ANNEX 1 - LIST OF ELEMENTS FOR SUPERVISORY CONVERGENCE – ATTACHMENT TO QUESTION 7 (SECTION 1)

More convergence is needed to ensure consistent and efficient (i.e. non-duplicative) supervision. Notably ESMA, EBA and/or ECB could play a more active role in achieving such convergence. We see a number of areas where convergence and/or an interpretation that supports efficiencies of scale could be increased through targeted amendments of the various legislative texts. We also see value in clarifying the interaction between CSDR and other financial legislation / global standards which impact directly or indirectly the CSD and its regulatory regime. Especially on the interaction between CRR/CRD and CSDR, targeted clarifications are important for CSD groups which include one or more entities with a banking license.

Increase convergence through targeted amendments:

a. CSDR ESMA RTS 2017/392, Article 70 describes the operational risk-management system and framework which a CSD needs to have in place. Paragraphs 3 and 6 describe the operational reliability objectives which a CSD needs to define, document and report on. We appreciate that the Eurosystem has provided its interpretation on (1) what constitutes the criteria to determine the operational reliability of a CSD and (2) how such needs to be presented to the Participants. We can observe however that the Eurosystem interpretation does not seem to be applied evenly and thus gives rise to an unequal level playing field between CSDs.
b. CSDR ESMA RTS 2017/392, Article 65 (Problems related to reconciliation): There is an opportunity to clarify this article which was identified in the context of a T2S incident end of May'20, in order to better reflect the policy intention in the provision. CSDR proposed a remediation action in case of creation or deletion of securities that would impact the markets and for which the reasons are not identified within 24 hours, i.e. suspension of settlement by the CSD. The policy intention is to support the markets in such scenario and avoid further impact on the markets, the issuer and the holders of securities. However, the condition for the application of this remediation action should be strictly met (i.e. when suspension will help solve the problems and mitigate risks related to creation or deletion of securities). The text would gain from reflecting that suspension of settlement is an ultimate measure (not the only one). This measure should be dedicated to situations where there is creation or deletion of securities with unknown cause, and where alternative solutions with less impact on the markets are not available or have not been identified. Materiality thresholds might also be considered to reflect that suspension of settlement is meant to be a last resort scenario.
c. Legal Entity Identification (LEI): CSDs need to receive a valid LEI from the issuer before being able to process its issuance. It could be made clearer however, that CSDs have no responsibility when it comes to the issuer renewing its LEI (i.e. same obligation as trading venues) and cannot lead to removal of securities from the SSS (although the issuer will not be allowed to issue new securities without a valid LEI). The CSD cannot substitute itself to the issuer for this obligation and the absence of an LEI does not impair the validity of the securities. Hence, the text would gain from putting clearly the accountability for this formality with the issuer. CSDR puts obligations on other stakeholders than CSDs (see e.g. participants for segregation). When putting the accountability with the CSD, the ultimate measure the CSD could take to resolve the issue is to declare the security ineligible and remove it from its SSS, which creates issues for all but the issuer. We believe this cannot be the intention. The obligation of the CSD should be limited to having the structure and processes to request the issuer to provide a LEI.
d. Settlement Discipline Regime (penalties): It would be helpful to have confirmation from ESMA on the usage of the ESMA databases to determine which securities are in scope of the penalties. The current assumption, on which basis all CSDs are proceeding, is that the scope relates to "All ISINs included in FIRDS database (MIFID scope) (minus) All ISINs included in SSR (Short Selling database)". While this

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assumption has never been officially approved by ESMA (no Q&A), it follows ESMA guidance that we had during bilateral discussions.

Foster an interpretation and/or target amendments that support efficiencies of scale and group governance:

The ability of CSDs to organise themselves as a group with both 'group' and 'shared' functions (as expressly foreseen in article 49 of CSDR ESMA RTS 2017/392) could be facilitated. Such an organisation should not lead to additional supervisory requirements at the level of each individual CSD, nor to the duplication of functions. The supervision of group functions could be better organised at EU level with proper coordination between authorities and recognition of supervisory responsibilities of other EU authorities. Also governance arrangements coming from the parent company, in particular but not only in the area of control functions, are necessary to control the group and the accountability for it. CSDR should not be applied in conflict with common governance best practices, of which many are also in well-known regulations in the international financial industry.

In addition, we have experienced some technical CSDR requirements to prevent Euroclear from taking the full benefit of being organised as a CSD group. For example, CSDR should allow a group of CSDs to leverage its structure to manage liquid assets as capital buffer for all CSDs in a pooled way, i.e. in a mutualized fund structure, while still assuring the autonomy of each CSD in managing its capital and with careful consideration to maintain the right balance between cash versus liquid assets. The investment in liquid assets warrants the appointment of an external asset manager, which is not viable for a small CSD on a stand-alone basis. Such group set-up should in our view not conflict with CSDR. From a risk point of view, such set-up is preferred to one where CSDs use cash deposits in universal banks which could create undue risk. CSDR does not prohibit CSDs to pool assets. However, it does require CSDs to invest directly into the allowed assets, which in a literal reading of the text cannot be accommodated through the structure of a fund.

Clarify the interaction between CSDR and other financial legislation / global standards which impact directly or indirectly the CSD and its regulatory regime:

a. CPMI-IOSCO: Apart from obtaining and maintaining its CSD licence, a CSD will typically be requested by authorities to demonstrate compliance with the CPMI-IOSCO principles. CSDR however already reflects and integrates those principles. The EU should reach some type of arrangements at the level of CPMI IOSCO that other countries recognise CSDR as the EU equivalent of CPMI IOSCO standards. This will avoid CSDs having to duplicate the demonstration of compliance with PFMI with various authorities, while it should be sufficient to demonstrate compliance with CSDR (once).
b. MiFID: The application of MIFID to CSDs is organised in CSDR. While MiFID generally excludes CSDs from its scope, CSDR Art.73 does foresee some circumstances where MIFID can apply and, in that case, only disapplies a very limited number of articles in MIFID for CSDs. Issues arise when compliance is required under MiFID for elements which are also governed by CSDR and for which there is inconsistency between the requirements of MiFID versus CSDR. Areas linked to for example, management of conflict of interest or recordkeeping, are meant to be governed by CSDR and hence requirements under MiFID should not be imposed on CSDs. A better mapping between the two texts should be performed to identify and address all overlaps.
c. CRR and CRD: In order to avoid undue discussion with NCAs and to the benefit also of consistency in EU legislation, we believe further clarity could be shed on the interaction between CRR/CRD and CSDR. This is particularly important for CSD groups which include one or more entities with a banking license. If there is a banking licensed entity in a group of CSDs, CRD may at least indirectly affect the non-banking licensed CSDs due to the application of CRD requirements at consolidated level through the holding company. When applying banking requirements at consolidated level, more consideration should be given to the potential impact of CSDs on the banking entity's risk profile. Without prejudice to the need for proper group governance (see our point on efficiencies of scale and group governance), detailed

banking requirements should not automatically be applied to the CSD entities merely because they are important for the group. Should it nevertheless be necessary to apply the banking requirements to the CSDs, more consideration should be given to their CSDR compliance. On topics covered by both CRD and CSDR (e.g. outsourcing requirements), it should be sufficient for the parent company to ensure that CSDs in a banking group comply with CSDR without having regard to, for example, EBA Guidelines on outsourcing for those CSDs. As a result, for non-banking CSDs in a banking group, the requirements in CSDR should have precedence over the (indirect) ones in banking legislation when the CSD and its services are the area of relevance. This is especially true on topics where requirements in banking legislation go beyond what has been decided as appropriate for CSDs under CSDR (for example capital requirements, recovery and resolution).

d. CRR: The interpretation of some of the CSDR banking provisions and the interaction with CRR would benefit from alignment between EBA/ESMA and the industry and clarifying RTS or Q&As. For example, we believe that a portion of operational deposits should be allowed to be considered as stable funding in QLR calculations, as foreseen in CRR for LCR calculations.
e. BRRD: In order to avoid undue discussion with NCAs and to the benefit also of consistency in EU legislation, we believe further clarity could be shed on the interaction between BRRD (requiring a recovery plan) and CSDR (requiring a wind-down plan) which is particularly important for CSD groups which include one or more entities with a banking license. We note that a similar approach exists for CCPs which are governed by EMIR: as an exception, BRRD contains a specific regime of resolution for CCPs having a credit institution authorisation. While CSDs without a banking license should be subject to CSDR requirements only, considering that CSDR includes a specific CSD regime on such matters.

ANNEX 2 - CRITERIA TO DETERMINE SUCCESSFUL AMENDMENT OF CSDR ART.23 – ATTACHMENT TO QUESTION 9.1 (SECTION 2)

Limiting Art.23 to equities would substantially simplify the passporting procedure. It would also clarify the provisions around third-country CSDs in Art.25, as some of the concerns in Art.25 only exist because of the approach which has been taken in Art.23. The key point of cross-relevance in both articles is the interpretation of "constituting law". This requires a political decision however, reason for which we have provided our view on the elements which should at minimum be addressed to avoid recurring risks and costs.

In this annex, we provide more details on the criteria that we believe any future amendment of Art.23 should meet. We provide our views on a potential solution that would meet such criteria in our response to question 9.1. We remain at the Commission's disposal for any further dialogue on our proposed way forward.

1. Clarify what constitutes a cross-border service

CSDR creates a legal fiction when considering as a cross-border service the provision by a CSD, out of its place of establishment and for admission in its SSS, of notary and central maintenance services on foreign securities. It results in a situation where CSDs need to passport for a service which has a cross-border dimension but that is not a cross-border service to start with. Under the general principles of EU law, the fact that a foreign client knocks on the door of a provider does not amount for such provider to service offering in the jurisdiction of establishment of such client.

We understand the policy intention of article 49/23 CSDR to revolve around the validity of securities. This policy intention can be achieved without creating ambiguity on what constitutes a cross-border service and which, as a result, creates difficulties to determine the legal requirements that must be complied with when a security is issued/primarily deposited in a CSD of another jurisdiction. With the issuance actually not taking place in the Member State where the CSD passports, there is confusion on which key provisions actually need to be considered and hence on what the CSD needs to provide assurance on (i.e. how it enables its users to comply with their duties as meant under article 23).

The accountability to issue validly has always been and should remain with the issuer's community, not with the CSDs. The current set up somehow creates an undue expectation that a CSD ought to replicate possibly 27 (26) holding models instead of allowing the issuer to have its securities issued in any EEA CSD (which all operate a double entry bookkeeping and a book-entry system as per CSDR requirements). Only requirements pertaining to the validity of the securities should be taken into consideration, not local market practices or tax driven requirements.

2. Apply passporting only to issuer CSD services (or other CSD services) offered by a CSD through a branch established in another Member State

As a result of the above, there is no cross-border service provision when it comes to issuer CSD activity out of a CSD's headquarters or operation of a SSS governed by another law than of the jurisdiction in which the CSD is established. Hence, passporting should be limited to the scenario where a CSD has set up a branch (i.e. our scenario 2 as described in our answer to question 9.1).

3. Manage the need for information from NCAs separately

There is always, rightfully so, information exchange in case of passporting. The right to object, and the resulting need for information, for the host Member State NCA in Art.23(6) has been designed for the issuer CSD passport.

It however applies to all cases, thereby creating a need for information exchange in all cases. We believe that such right to object is not justified for issuer CSD passports, while the need for information of the host Member State should be covered outside Art.23. The host country's appetite for reporting and information should not become the pretext for the non-objection process.

ANNEX 3 - CSDR AND TECHNOLOGICAL INNOVATION – ATTACHMENT TO QUESTIONS 18.1, 18.3 AND 20.1 (SECTION 4)

CSDs could service crypto-assets considered as MiFID financial instruments by using a permissioned DLT platform with a centralised validation model. This model would allow for the trade life cycle of DLT transferable securities to be completed in a manner that fits into the existing regulatory framework.

Although we believe there would be no immediate need for level 1 changes in CSDR, clarifications may be warranted to provide legal certainty to the industry on how to approach and design initiatives in a regulatory compliant manner, which will drive market adoption. Following our legal analysis, you will find further below a proposed list of clarifications. This list is provided in the frame of the ongoing consultation for a review of CSDR.

Making such clarifications may bring substantial benefits to the EU and support ongoing policy initiatives:

a. **Support the EU Digital Finance Strategy** by (i) ensuring the EU legislative framework enables the use of innovative technologies (ii) developing and promoting the uptake of transformative technologies such as DLT[1].
b. **Support the Capital Market Union** by bringing legal certainty and make the legislation "fit for digital", as recommended by the High Level Forum on CMU[2]**.** This recommendation was emphasized as being important by the majority of respondents in the consultation linked to this report[3].
c. **Support the pilot regime** by giving the possibility to DLT MTFs not exempted of CSDR article 3(2) to operate within the regime. Without the CSDR clarifications, these DLT market infrastructures may never be tested due to the lack of recording capacity within the pilot regime for their securities[4].

Although the pilot regime may be an appropriate tool to test whether there would be other regulatory obstacles or gaps to the use of DLT in existing legislations, this policy initiative should not preclude CSDs from using DLT under the existing regulatory framework. Thanks to those clarifications, we believe CSDs would be able to offer secondary market services for financial instruments in crypto-asset form, the lack of which is highlighted by the European Commission as a key issue for the uptake of the technology[5].

Based on the benefits highlighted above and because the European Commission has already foreseen the possibility for such clarifications as a policy option for DLT transferable securities (Option 1: Non-legislative measures), we believe that clarifying CSDR for the use of DLT could be a step in the right direction.

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[1] European Commission, *Regulation on a pilot regime for market infrastructures based on DLT*, Sept 2020, recital 1, page 10

[2] High Level Forum on the Capital Markets Union*, A new vision for Europe's capital market*, June 2020, page 74

[3] European Commission, *Feedback statement for the CMU High Level Forum Final Report*, Sept 2020, page 13

[4] The ESMA Annual Statistical Report 2020 on the EU securities markets (published in Nov 2020) shows that they are roughly ten times more MTFs than CSDs in Europe. If this proportion is similar within the pilot regime, DLT MTFs not exempted from CSDR article 3(2) may be severely limited in their capacity to record securities in CSDs operating within the pilot regime due to the aggregate limit of €2.5bn applicable to DLT SSSs. Without the possibility for such DLT MTFs to record securities with no aggregate limits (as the regulation foresees), there is a risk that there would be no viable business cases for this type of DLT market infrastructure.

[5] European Commission, *Regulation on a pilot regime for market infrastructures based on DLT*, Sept 2020, Legal basis, page 3-4

Euroclear proposed CSDR clarifications to ensure legal certainty for CSDs to settle DLT transferable securities:

Legend	
Not a concern	No specific clarification required
Rather not a concern	No specific clarification required
Rather a concern	There are good arguments that this requirement is satisfied (assuming the red clarifications are made), but confirmation from regulator/legislator would be helpful
Strong concern	Clarification necessary as it is not clear if the requirement is satisfied in the absence of some guidance

Question 18. Would you see any particular issue (legal, operational, technical) with applying the following requirements of the CSDR in a DLT environment?

Definition of 'Central Securities Depository' (Not a concern)
Definition is technology neutral. DLT provides for a number of governance models and can be applied in the context of a CSD. However, a CSD is by definition a legal entity. This allows the designation of liability for the operation of the DLT platform and compliance with the applicable rules (e.g. capital requirements). A platform does not as such qualify as a CSD because it is not (necessarily) a legal person. The private permissioned version of DLT with a centralised validation model, allows for combining the benefits of DLT like P2P transactioning, same version of truth, resilience and availability with the benefits of centralized governance like clear accountability, legal certainty, performance, privacy, integrity and security.

Definition of 'Securities Settlement System' (Not a concern)
Definition is technology neutral, no difficulty to apply it in a DLT context.

Qualification as credits and debits to an account (Rather a concern)
Confirmation needed that the data recorded on the DLT addresses of the transferor and transferee can be considered as "credits" and "debits" within the meaning of CSDR.
Proposal: Clarification of Recital 11 that data recorded to a blockchain can be considered as "credits" and "debits" within the meaning of CSDR. Alternatively, the regulator could produce formal guidance (such as the ESMA Q&As) in this regard.

Records qualified as securities account in a CSD (Strong concern)
1. In the context of a DLT platform, participants hold digital "addresses" ("DLT Addresses") on the platform to which the Tokens are recorded. Whether DLT Addresses are capable of constituting "accounts" within the meaning of the CSDR would benefit from clarification. We believe a distinction will need to be made between account-based DLT and transaction-based DLT (the so-called UTXO model).
2. The DLT Addresses may be located on a distributed ledger and not in the CSD's centralised internal systems. Notwithstanding this, under the structure considered, a CSD would be the operator/governor/gatekeeper of the DLT platform. Whether the DLT Addresses on the platform are capable of being construed as accounts "provided and maintained by the CSD", would benefit from clarification.
Proposal: Accounts opened with a CSD in the context of existing systems in which securities are recorded in book-entry form are technically also digital in nature and not physical accounts. It would be difficult to see why DLT Addresses would not constitute "accounts" in the same way. Further, it is envisaged that the CSD – as operator/governor/gatekeeper of the DLT platform – would frame and regulate the rules of the platform and any account-holding requirements (including any account opening, operation and termination requirements), and would be responsible for the maintenance and security of such accounts (i.e. the DLT Addresses), and potentially also be entitled to be paid a certain fee for this. There is therefore a good argument that DLT Addresses on the platform are capable of being construed as accounts "provided and maintained by the CSD". It would however be helpful if this view could be confirmed by the regulator.

Definition of 'book entry form' (Strong concern)
Confirmation needed that the data recorded to a DLT ledger would be capable of constituting a "book-entry" within the meaning of the CSDR.
Proposal: Clarification of Recital 11 that data recorded to a blockchain can be considered as a "book-entry" within the meaning of CSDR. Alternatively, the regulator could produce formal guidance (such as the ESMA Q&As) in this regard.

Definition of 'dematerialised form' (Strong concern)
Confirmation needed that tokens recorded to a DLT ledger (assuming such tokens constitute "financial instruments" within the meaning of the MiFID) are capable of being construed as financial instruments in "dematerialised form" within the meaning of the CSDR.
Proposal: Tokens that exist purely in digital form on the DLT platform should be no different to the concept of "dematerialised securities" that are issued straight to screen in the context of existing systems. Tokens on a DLT platform are capable of being structured differently, but the DLT platform in this context is envisaged to have the same elements/features as existing dematerialised securities, with the difference simply being that they are issued on a distributed system rather than a centralised one. It would be helpful if this view could be confirmed by the regulator.

Definition of "settlement" (Rather a concern)
When a transaction is "validated" on a DLT platform, data is recorded to the transferor's and the transferee's DLT Addresses that results in a "transfer" of the token. Whether this would meet the requirement to have "delivery" of the securities (in this case, the tokens), such that "settlement" within the meaning of the CSDR occurs at this point, would benefit from clarification.
Proposal: Provided the underlying terms and conditions of the tokens and the contractual arrangement between the members on the DLT platform set out clearly that their obligations to each other would be discharged by this method of transfer, the token transfer mechanism should be capable of resulting in "settlement" within the meaning of the CSDR (subject to any national law requirements in relation to how title can be transferred on an electronic platform or register maintained by a third-party operator). It would be helpful if this view could be confirmed by the regulator.

"DvP" considerations (Strong concern)
DvP on a DLT network could be achieved on a single DLT network by making the cash transfers directly on the DLT ledger. These could be done through CBDCs or with asset-referenced tokens or e-money tokens (which we assume would be considered as commercial bank money). Alternatively, cash can be processed outside the DLT network ("off-ledger") through mechanisms of interfaced settlement between the DLT network and the cash payment system. New technologies would allow for such interfaced settlements to be conducted in a simultaneous and irrevocable manner if both the DLT network and the cash payment network are governed by regulated market infrastructures or central banks.
If settlement is not done in central bank money (CBDC), it is unclear how the current CSDR requirements for the provision of banking-type of ancillary services and settlement in commercial bank money would apply to asset-referenced tokens or e-money tokens which are used as settlement asset. Indeed, the settlement asset should carry as little credit or liquidity risk as possible. As it will be crucial for the development of DLT that a tokenized form of cash (CBDCs or asset-referenced tokens/e-money tokens) can be used for the DvP settlement of securities, the review of CSDR should aim to clarify the requirements linked to DvP settlement in central bank money and commercial bank money related to cash tokens.

Settlement internalisers (Strong concern)
Under the Pilot Regime proposal, DLT MTFs can obtain an exemption from Article 3 (2) of the CSDR. Consequently, they can perform CSD services (such as securities settlement) without being licensed as a CSD. Since only a duly

licensed CSD can operate a SSS as designated in accordance with the SFD, the settlement system of such DLT MTF does not qualify as a SSS under the SFD. The DLT MTF is therefore a settlement internaliser. Given the legal consequences of such qualification under the SFD, regulatory confirmation would be appropriate.

Question 18.3 Other changes needed, either in CSDR or the delegated acts, to ensure that CSDR is technologically neutral and could enable and/or facilitate the use of DLT

"Segregation" under Article 38 of CSDR (Strong concern)
Clarification as to the steps a CSD would be required to take in order to satisfy segregation requirements would be beneficial. Specifically, how that requirement can be satisfied in the context of DLT Addresses would be welcome.
Proposal: The segregation requirement requires the CSD to keep records and accounts so that it may be able to identify at any time assets that belong to a particular client, distinct from another client's assets or from the CSD's own assets. To the extent segregated records are maintained on the DLT platform to enable such identification, this requirement should be capable of being satisfied. It would however be helpful if this view could be confirmed by the regulator.

"Omnibus account" under Article 38 of CSDR (Strong concern)
Clarification as to the characteristics of an "omnibus account" in relation to DLT Addresses would be welcome.
Proposal: Some guidance can be included in the recitals or in formal guidance on the key characteristics and requirements for an "omnibus account". For instance, if the DLT platform allows tokens of different clients to be recorded to a single DLT Address, but each Token is also identifiable on the platform (i.e. the CSD's records) as belonging to a particular client, would this constitute an "omnibus account" within the meaning of this provision?

"Operational reliability and resilience" under Article 45 (2) of CSDR (Rather a concern)
To be clarified whether the operator of the settlement functionality of a DLT platform would have to ensure that the smart contract overlaid onto the blockchain is "bug" free and sufficiently precise to achieve the purposes of that smart contract. The operator's liability for such role must be clarified as well.

Question 20. Would you see any particular issue (legal, operational, technical) with applying the current rules in a DLT environment?

Rules on settlement periods (Not a concern)
T+2 settlement period comes mostly from market practice (for liquidity/clearing purposes) rather than from technological limitations linked to CSDs. Technically, CSDs could operate on a T+0 with their existing technology in a similar way as DLT. For this reason, we do not see why settlement periods should differ based on the technology used. Having different rules on settlement period for DLT would also go against the technology neutrality principle.

Rules on measures to prevent settlement fails (Not a concern)

Organisational requirements for CSDs (Not a concern)

Rules on outsourcing of services or activities to a third party (Rather a concern)
Outsourcing under Article 30 of CSDR: Clarification of the circumstances in which entities involved in the validation process give rise to an "outsourcing" for the purposes of Article 30 of the CSDR would be welcome.
Proposals:
- In our opinion, so long as a CSD is the only node able to validate a transaction on the DLT platform, the mere (real-time) sharing of data with the participants, and the validation of changes to that data (for example, recording any transfer of tokens on the platform) which results in the local copies of the data structure on each

participant's node being updated automatically in real time (the so-called "distributed record" model), should not of itself result in or be seen as the CSD outsourcing its obligations in respect of the platform it operates (assuming the validation and recording of transactions on the platform remains exclusively the power of the CSD). This view should be confirmed by the regulator.
- As opposed to the "distributed record" model, the "distributed validation" model consists of the participants in the network (or a subset of them) running validator nodes that share the function of validating transfers and maintaining the ledger, in accordance with the system protocol, with controls built in at the level of the central operator (CSD). It has to be clarified how the CSDR outsourcing requirements would apply to this model. Is this the outsourcing of a core service? A key drawback of the outsourcing approach is that it would not really reflect the practical realities. Distribution is not the same as a typical outsourcing arrangement. Outsourcing suggests the service provider is structurally subordinated to the operator while distribution involves the operator and the other participants mutually performing a function for and to each other. As a result, the concepts and obligations under the existing regulatory framework may not naturally sit well. For example: (i) outsourcing is not allowed to prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those functions, but it is difficult to see how this should be applied in practice; (ii) under the outsourcing regime, the CSD would maintain full regulatory responsibility. This again emphasizes that an appropriate liability framework is required to allocate liability between the system operator and the validator nodes, so as not to expose the system operator to excessive liability risk.

Rules on communication procedures with market participants and other market infrastructures (Strong concern)
Definition of "international open communication procedures and standards" under Article 35: Clarification of what is meant by "internationally accepted standards for communication procedures" would be beneficial (for example, whether DLT-based real-time data-sharing with nodes would satisfy this requirement in the CSDR).
Proposal: Clarification of recital 41 that DLT-based communication methods to share information on a real-time basis would satisfy this requirement. DLT is still developing and may be seen as not being "standardised" in that sense, in the absence of some guidance. Alternatively, the regulator could produce formal guidance (such as the ESMA Q&As) in this regard.

Rules on the protection of securities of participants and those of their clients (Rather not a concern)
See comment on "segregation" in question 18.3.

Rules regarding the integrity of the issue and appropriate reconciliation measures (Rather a concern)
"Reconciliation measures" under Article 37 (1): Confirmation that reconciliation can be satisfied through real-time data sharing on DLT would be beneficial.
Proposal: The reconciliation requirement requires "appropriate" measures to achieve a certain outcome. To the extent real-time data sharing achieves this specific outcome, this requirement should be capable of being satisfied without further steps to be taken. It would however be helpful if this view could be confirmed by the regulator.

Rules on cash settlement (Strong concern)
See question 18.1 "DvP" considerations.
As mentioned above, if settlement is not done in central bank money (CBDC), it is unclear how the current CSDR requirements for the provision of banking-type of ancillary services and settlement in commercial bank money would apply to asset-referenced tokens or e-money tokens which are used as settlement asset. Indeed, the settlement asset should carry as little credit or liquidity risk as possible. As it will be crucial for the development of DLT that a tokenized form of cash (CBDCs or asset-referenced tokens/e-money tokens) can be used for the DvP settlement of securities, the review of CSDR should aim to clarify the requirements linked to DvP settlement in central bank money and commercial bank money related to cash tokens.

Rules on requirements for participation (Not a concern)

Rules on requirements for CSD links (Not a concern)

Rules on access between CSDs and access between a CSD and another market infrastructure (Not a concern)

Rules on legal risks, in particular as regards enforceability (Rather not a concern)
Requirements are clear and should also be complied with in a DLT context. However, we believe EU authorities should clarify to what extent the existing legal framework is applicable to transactions in securities tokens on DLT. That should do away with the lack of legal certainty in many EU jurisdictions, which makes it a challenge for a CSD to comply with the CSDR requirement to design its rules, procedures and contracts in such a way that they are enforceable in all relevant jurisdictions (including in the case of the default of a participant). The clarifications in CSDR mentioned above would be a first step, together with the proposed amendment of the definition of financial instruments in MiFID.