employees' expenses and travelling;

(v) real estate expenses;

(vi) IT support expenses;

(vii) telecommunications expenses;

(viii) postage and data transfer expenses;

(ix) external consultancy expenses;

(x) tangible and intangible assets' depreciation and amortisation;

(xi) impairment and disposal of fixed assets;

(b) the CSD's annual gross operational expenses shall be determined in accordance with one of the following:

(i) International Financial Reporting Standards (IFRS) adopted pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council[12];

(ii) Council Directives 78/660/EEC[13], 83/349/EEC[14] and 86/635/EEC;

(iii) generally accepted accounting principles of a third country determined to be equivalent to IFRS in accordance with Regulation (EC) No

[12] Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

[13] Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies (OJ L 222, 14.8.1978, p. 11).

[14] Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts (OJ L 193, 18.7.1983, p. 1).

1569/2007[15] or accounting standards of a third country the use of which is permitted in accordance with Article 4 of that Regulation;

(c) the CSD may deduct tangible and intangible assets' depreciation and amortisation from annual gross operational expenses;

(d) the CSD shall use the most recent audited information from their annual financial statement;

(e) where the CSD has not completed business for one year from the date it starts its operations, it shall apply the gross operational expenses projected in its business plan.

Article 7
Capital requirements for winding-down or restructuring

A CSD shall calculate its capital requirements for winding down or restructuring by applying the following steps in sequence:

(a) estimate the time span required for winding-down or restructuring for all of the stress scenarios referred to in the Annex consistently with the plan referred to in Article 47(2) of Regulation (EU) No 909/2014;

(b) divide the CSD's annual gross operational expenses determined in accordance with Article 6(3) by twelve ('monthly gross operational expenses');

(c) multiply the monthly gross operational expenses referred to in point (b) by the longer of the following points:

(i) the time span referred to in point (a);

(ii) six months.

TITLE II

CAPITAL SURCHARGE FOR CSDS AUTHORISED TO OFFER BANKING-TYPE ANCILLARY SERVICES AND FOR DESIGNATED CREDIT INSTITUTIONS, AS REFERRED TO IN ARTICLE 54 OF REGULATION (EU) NO 909/2014

Article 8
Capital surcharge resulting from the provision of intraday credit

1. For the purposes of calculating the additional capital surcharge resulting from the provision of intra-day credit, as set out in point (d) of Article 54(3) of Regulation (EU) No 909/2014, and in point (e) of Article 54(4) of that Regulation, CSD-banking service provider shall apply the following steps in sequence:

(a) it shall calculate, over the most recent calendar year, the average of the five highest intraday credit exposures ('peak exposures') resulting from providing the services set out in Section C of the Annex to Regulation (EU) No 909/2014;

[15] Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council (OJ L 340, 22.12.2007, p. 66).

(b) it shall apply haircuts to all the collateral collected in relation to the peak exposures, and shall assume that, after the application of haircuts in accordance with Articles 222 to 227 of Regulation (EU) No 575/2013, collateral loses 5% of its market value;

(c) it shall calculate the average of the own funds requirements with regard to the peak exposures calculated in accordance with paragraph 2 considering those exposures as end-of-the-day exposures ('capital surcharge').

2. For the calculation of the capital surcharge referred to in paragraph 1, institutions shall apply one of the following approaches:

(a) the Standardised Approach for credit risk referred to in Articles 107 to 141 of Regulation (EU) No 575/2013, where they do not have permission to use the IRB Approach;

(b) the IRB Approach and the requirements of Articles 142 to 191 of Regulation (EU) No 575/2013, where they have permission to use the IRB approach.

3. Where institutions apply the Standardised Approach for credit risk, in accordance with paragraph 2(a), the amount of each of the five peak exposures referred to in paragraph 1(a) shall be considered an exposure value within the meaning of Article 111 of Regulation (EU) No 575/2013 for the purpose of paragraph 1(b). The requirements of Chapter 4 of Title II of Part Three of Regulation (EU) No 575/2013 that relate to Article 111 of that Regulation shall also apply.

4. Where institutions apply the IRB Approach for credit risk in accordance with paragraph 2(b), the outstanding amount of each of the five peak exposures referred to in paragraph 1(a) shall be considered an exposure value in the meaning of Article 166 of Regulation (EU) No 575/2013 for the purpose of paragraph 1(b). The requirements of Chapter 4 of Title II of Part Three of Regulation (EU) No 575/2013 that relate to Article 166 of that Regulation, shall also apply.

5. The capital requirements of this Article shall apply twelve months after obtaining the authorisation to provide banking-type ancillary services pursuant to Article 55 of Regulation (EU) No 909/2014.

TITLE III

PRUDENTIAL REQUIREMENTS APPLICABLE TO CREDIT INSTITUTIONS OR CSDS AUTHORISED TO PROVIDE BANKING-TYPE ANCILLARY SERVICES, AS REFERRED TO IN ARTICLE 59 OF REGULATION (EU) NO 909/2014

CHAPTER I

Collateral and other equivalent financial resources for credit and liquidity risks

Article 9

General rules on collateral and other equivalent financial resources

1. A CSD-banking service provider shall fulfil the following conditions with regard to collateral:

(a) it shall clearly distinguish the collateral from the other securities of the borrowing participant;

(b) it shall accept collateral that meets the conditions of Article 10, or other types of collateral that meet the requirements of Article 11 in the following hierarchy:

(i) firstly accept as collateral all the securities in the account of the borrowing participant that meet the requirements of Article 10 and only those;

(ii) secondly accept as collateral all the securities in the account of the borrowing participant that meet the requirements set out in Article 11(1) and only those;

(iii) finally accept as collateral all the securities in the account of the borrowing participant that meet the requirements set out in Article 11(2), within the limits of available qualifying liquid resources referred to in Article 34 with the view to meeting the minimum liquid resources requirement referred to in Article 35(3);

(c) it shall monitor on at least a daily basis the credit quality, market liquidity and price volatility of each security accepted as collateral and value it in accordance with Article 12;

(d) it shall specify methodologies related to the haircuts applied to the collateral value in accordance with Article 13;

(e) it shall ensure that the collateral remains sufficiently diversified to allow its liquidation within the periods referred to in Articles 10 and 11 without a significant market impact, in accordance with Article 14.

2. Collateral shall be provided by the counterparties under a security financial collateral arrangement as defined in point (c) of Article 2(1) of Directive 2002/47/EC of the European Parliament and of the Council[16] or under a title transfer financial collateral arrangement as defined in point (b) of Article 2(1) of that Directive.

3. A CSD-banking service provider shall fulfil the conditions of Article 15 and 16 with regard to other equivalent financial resources.

Article 10

Collateral for the purposes of point (d) of Article 59(3), and point (d) of Article 59(4) of Regulation (EU) No 909/2014

1. In order for collateral to be considered of the best quality for the purposes of point (d) of Article 59(3), and point (d) of Article 59(4) of Regulation (EU) No 909/2014, it shall consist of debt instruments that meet all of the following conditions:

(a) they are issued or explicitly guaranteed by one of the following:

(i) a government;

(ii) a central bank;

(iii) one of the multilateral development banks listed in Article 117 of Regulation (EU) No 575/2013;

[16] Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.06.2002, p. 43).

(iv) the European Financial Stability Facility or the European Stability Mechanism;

(b) the CSD can demonstrate that they have low credit and market risk based upon its own internal assessment employing a defined and objective methodology that does not exclusively rely on external opinions and that takes into consideration the country risk of the particular country where the issuer is established;

(c) they are denominated in a currency the risks of which the CSD-banking service provider is able to manage;

(d) they are freely transferable without any legal constraint or third party claims that impair their liquidation;

(e) they fulfil one of the following requirements:

(i) they have an active outright sale or repurchase agreement market, with a diverse group of buyers and sellers, including in stressed conditions and to which the CSD-banking service provider has reliable access;

(ii) they can be liquidated by the CSD-banking service provider through a prearranged and highly reliable funding arrangement as referred to in point (e) of Article 59(4) of Regulation (EU) No 909/2014 and specified in Article 38 of this Regulation;

(f) reliable price data on such debt instruments are published on at least a daily basis;

(g) they are readily available and convertible into cash on a same-day basis.

2. In order for collateral, to be considered of a lower quality than that referred to in paragraph 1 for the purposes of point (d) of Article 59(3), and point (d) of Article 59(4) of Regulation (EU) No 909/2014, it shall consist of transferable securities and money market instruments that meet all of the following conditions:

(a) the financial instruments have been issued by an issuer that has low credit risk based on an adequate internal assessment by the CSD-banking service provider, employing a defined and objective methodology that does not exclusively rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

(b) the financial instruments have a low market risk based on an adequate internal assessment by the CSD-banking service provider, employing a defined and objective methodology that does not exclusively rely on external opinions;

(c) they are denominated in a currency the risks of which the CSD-banking service provider is able to manage;

(d) they are freely transferable and without any legal constraint or third party claims that impair their liquidation;

(e) they fulfil one of the following requirements:

(i) they have an active outright sale or repurchase agreement market, with a diverse group of buyers and sellers, to which the CSD-banking service provider can demonstrate reliable access, including in stressed conditions;

(ii) they can be liquidated by the CSD-banking service provider through a prearranged and highly reliable funding arrangement as referred to in point (e) of Article 59(4) of Regulation (EU) No 909/2014 and specified in Article 38 of this Regulation;

(f) they can be liquidated on a same-day basis;

(g) price data on these instruments are publicly available on a close to real-time basis;

(h) they are not issued by any of the following:

(i) the participant providing the collateral, or by an entity that is part of the same group as the participant, except in the case of a covered bond and only where the assets backing that bond are appropriately segregated within a robust legal framework and satisfy the requirements set out in this Article;

(ii) a CSD-banking service provider or an entity that is part of the same group as the CSD-banking service provider;

(iii) an entity whose business involves providing services critical to the functioning of the CSD-banking service provider, unless that entity is a Union central bank or a central bank that issues a currency in which the CSD-banking service provider has exposures;

(i) they are not otherwise subject to significant wrong-way risk in the meaning of Article 291 of Regulation (EU) No 575/2013.

Article 11
Other collateral

1. Other types of collateral to be used by a CSD-banking service provider shall consist of financial instruments that meet all of the following conditions:

(a) they are freely transferable without any legal constraint or third party claims that impair their liquidation;

(b) they are eligible at a central bank of the Union, where the CSD-banking service provider has access to regular, non-occasional credit ('routine credit') at that central bank;

(c) they are denominated in a currency the risk of which the CSD-banking service provider is able to manage;

(d) the CSD-banking service provider has a prearranged funding arrangement with the type of creditworthy financial institution referred to in point (e) of Article 59(4) of Regulation (EU) No 909/2014 and specified in Article 38 of this Regulation, which provides for the conversion of these instruments into cash on a same-day basis.

2. For the purposes of (c) of Article 59(3) of Regulation (EU) No 909/2014, other type of collateral to be used by a CSD-banking service provider shall be financial instruments that meet the following conditions:

(a) they are freely transferable without any legal constraint or third party claims that impair their liquidation;

(b) they are denominated in a currency the risk of which the CSD-banking service provider is able to manage;

(c) the CSD-banking service provider has both of the following:

(i) a prearranged funding arrangement in accordance with point (e) of Article 59(4) of Regulation (EU) No 909/2014 and specified in Article 38 of this Regulation, so that these instruments can be liquidated within five business days;

(ii) qualifying liquid resources in accordance with Article 34 to a sufficient amount to ensure that it covers the time gap for liquidating such collateral in case of default of the participant.

Article 12
Collateral valuation

1. A CSD-banking service provider shall establish collateral valuation policies and procedures that ensure the following:

(a) that the financial instruments referred to in Article 10 are valued mark-to-market on at least a daily basis;

(b) that the financial instruments referred to in Article 11(1) are valued on at least a daily basis, and, where such daily valuation is not possible, that they are valued on a mark-to-model basis;

(c) that the financial instruments referred to in Article 11(2) are valued on at least a daily basis, and where such daily valuation is not possible, that they are valued on a mark-to-model basis.

2. The methodologies for the mark-to-model valuation referred to in points (b) and (c) of paragraph 1 shall be fully documented.

3. A CSD-banking service provider shall review the adequacy of its valuation policies and procedures in all of the following cases:

(a) on a regular basis which shall be at least annually;

(b) where a material change affects the valuation policies and procedures.

Article 13
Haircuts

1. A CSD-banking service provider shall set the level of haircuts as follows:

(a) where collateral is eligible at the central bank to which the CSD-banking service provider has access to routine credit, the haircuts applied to that type of collateral by the central bank may be considered as the minimum haircut floor;

(b) where collateral is not eligible at the central bank to which the CSD-banking service provider has access to routine credit, the haircuts applied by the central bank issuing the currency in which the financial instrument is denominated shall be considered as the minimum haircut floor.

2. The CSD-banking service provider shall ensure that its policies and procedures to determine haircuts take into account the possibility that the collateral may need to be liquidated in stressed market conditions and the time required to liquidate it.

3. The haircuts shall be determined taking into consideration the relevant criteria, including all of the following:

(a) the type of asset;

(b) the level of credit risk associated with the financial instrument;

(c) the country of issuance of the asset;

(d) the maturity of the asset;

(e) the historical and hypothetical future price volatility of the asset in stressed market conditions;

(f) the liquidity of the underlying market, including bid-ask spreads;

(g) the foreign exchange risk, where applicable;

(h) the wrong-way risk in the meaning of Article 291 of Regulation (EU) No 575/2013, where applicable.

4. The criteria referred to in point (b) of paragraph 3 shall be determined by an internal assessment of the CSD-banking service provider, based on a defined and objective methodology that does not exclusively rely on external opinions.

5. No collateral value shall be assigned to securities provided by an entity that belongs to the same group as the borrower.

6. The CSD-banking service provider shall ensure that the haircuts are calculated in a conservative manner to limit pro-cyclicality as far as possible.

7. The CSD-banking service provider shall ensure that its policies and procedures on haircuts are validated at least annually by an independent unit of the CSD-banking service provider and applicable haircuts are benchmarked with the central bank issuing the relevant currency and, where the central bank benchmark is not available, other relevant sources.

8. The haircuts applied shall be reviewed by the CSD-banking service provider on at least a daily basis.

Article 14
Collateral concentration limits

1. A CSD-banking service provider shall have policies and procedures on collateral concentration limits in place that include the following:

(a) policies and procedures to be followed where any breach of the concentration limits occurs;

(b) the risk mitigation measures to be applied where the concentration limits defined in the policies are exceeded;

(c) the timing of the expected implementation of measures under point (b).

2. The concentration limits within the total amount of collateral collected (‘collateral portfolio’) shall be set by taking into account all of the following criteria:

(a) individual issuers considering their group structure;

(b) country of the issuer;

(c) type of issuer;

(d) type of asset;

(e) settlement currency;

(f) collateral with credit, liquidity and market risk above minimum levels;

(g) the eligibility of the collateral for the CSD-banking service provider to have access to routine credit at the central bank of issue;

(h) each borrowing participant;

(i) all borrowing participants;

(j) financial instruments issued by issuers of the same type in terms of economic sector, activity, geographic region;

(k) the level of credit risk of the financial instrument or of the issuer determined by an internal assessment by the CSD-banking service provider, based on a defined and objective methodology that does not exclusively rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

(l) the liquidity and the price volatility of the financial instruments.

3. A CSD-banking service provider shall ensure that no more than 10 % of its intraday credit exposure is guaranteed by any of the following:

(a) a single credit institution;

(b) a third country financial institution that is subject to and complies with prudential rules that are at least as stringent as those provided in Directive 2013/36/EU and Regulation (EU) No 575/2013, in accordance with Article 114(7) of that Regulation;

(c) a commercial entity that is part of the same group as the institution referred to in either point (a) or (b).

4. Where calculating the collateral concentration limits referred to in paragraph 2, a CSD-banking service provider shall aggregate its total exposure to a single counterparty resulting from the amount of the cumulative credit lines, deposit accounts, current accounts, money-market instruments, and reverse repurchase facilities utilised by the CSD-banking service provider.

5. Where determining the collateral concentration limit for a CSD-banking service provider’s exposure to an individual issuer, the CSD-banking service provider shall aggregate and treat as a single risk its exposure to all financial instruments issued by the issuer or by a group entity, explicitly guaranteed by the issuer or by a group entity.

6. A CSD-banking service provider shall ensure the adequacy of its collateral concentration limit policies and procedures at all times. It shall review its collateral concentration limits at least annually and whenever a material change occurs that affects the CSD-banking service provider's risk exposure.

7. A CSD-banking service provider shall inform the borrowing participants of the applicable collateral concentration limits and of any amendment to those limits pursuant to paragraph 6.

Article 15
Other equivalent financial resources

1. Other equivalent financial resources shall consist only of the financial resources or the credit protection referred to in paragraphs 2 to 4 and those referred to in Article 16.

2. Other equivalent financial resources may include commercial bank guarantees provided by a creditworthy financial institution that fulfils the requirements set out in in Article 38(1) or a syndicate of such financial institutions that meet all of the following conditions:

   (a) they are issued by an issuer that has low credit risk based on an adequate internal assessment by the CSD-banking service provider, employing a defined and objective methodology that does not exclusively rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

   (b) they are denominated in a currency the risk of which the CSD-banking service provider is able to adequately manage;

   (c) they are irrevocable, unconditional and there is no legal or contractual exemption or option allowing the issuer to oppose the payment of the guarantee;

   (d) they can be honoured, on demand, within one business day, during the period of liquidation of the portfolio of the defaulting borrowing participant free of any regulatory, legal or operational constraint;

   (e) they are not issued by an entity that is part of the same group as the borrowing participant covered by the guarantee, or by an entity whose business involves providing services critical to the functioning of the CSD-banking service provider, unless that entity is an European Economic Area central bank or a central bank issuing a currency in which the CSD-banking service provider has exposures;

   (f) they are not subject to significant wrong-way risk within the meaning of Article 291 of Regulation (EU) No 575/2013;

   (g) they are fully guaranteed by collateral that meets the following conditions:

      (i) it is not subject to wrong way risk within the meaning of Article 291 of Regulation (EU) No 575/2013 based on a correlation with the credit standing of the guarantor or the borrowing participant, unless that wrong way risk has been adequately mitigated by a haircut applied to the collateral;

      (ii) the CSD-banking service provider has prompt access to the collateral and it is bankruptcy remote in case of the simultaneous default of the borrowing participant and the guarantor;

      (iii) the suitability of the guarantor has been ratified by the management body of the CSD-banking service provider after a full assessment of the issuer and of the legal, contractual and operational framework of the guarantee in order to have a high level of comfort on the effectiveness of the guarantee, and notified to the relevant competent authority in accordance with Article 60(1) of Regulation (EU) No 909/2014.

3. Other equivalent financial resources may include bank guarantees issued by a central bank that meet all of the following conditions:

(a) they are issued by a Union central bank or a central bank issuing a currency in which the CSD-banking service provider has exposures;

(b) they are denominated in a currency the risk of which the CSD-banking service provider is able to adequately manage;

(c) they are irrevocable, unconditional and the issuing central bank cannot rely on any legal or contractual exemption or option allowing the issuer to oppose the payment of the guarantee;

(d) they are honoured within one business day.

4. Other equivalent financial resources may include capital, after deducting the capital requirements of Articles 1 to 8, but only for the purposes of covering exposures to central banks, multilateral development banks and international organisations that are not exempted in accordance with Article 23(2).

Article 16

Other equivalent financial resources for exposures in interoperable links

Other equivalent financial resources may include bank guarantees and letters of credit, used to secure credit exposures created between CSDs that establish interoperable links, that meet all of the following conditions:

(a) they cover only the credit exposures between the two linked CSDs;

(b) they have been issued by a consortium of creditworthy financial institutions that fulfil the requirements set out in Article 38(1), in which each of those financial institutions is obliged to pay the part of the total amount that has been contractually agreed upon;

(c) they are denominated in a currency the risk of which the CSD-banking service provider is able to adequately manage;

(d) they are irrevocable, unconditional and the issuing institutions cannot rely on any legal or contractual exemption or option allowing the issuer to oppose the payment of the letter of credit;

(e) they can be honoured, on demand, free of any regulatory, legal or operational constraint;

(f) they are not issued by:

(i) an entity that is part of the same group as the borrowing CSD or a CSD with an exposure covered by the bank guarantee and letters of credit;

(ii) an entity whose business involves providing services critical to the functioning of the CSD-banking service provider;

(g) they are not subject to significant wrong-way risk within the meaning of Article 291 of Regulation (EU) No 575/2013;

(h) the CSD-banking service provider monitors the creditworthiness of the issuing financial institutions on an regular basis by independently assessing the creditworthiness of those institutions and by assigning and regularly reviewing internal credit ratings for each financial institution;

(i) they can be honoured during the period of liquidation within three business days from the moment when the defaulting CSD-banking service provider fails to meet its payment obligations when they are due;

(j) qualifying liquid resources referred to in Article 34 are available to a sufficient amount that covers the time gap until the time at which the bank guarantee and letters of credit has to be honoured in case of default of one of the linked CSDs;

(k) the risk of not having the full amount of the bank guarantee and letters of credit being paid by the consortium is mitigated by:

(i) establishing appropriate concentration limits ensuring that no financial institution, including its parent undertaking and subsidiaries, is part of the consortium guarantees for more than 10% of the total amount of the letter of credit;

(ii) limiting the credit exposure that is covered using the bank guarantee and letters of credit to the total amount of the bank guarantee minus either 10% of the total amount, or the amount guaranteed by the two credit institutions with the largest share of the total amount whichever is lower;

(iii) implementing additional risk mitigation measures such as a loss-sharing arrangements that are effective and have clearly defined rules and procedures;

(l) the arrangements are periodically tested and reviewed pursuant to Article 41(3) of Regulation (EU) No 909/2014.

CHAPTER II
Prudential framework for credit and liquidity risk

Article 17
General provisions

1. For the purposes of the prudential requirements relating to the credit risk arising from the provision of banking-type ancillary services by a CSD-banking service provider in respect of each securities settlement system, as referred to in Article 59(3) and (5) of Regulation (EU) No 909/2014, a CSD-banking service provider shall comply with all requirements set out in this Chapter on monitoring, measuring, management, reporting and public disclosure of credit risk with regard to the following:

(a) intraday credit risk and overnight credit risk;

(b) relevant collateral and other equivalent financial resources used in relation to the risks referred to in point (a);

(c) potential residual credit exposures;

(d) reimbursement procedures and sanctioning rates.

2. For the purposes of the prudential requirements relating to the liquidity risk arising from the provision of banking-type ancillary services by a CSD-banking service provider in respect of each securities settlement system as referred to in Article 59(4) of Regulation (EU) No 909/2014, a CSD-banking service provider shall comply with all of the following:

(a) the requirements of Section 2 for the monitoring, measuring, management, reporting and public disclosure of liquidity risks;

(b) the requirements of Regulation (EU) No 575/2013 on monitoring, measuring, management, reporting and public disclosure of other liquidity risks than those covered by point (a).

SECTION 1
CREDIT RISK

Article 18
Credit risk management framework

1. For the purposes of point (a) of Article 17(1), a CSD-banking service provider shall design and implement policies and procedures that comply with the following requirements:

(a) measure intraday and overnight credit risk in accordance with Sub-section 1;

(b) monitor intraday and overnight credit risk in accordance with Sub-section 2;

(c) manage intraday and overnight credit risk in accordance with Sub-section 3;

(d) measure, monitor and manage the collateral and other equivalent financial resources, as referred to in points (c) and (d) of Article 59(3) of Regulation (EU) No 909/2014, in accordance with Chapter I of this Regulation;

(e) analyses and plans how to address any potential residual credit exposures, in accordance with Sub-section 4;

(f) manage its reimbursement procedures and sanctioning rates, in accordance with Sub-section 5;

(g) report its credit risks in accordance with Sub-section 6;

(h) publicly disclose its credit risks in accordance with Sub-section 7.

2. The CSD-banking service provider shall review the policies and procedures referred to in paragraph 1 at least annually.

3. The CSD-banking service provider shall also review those policies and procedures whenever either of the following occurs and where either of the changes referred to in points (a) or (b) affects the risk exposure of the CSD-banking service provider:

(a) the policies and procedures are subject to a material change;

(b) where the CSD-banking service provider voluntarily carries out a change following the assessment referred to in Article 19.

4. The policies and procedures referred to in paragraph 1 shall include the preparation and update of a report relating to credit risks. That report shall include the following:

(a) the metrics referred to in Article 19;

(b) haircuts applied in accordance with Article 13, reported per type of collateral;

(c) changes to the policies or procedures referred to in paragraph 3.

5. The report referred to in paragraph 4 shall be subject to monthly review by the relevant committees established by the management body of the CSD-banking service provider. Where the CSD-banking service provider is a credit institution

designated by the CSD in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014, the report referred to in paragraph 4 shall also be made available to the risk committee established under Article 48 of the [Commission Delegated Act XX/… on the CSD requirements]*[OP: please insert reference]* of the CSD with the same monthly frequency.

6. Where the CSD-banking service provider breaches one or more of the concentration limits referred to in Article 14, it shall immediately report this to its relevant committee in charge of risk control, and, where it is a credit institution referred to in paragraph 5 of this Article, it shall immediately report to the risk committee of the CSD.

Sub Section 1
Measurement of Credit Risks

Article 19
Measurement of intraday credit risk

1. A CSD-banking service provider shall identify and measure intraday credit risk exposures and anticipate peak intraday credit exposures by way of operational and analytical tools that identify and measure intraday credit exposures, and that record, in particular, all of the following metrics for each counterparty:

   (a) peak and average intraday credit exposures for banking-type ancillary services set out in Section C of the Annex to Regulation (EU) No 909/2014;

   (b) peak and average intraday credit exposures per borrowing participant, and further breakdown of collateral covering these credit exposures;

   (c) peak and average intraday credit exposures to other counterparties and, if it is secured by collateral, further breakdown of collateral covering these intraday credit exposures;

   (d) total value of intraday credit lines extended to participants;

   (e) further breakdown of credit exposures referred to in points (b) and (c) shall cover the following:

      (i) collateral that meets the requirements of Article 10;

      (ii) other collateral in accordance with Article 11(1);

      (iii) other collateral in accordance with Article 11(2);

      (iv) other equivalent financial resources in accordance with Article 15 and 16.

2. A CSD-banking service provider shall carry out the measurement referred to in paragraph 1 on an ongoing basis.

Where ongoing identification and measurement of intraday credit risk is not possible due to the dependency on the availablity of external data, the CSD-banking service provider shall measure intraday credit exposures on the highest frequency possible and on at least a daily basis.

Article 20
Measurement of overnight credit exposures

A CSD-banking service provider shall measure the overnight credit exposures for banking-type ancillary services set out in Section C of the Annex to Regulation (EU) No 909/2014 by recording the outstanding credit exposures from the previous day on a daily basis, at the end of the business day.

Sub-Section 2
Monitoring Credit Risks

Article 21
Monitoring intraday credit exposures

For the purposes of monitoring intraday credit risk, a CSD- banking service provider shall, in particular:

(a) monitor on an ongoing basis, through an automatic reporting system, the intraday credit exposures arising from the banking-type ancillary services referred to in Section C of the Annex to Regulation (EU) No 909/2014;

(b) maintain, for a period of at least ten years, a record of the daily intraday peak and average intraday credit exposures arising from banking-type ancillary services referred to in Section C of the Annex to Regulation (EU) No 909/2014;

(c) record the intraday credit exposures stemming from each entity on which intraday credit exposures are incurred, including the following:

  (i) issuers;

  (ii) participants to the securities settlement system operated by a CSD, at entity and group levels;

  (iii) CSDs with interoperable links;

  (iv) banks and other financial institutions used to make or receive payments;

(d) fully describe how the credit risk management framework takes into account the interdependencies and the multiple relationships that a CSD-banking service provider may have with each of the entities referred to in point (c);

(e) specify, for each counterparty, how the CSD-banking service provider monitors the concentration of its intraday credit exposures, including its exposures to the entities of the groups comprising the entities listed in point (c);

(f) specify how the CSD-banking service provider assesses the adequacy of the haircuts applied to the collateral collected;

(g) specify how the CSD-banking service provider monitors the collateral coverage of the credit exposures and the coverage of credit exposures with other equivalent financial resources.

Article 22
Monitoring overnight credit risk

For the purposes of monitoring overnight credit exposures, a CSD-banking service provider shall, in relation to the overnight credit:

(a) maintain a record of the sum of the actual end of day credit exposures, for a period of at least ten years;

(b) record the information referred to in point (a) on a daily basis.

Sub-Section 3
Management of Intraday Credit Risks

Article 23
General requirements for the management of intraday credit risk

1. For the purposes of management of intraday credit risk, a CSD-banking service provider shall:

(a) specify how it assesses the design and operation of its credit risk management framework relating to all the activities listed in Section C of the Annex to Regulation (EU) No 909/2014;

(b) only grant credit lines that are unconditionally cancellable at any time by the CSD-banking service provider and without prior notice to the borrowing participants of the securities settlement system operated by the CSD;

(c) where a bank guarantee referred to in Article 16 is used in interoperable links, a CSD-banking service provider shall assess and analyse the interconnectedness that may arise from having the same participants providing that bank guarantee.

2. The following exposures are exempt from the application of Articles 9 to 15 and 24:

(a) exposures to the members of the European System of Central Banks and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt;

(b) exposures to one of the multilateral development banks listed in Article 117(2) of Regulation (EU) No 575/2013;

(c) exposures to one of the international organisations listed in Article 118 of Regulation (EU) No 575/2013;

(d) exposures to public sector entities within the meaning of Article 4(8) of Regulation (EU) No 575/2013 where they are owned by central governments and have explicit arrangements provided by central governments guaranteeing their credit exposures;

(e) exposures to third country central banks that are denominated in the domestic currency of that central bank provided that the Commision has adopted an implementing act in accordance with Article 114(7) of Regulation (EU) No 575/2013 confirming that this third country is considered as applying supervisory and regulatory arrangements at least equivalent to those applied in the Union.

Article 24
Credit limits

For the purposes of managing intraday credit risk, and where setting the credit limits to an individual borrowing participant at the group level, a CSD-banking service provider shall comply with all of the following:

(a) assess the creditworthiness of the borrowing participant based on a methodology that does not exclusively rely on external opinions;

(b) verify the compliance of collateral and other equivalent financial resources provided by a participant to cover intraday credit exposures, with the requirements set out in Articles 9 and 15, respectively;

(c) set the credit limits to a borrowing participant based on the multiple relationships that the CSD-banking service provider has with the borrowing participant, including where the CSD-banking service provider provides more than one banking-type ancillary service among those referred to in Section C of the Annex to Regulation (EU) No 909/2014 to the same participant;

(d) take into account the level of qualifying liquid resources in accordance with Article 34;

(e) review the credit limits to a borrowing participant with the view to ensuring both of the following:

(i) where the creditworthiness of a borrowing participant decreases, that the credit limits are reviewed or reduced;

(ii) where the value of collateral provided by a borrowing participant decreases, that the credit availability is reduced.

(f) review the credit lines granted to borrowing participants at least annually based on their actual usage of credit;

(g) ensure that the amount of overnight credit exposures is integrated in the usage of the credit limit granted to the participant;

(h) ensure that the amount of overnight credit not yet reimbursed is included in the intraday exposures of the next day and is capped by the credit limit.

Sub-Section 4
Potential residual credit exposures

Article 25
Potential residual credit exposures

1. The policies and procedures referred to in Article 18(1) shall ensure that any potential residual credit exposures are managed, including in the situations where the post-liquidation value of the collateral and other equivalent financial resources are not sufficient to cover the credit exposures of the CSD-banking service provider.

2. Such policies and procedures shall:

(a) specify how potentially uncovered credit losses are allocated, including repayment of any funds that a CSD-banking service provider may borrow from liquidity providers to cover liquidity gaps related to such losses;

(b) include an ongoing assessment of evolving market conditions related to the post-liquidation value of the collateral or of other equivalent financial resources that may develop into a potential residual credit exposure;

(c) specify that the assessment referred to in point (b) shall be accompanied by a procedure setting out:

(i) the measures that shall be taken to address the market conditions referred to in point (b);

(ii) the timing of the measures referred to in point (i);

(iii) any updates of the credit risk management framework as a result of those market conditions referred to in point (b).

3. The risk committee of the CSD-banking service provider and, where relevant, the risk committee of the CSD shall be informed of any risks that may cause potential residual credit exposures and the competent authority referred to in Article 60(1) of Regulation (EU) No 909/2014 shall be promptly informed of such risks.

4. The market and activity developments affecting intraday credit risk exposures shall be analysed and reviewed every six months and reported to the risk committee of the CSD-banking service provider and, where relevant, to the risk committee of the CSD.

Sub-Section 5
Reimbursement procedures and sanctioning rates

Article 26
Reimbursement procedures of intraday credit

1. A CSD-banking service provider shall have effective reimbursement procedures of intraday credit, which comply with the requirements in paragraphs 2 and 3.

2. The reimbursement procedures of intraday credit shall provide for sanctioning rates acting as an effective deterrent to discourage overnight credit exposures, and, in particular, that they shall meet both of the following conditions:

(a) they are higher than the interbank money-market overnight collateralised market rate and the marginal lending rate of a central bank of issue of the currency of the credit exposure;

(b) they take into consideration the funding costs of the currency of the credit exposure and the creditworthiness of the participant that has an overnight credit exposure.

Sub-Section 6
Reporting of credit risk

Article 27
Reporting to authorities on intraday risk management

1. A CSD-banking service provider shall report to the relevant competent authority referred to in Article 60(1) of Regulation (EU) No 909/2014.

2. A CSD-banking service provider shall comply with all of the following reporting requirements:

(a) it shall submit a qualitative statement that specifies the actions taken regarding how credit risks, including intraday credit risks are measured, monitored and managed, with at least an annual frequency;

(b) it shall notify any material changes to the actions taken in accordance with point (a), immediately after such material changes take place;

(c) it shall submit the metrics referred to in Article 19 on a monthly basis.

3. Where the CSD-banking service provider is in breach of, or risks breaching the requirements of this Regulation, including during times of stress, it shall immediately notify this to the relevant competent authority and it shall submit without undue delay to that competent authority a detailed plan for the timely return to compliance.

4. Until compliance with the requirements of this Regulation and of Regulation (EU) No 909/2014 is restored, the CSD-banking service provider shall report the items referred to in paragraph 2, as appropriate, daily by the end of each business day unless the relevant competent authority authorises a lower reporting frequency and a longer reporting delay by taking into account the individual situation of the CSD-banking service provider and the scale and complexity of its activities.

Sub-Section 7
Public disclosure

Article 28
Public Disclosure

For the purposes of point (h) of Article 18(1), the CSD-banking service provider shall publicly disclose annually a comprehensive qualitative statement that specifies how credit risks, including intraday credit risks are measured, monitored and managed.

SECTION 2
LIQUIDITY RISK

Article 29
General rules on liquidity risk

1. For the purposes of point (a) of Article 17(2), a CSD-banking service provider shall design and implement policies and procedures that:

(a) measure intraday and overnight liquidity risk, in accordance with Sub-section 1;

(b) monitor intraday and overnight liquidity risk, in accordance with Sub-section 2;

(c) manage liquidity risk, in accordance with Sub-section 3;

(d) report intraday and overnight liquidity risk, in accordance with Sub-section 4;

(e) disclose the framework and tools for the monitoring, measuring, management, and the reporting on liquidity risk, in accordance with Sub-section 5.

2. Any changes to the overall liquidity risk framework shall be reported to the management body of the CSD-banking service provider.

Sub-Section 1
Measurement of intraday liquidity risks

Article 30
Measurement of intraday liquidity risks

1. A CSD-banking service provider shall put in place effective operational and analytical tools to measure, on an ongoing basis, the following metrics on a currency by currency basis:

   (a) maximum intraday liquidity usage, calculated using the largest positive net cumulative position and the largest negative net cumulative position;

   (b) total available intraday liquid resources at the start of the business day, broken down into all of the following:

      (i) qualifying liquid resources as specified in Article 34:

         – cash deposited at a central bank of issue;

         – available cash deposited at other creditworthy financial institutions referred to in Article 38(1);

         – committed lines of credit or similar arrangements;

         – assets that fulfil the requirements of Article 10 and 11(1) of this Regulation applicable to collateral, or financial instruments compliant with the requirements set out in the [Commission Delegated Act XX/… on the CSD requirements][OP: please insert reference] , that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, as referred to in Article 38;

         – the collateral referred to in Article 10 and Article 11(1);

      (ii) other than qualifying liquid resources, including uncommitted credit lines;

   (c) total value of all of the following:

      (i) intraday liquidity outflows, including those for which there is a time specific intraday deadline;

      (ii) cash settlement obligations in other securities settlement systems where the CSD for which the CSD-banking service provider acts as settlement agent has to settle positions;

      (iii) obligations related to the CSD-banking service provider's market activities, such as the delivery or return of money market transactions or margin payments;

      (iv) other payments critical to the reputation of the CSD and the CSD-banking service provider.

2. For each currency of the securities settlement systems for which a CSD-banking service provider acts as settlement agent, the CSD-banking service provider shall

monitor the liquidity needs stemming from each entity towards which the CSD-banking service provider has a liquidity exposure.

Article 31
Measurement of overnight liquidity risks

In relation to overnight liquidity risks, the CSD-banking service provider shall compare on an ongoing basis, its liquid resources to its liquidity needs, where such needs result from the use of overnight credit, for each settlement currency of the securities settlement systems for which the CSD-banking service provider acts as settlement agent.

Sub-Section 2
Monitoring of intraday liquidity risks

Article 32
Monitoring intraday liquidity risks

1. The CSD-banking service provider shall establish and maintain a report on the intraday liquidity risk that it assumes. Such report shall include, at least:

   (a) the metrics referred to in Article 30(1);

   (b) the risk appetite of the CSD-banking service provider;

   (c) a contingency funding plan describing the remedies to be applied where the risk appetite is breached.

   The report referred to in the first subparagraph shall be reviewed monthly by the risk committee of the CSD-banking service provider and by the risk committee of the CSD.

2. For each settlement currency of the securities settlement system for which the CSD-banking service provider acts as settlement agent, it shall have effective operational and analytical tools to monitor on a near to real-time basis its intraday liquidity positions against its expected activities and available resources based on balances and remaining intraday liquidity capacity. The CSD-banking service provider shall:

   (a) maintain, for a period of at least ten years, a record of the daily largest positive net cumulative intraday position and the largest negative net cumulative intraday position for each settlement currency of the securities settlement system for which it acts as settlement agent;

   (b) monitor its intraday liquidity exposures on an ongoing basis against the maximum intraday liquidity exposure that has been historically recorded.

Article 33
Monitoring overnight liquidity risks

In relation to overnight liquidity risks, the CSD-banking service provider shall apply both of the following:

   (a) maintain, for a period of at least ten years, a record of the liquidity risks created by the use of overnight credit for each currency of the securities settlement system for which it acts as settlement agent;

(b) monitor the liquidity risk created by the overnight credit extended against the maximum liquidity exposure created by the overnight credit extended, historically recorded.

Sub-Section 3
Managing Liquidity Risks

Article 34
Qualifying liquid resources

A CSD-banking service provider shall mitigate corresponding liquidity risks, including intraday liquidity risks, in each currency by using any of the following qualifying liquid resources:

(a) cash deposited at a central bank of issue;

(b) available cash deposited at one of the creditworthy financial institutions identified in Article 38(1);

(c) committed lines of credit or similar agreements;

(d) assets that fulfil the requirements of Article 10 and Article 11(1) of this Regulation applicable to collateral, or financial instruments compliant with the [Commission Delegated Act XX/… on CSD requirements][OP: please insert reference], that are readily available and convertible into cash with prearranged and highly reliable funding arrangements in accordance with Article 38 of this Regulation;

(e) the collateral referred to in Article 10 and Article 11(1).

Article 35
Managing intraday liquidity risk

1. For each currency of any of the securities settlement systems for which it acts as settlement agent, the CSD-banking service provider shall:

(a) estimate the intraday liquidity inflows and outflows for all the banking-type ancillary services provided;

(b) anticipate the intraday timing of those flows;

(c) forecast the intraday liquidity needs that may arise at different periods during the day.

2. For each currency of any of the securities settlement systems for which it acts as settlement agent, the CSD-banking service provider shall:

(a) arrange to acquire sufficient intraday funding to meet its intraday objectives as they result from the analysis referred to in paragraph 1;

(b) manage and be ready to convert into cash the collateral necessary to obtain intraday funds in stress situations, taking into account haircuts in accordance with Article 13 and concentration limits in accordance with Article 14;

(c) manage the timing of its liquidity outflows in line with its intraday objectives;

(d) have arrangements in place to deal with unexpected disruptions to its intraday liquidity flows.

3. For the purpose of meeting its minimum qualifying liquid resource requirement, a CSD-banking service provider shall identify and manage the risks to which it would be exposed following the default of at least two participants, including their parent undertaking and subsidiaries, to which it has the largest liquidity exposure.

4. For the risk of unexpected disruptions to its intraday liquidity flows, referred to in paragraph 2(d), the CSD-banking service provider shall specify extreme but plausible scenarios, including those identified in Article 36(7) where relevant, and based at least on one of the following:

   (a) a range of historical scenarios, including periods of extreme market movements observed over the past 30 years, or as long as reliable data have been available, that would have exposed the CSD-banking service provider to the greatest financial risk, unless the CSD-banking service provider proves that recurrence of a historical instance of large price movements is not plausible;

   (b) a range of potential future scenarios that fulfil the following conditions:

      (i) they are founded on consistent assumptions regarding market volatility and price correlation across markets and financial instruments;

      (ii) they are based on both quantitative and qualitative assessments of potential market conditions, including disruptions and dislocations or irregularities of accessibility to markets, as well as declines in the liquidation value of collateral, and reduced market liquidity where non-cash assets have been accepted as collateral.

5. For the purposes of paragraph 2, the CSD-banking service provider shall also take into account the following:

   (a) the design and operations of the CSD-banking service provider, including in relation to the entities referred to in Article 30(2) and linked financial markets infrastructures or other entities that may pose material liquidity risk to the CSD-banking service provider, and, where applicable, cover a multiday period;

   (b) any strong relationships or similar exposures between the participants of the CSD-banking service provider, including between the participants and their parent undertaking and subsidiaries;

   (c) an assessment of the probability of multiple defaults of participants and the effects among the participants that such defaults may cause;

   (d) the impact of multiple defaults referred to in point (c) on the CSD-banking service provider’s cash-flows and on its counterbalancing capacity and survival horizon;

   (e) whether the modelling reflects the different impacts that an economic stress may have both on the CSD-banking service provider’s assets and its liquidity inflows and outflows.

6. The set of historical and hypothetical scenarios used to identify extreme but plausible market conditions shall be reviewed by the CSD-banking service provider, and, where relevant in consultation with the risk committee of the CSD, at least annually. Such scenarios shall be reviewed more frequently where market developments or the operations of the CSD-banking service provider affect the assumptions underlying the scenarios in a way that requires adjustments to such scenarios.

7. The liquidity risk framework shall consider, quantitatively and qualitatively, the extent to which extreme price movements in the collateral or assets could occur simultaneously in multiple identified markets. The framework shall recognise that historical price correlations may no longer be applicable in extreme but plausible market conditions. A CSD-banking service provider shall also take into account any of its external dependencies in its stress testing, referred to in this Article.

8. The CSD-banking service provider shall identify how the intraday monitoring metrics referred to in Article 30(1) are used to calculate the appropriate value of intraday funding required. It shall develop an internal framework to assess a prudent value of liquid assets which are deemed sufficient for its intraday exposure, including, in particular, all of the following:

   (a) the timely monitoring of liquid assets, including the quality of the assets, their concentration and their immediate availability;

   (b) appropriate policy on monitoring market conditions that can affect the liquidity of the intraday qualifying liquid resources;

   (c) the value of the intraday qualifying liquid resources, valued and calibrated under stressed market conditions, including the scenarios referred to in Article 36(7).

9. The CSD-banking service provider shall ensure that its liquid assets are under the control of a specific liquidity management function.

10. The liquidity risk framework of the CSD-banking service provider shall include appropriate governance arrangements relating to the amount and form of total qualifying liquid resources that the CSD-banking service provider maintains, as well as relevant adequate documentation and, in particular one of the following:

   (a) placement of its liquid assets in a separate account under the direct management of the liquidity management function, which may only be used as a source of contingent funds during stress periods;

   (b) establishment of internal systems and controls to give the liquidity management function effective operational control to carry out both of the following:

      (i) convert into cash the holdings of liquid assets at any point in the stress period;

      (ii) access the contingent funds without directly conflicting with any existing business or risk management strategies, so that no assets are included in the liquidity buffer where their sale without replacement throughout the stress period would create an open risk position in excess of the internal limits of the CSD-banking service provider;

   (c) a combination of the requirements set out in points (a) and (b), where such a combination ensures a comparable result.

11. The requirements of this Article regarding the liquidity risk framework of the CSD-banking service provider shall apply also to cross-border and cross-currency exposures where relevant.

12. The CSD-banking service provider shall review the procedures referred to in paragraphs 2, 3 and 11 at least annually, taking into account all relevant market developments as well as the scale and concentration of exposures.

Article 36

Stress testing the sufficiency of liquid financial resources

1. A CSD-banking service provider shall determine and test the sufficiency of its liquidity resources at relevant currency level by regular and rigorous stress testing that meets all of the following requirements:

   (a) it is conducted on the basis of the factors referred to in paragraphs 4 and 5, as well as the specific scenarios referred to in paragraph 6;

   (b) it includes regular testing of the CSD-banking service provider's procedures for accessing its qualifying liquid resources from a liquidity provider using intraday scenarios;

   (c) it complies with the requirements of paragraphs 2 to 6.

2. The CSD-banking service provider shall ensure, at least through rigorous due diligence and stress testing that each liquidity provider of its minimum required qualifying liquid resources established in accordance with Article 34, has sufficient information to understand and manage its associated liquidity risk, and is able to comply with the conditions of a prearranged and highly reliable funding arrangement set out in points (d) and (e) of Article 59(4) of Regulation (EU) No 909/2014.

3. The CSD-banking service provider shall have rules and procedures in place to address the insufficiency of qualifying liquid financial resources highlighted by its stress tests.

4. Where the stress tests result in breaches to the agreed risk appetite referred to in point (b) of Article 32(1), the CSD-banking service provider shall:

   (a) report to both its own risk committee and, where relevant, to the risk committee of the CSD the results of the stress tests;

   (b) review and adjust its contingency plan referred to in point (c) of Article 32(1) where breaches cannot be restored by the end of the day;

   (c) have rules and procedures to evaluate and adjust the adequacy of its liquidity risk management framework and liquidity providers in accordance with the results and analysis of its stress tests.

5. The stress testing scenarios used in the stress testing of liquid financial resources shall be designed taking into account the design and operation of the CSD-banking service provider, and include all entities that may pose material liquidity risk to it.

6. The stress testing scenarios used in the stress testing of the qualifying liquid financial resources shall be designed taking into account the default, in isolation or combined, of at least two participants of the CSD-banking service provider, including their parent undertaking and subsidiaries, to which the CSD-banking service provider has the largest liquidity exposure.

7. The scenarios used in the stress testing of liquid financial resources shall be designed taking into account a wide range of relevant extreme but plausible scenarios, covering short-term and prolonged stress, and institution specific and market-wide stress, including:

   (a) the missed receipt of payments from participants on a timely basis;

   (b) the temporary failure or inability of one of the CSD-banking service provider's liquidity providers to provide liquidity, including those referred to in point (e)

of Article 59(4) of Regulation (EU) No 909/2014, custodian banks, nostro agents, or any related infrastructure, including interoperable CSDs;

(c) simultaneous pressures in funding and asset markets, including a decrease in the value of the qualifying liquid resources;

(d) stress in foreign exchange convertibility and access to foreign exchange markets;

(e) adverse changes in the reputation of a CSD-banking services provider that casue certain liquidity providers to withdraw liquidity;

(f) relevant peak historic price volatilities of collateral or assets as recurrent events;

(g) changes in the credit availability in the market.

8. The CSD-banking service provider shall determine the relevant currencies referred to in point (c) of Article 59(4) of Regulation (EU) No 909/2014 by applying the following steps in sequence:

(a) rank the currencies from highest to lowest based on the average of the three largest daily negative net cumulative positions, converted into euro, within a period of twelve months;

(b) consider as relevant:

(i) the most relevant Union currencies that meet the conditions specified in the [Commission Delegated Act XX/… on CSD requirements*][OP: please insert reference]*

(ii) all remaining currencies until the corresponding aggregated amount of the average largest net negative cumulative positions measured according to (a) is equal to or exceeds 95% for all currencies.

9. The CSD-banking service provider shall identify and update relevant currencies referred to in paragraph 8 regularly but at least on a monthly basis. It shall provide in its rules that, under stress situations, the provisional settlement services in non-relevant currencies could be executed for their equivalent value in a relevant currency.

Article 37

Unforeseen and potentially uncovered liquidity shortfalls

1. The CSD-banking service provider shall establish rules and procedures to effect intraday and multiday timely settlement of payment obligations following any individual or combined default among its participants. Those rules and procedures shall provide for any unforeseen and potentially uncovered liquidity shortfall resulting from such default with the view to avoiding unwinding, revoking, or delaying the same-day settlement of payment obligations.

2. The rules and procedures referred to in paragraph 1 shall ensure that the CSD-banking service provider has access to cash deposits or overnight investments of cash deposits, and has a process in place in order to replenish any liquidity resources that it may employ during a stress event, so that it can continue to operate in a safe and sound manner.

3. The rules and procedures referred to in paragraph 1 shall include requirements for both of the following:

(a) an ongoing analysis of evolving liquidity needs to allow the identification of events that may develop into unforeseen and potentially uncovered liquidity shortfalls, including a plan for the renewal of funding arrangements in advance of their expiry;

(b) a regular practical testing of the rules and procedures themselves.

4. The rules and procedures referred to in paragraph 1 shall be accompanied by a procedure setting out how the identified potential liquidity shortfalls shall be addressed without undue delay, including, where necessary, by updating the liquidity risk management framework.

5. The rules and procedures referred to in paragraph 1 shall also detail all of the following:

(a) how a CSD-banking service provider shall access cash deposits or overnight investments of cash deposits;

(b) how a CSD-banking service provider shall execute same-day market transactions;

(c) how a CSD-banking service provider shall draw on prearranged liquidity lines.

6. The rules and procedures referred to in paragraph 1 shall include a requirement for the CSD-banking service provider to report any liquidity risk that has the potential to cause previously unforeseen and potentially uncovered liquidity shortfalls to:

(a) the risk committee of the CSD-banking service provider and, where relevant, to the risk committee of the CSD;

(b) the relevant competent authority referred to in Article 60(1) of Regulation (EU) No 909/2014, in the manner set out in Article 39 of this Regulation.

Article 38

Arrangements in order to convert collateral or investment into cash using prearranged and highly reliable funding arrangements

1. For the purposes of point (e) of Article 59(4) of Regulation (EU) No 909/2014 creditworthy financial institutions shall include one of the following:

(a) a credit institution authorised in accordance with Article 8 of Directive 2013/36/EU that the CSD-banking service provider can demonstrate to have low credit risk based on an internal assessment, employing a defined and objective methodology that does not exclusively rely on external opinions;

(b) a third country financial institution that meets all of the following requirements:

(i) it is subject to and complies with prudential rules considered to be at least as stringent as those set out in Directive 2013/36/EU and Regulation (EU) No 575/2013;

(ii) it has robust accounting practices, safekeeping procedures, and internal controls;

(iii) it has low credit risk based on an internal assessment carried out by the CSD-banking service provider, employing a defined and objective methodology that does not exclusively rely on external opinions;

(iv) it takes into consideration the risks arising from the establishment of that third country financial institution in a particular country.

2. Where a CSD-banking service provider plans to establish a prearranged and highly reliable funding arrangement with a creditworthy financial institution as referred to in paragraph 1, it shall use only those financial institutions that at least have access to credit from the central bank issuing the currency used within the prearranged funding arrangements, either directly or through entities of the same group.

3. After a prearranged and highly reliable funding arrangement has been established with one of the institutions referred to in paragraph 1, the CSD-banking service provider shall monitor the creditworthiness of these financial institutions on an ongoing basis by applying both of the following:

(a) subjecting those institutions to regular and independent assessments of their creditworthiness;

(b) assigning and regularly reviewing internal credit ratings for each financial institution with which the CSD has established a prearranged and highly reliable funding arrangement.

4. The CSD-banking service provider shall closely monitor and control the concentration of its liquidity risk exposure to each financial institution involved in a prearranged and highly reliable funding arrangement, including its parent undertaking and subsidiaries.

5. The CSD-banking service provider's liquidity risk management framework shall include a requirement to establish concentration limits, providing the following:

(a) that the concentration limits are established by currency;

(b) that at least two arrangements for each major currency are put in place;

(c) that the CSD-banking service provider is not overly reliant on any individual financial institution, when all currencies are taken into account.

For the purposes of point (b) major currencies shall be considered to be at least the top 50% of the most relevant currencies as determined in accordance with Article 36(8). Where a currency has been determined as a major currency, it shall continue to be considered as major for a period of three calendar years from the date of its determination as major currency.

6. A CSD-banking service provider which has access to routine credit at the central bank of issue shall be considered to fulfil the requirements of point (b) in paragraph 5 to the extent it has collateral that is eligible for pledging to the relevant central bank.

7. The CSD-banking service provider shall continuously monitor and control its concentration limits towards its liquidity providers, with the exception of those referred to in paragraph 6, and it shall implement policies and procedures to ensure its overall risk exposure to any individual financial institution remains within the concentration limits determined in accordance with paragraph 5.

8. The CSD-banking service provider shall review its policies and procedures concerning applicable concentration limits towards its liquidity providers, with the

exception of those referred to in paragraph 6, at least annually and whenever a material change occurs and affects its risk exposure to any individual financial institution.

9. In the context of its reporting to the relevant competent authority in accordance with Article 39, the CSD-banking service provider shall inform the competent authority of both of the following:

   (a) any significant changes to the policies and procedures concerning concentration limits towards its liquidity providers determined in accordance with this Article;

   (b) cases where it exceeds a concentration limit towards its liquidity providers set out in its policies and procedures, as referred to in paragraph 5.

10. Where a concentration limit towards its liquidity providers is exceeded, the CSD-banking service provider shall remedy the excess without undue delay following the risk mitigation measures referred to in paragraph 7.

11. The CSD-banking service provider shall ensure that the collateral agreement allows it to have prompt access to its collateral in the event of the default of a client, taking into account at least the nature, size, quality, maturity, and location of the assets provided by the client as collateral.

12. Where assets used as collateral by the CSD-banking service provider are in the securities accounts maintained by another third party entity, the CSD-banking service provider shall ensure that all of the following conditions are met:

   (a) it has real-time visibility of the assets identified as collateral;

   (b) the collateral is segregated from the other securities of the borrowing participant;

   (c) the arrangements with that third party entity prevent any losses of assets to the CSD-banking service provider.

13. The CSD-banking service provider shall take all necessary steps in advance to establish the enforceability of its claim to financial instruments provided as collateral.

14. The CSD-banking service provider shall be capable of accessing and converting non-cash assets referred to in Article 10 and Article 11(1) into cash on a same-day basis through pre-arranged and highly reliable arrangements established in accordance with point (d) of Article 59(4) of Regulation (EU) No 909/2014.

Sub-Section 4
Reporting of Liquidity Risks

Article 39
Reporting to competent authorities on intraday risk management

1. A CSD-banking service provider shall report to the relevant competent authority referred to in Article 60(1) of Regulation (EU) No 909/2014.

2. A CSD-banking service provider shall comply with all of the following reporting requirements:

(a) it shall submit a qualitative statement that specifies all actions taken regarding how liquidity risks, including intraday are measured, monitored and managed, with at least an annual frequency;

(b) it shall notify any material changes to the actions taken, referred to in point (a), immediately after such material changes take place;

(c) it shall submit the metrics referred to in Article 30(1) on a monthly basis.

3. Where the CSD-banking service provider is in breach of, or risks breaching the requirements of this Regulation, including during times of stress, it shall immediately notify this to the relevant competent authority and it shall submit without undue delay to that relevant competent authority a detailed plan for the timely return to compliance.

4. Until compliance with the requirements of this Regulation and Regulation (EU) No 909/2014 is restored, the CSD-banking service provider shall report the items referred to in paragraph 2, as appropriate, at least daily, by the end of each business day unless the relevant competent authority authorise a lower reporting frequency and a longer reporting delay, by taking into account the individual situation of the CSD-banking service provider and the scale and complexity of its activities.

Sub-Section 5
Public disclosure

Article 40
Public Disclosure

A CSD-banking service provider shall publicly disclose a comprehensive qualitative statement that specifies how liquidity risks, including intraday liquidity risks are measured, monitored and managed on an annual basis.

Sub-Section 6
Final provisions

Article 41
Transitional provisions

1. CSD-banking service providers shall identify the relevant currencies under point (ii) of Article 36(8)(b) twelve months after obtaining the authorisation to provide banking-type ancillary services.

2. During the transitional period of twelve months referred to in paragraph 1, the CSD-banking service providers referred to in that subparagraph shall identify the relevant currencies under point (ii) of Article 36(8)(b) by taking into account both of the following:

(a) a sufficiently large relative share of each currency in the total value of settlement by a CSD of settlement instructions, against payment calculated over a period of one year;

(b) the impact of the non-availability of each currency on the smooth functioning of the operations of CSD-banking service providers under a wide range of potential stress scenarios referred to in Article 36.

Article 42
Entry into force

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

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

Done at Brussels, 11.11.2016

For the Commission
The President
Jean-Claude JUNCKER