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Final Report

draft RTS amending Commission Delegated Regulation (RTS) 153/2013 in relation to public guarantees, public bank guarantees and commercial bank guarantees as collateral and in relation to certain aspects of investment policy and highly secure arrangements for the deposit of financial instruments.

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1 Executive Summary

Reasons for publication

Following the energy crisis of 2022, ESMA amended, upon request from the European Commission, Commission Delegated Regulation 153/2013 (RTS 153/2013) to extend on a temporary and targeted manner the type of CCP acceptable collateral. This included an extension to public guarantees and uncollateralised commercial bank guarantees for non-financial clearing members.

EMIR 3 amended Article 46 to permanently broaden both the type of eligible guarantees and the scope of who may use them. First, the text now explicitly recognises public bank guarantees alongside public guarantees and commercial bank guarantees as eligible collateral, provided they meet strict conditions on enforceability and liquidity. Second, the reform removes the limitation that only clearing members which are non-financial counterparties (NFCs) could benefit from this flexibility. After EMIR 3, all NFCs, whether they are clearing members or clients of clearing members, can use uncollateralised public and commercial bank guarantees as collateral.

ESMA's mandate in Article 46 of EMIR has been renewed and requires ESMA to develop draft RTS to specify the relevant conditions under which public guarantees, public bank guarantees and commercial bank guarantees may be accepted as collateral under paragraph 1, including appropriate concentration limits, credit quality requirements and stringent wrong-way risk requirements for public bank guarantees and commercial bank guarantees. ESMA is planning to fulfil this mandate through an amendment to RTS 153/2013.

In addition, while EMIR 3 has not amended Article 47 of EMIR on 'Investment Policy', ESMA would nevertheless also like to propose a couple of targeted changes to the provisions set out in RTS 153/2013 that have been adopted under the mandate under Article 47(8) of EMIR. These targeted changes concern (i) the conditions under which debt instruments can be considered highly liquid, bearing minimal credit and market risk and hence can be considered as eligible financial instruments for the purpose of CCP investment policy; and (ii) the highly secured arrangements in which financial instruments posted as margins or as default fund contributions can be deposited.

ESMA published a Consultation Paper with draft RTS on 23 February 2026. The consultation ended on 30 April 2026. ESMA also held a public hearing on the consultation Paper on 23 April 2026.

Contents

This Final Report presents the draft RTS prepared by ESMA. Section 3 explains the background to our proposals; Sections 4 to 6 set out our proposals in relation to the conditions for the acceptance of public guarantees and bank guarantees by CCPs; Section 7 provides our proposals in relation to investment policy. Finally, Section 8 contains all the relevant annexes (Annex I provides the legislative mandate for the development of this draft RTS; Annex II provides the cost-benefit analysis; Annex III contains the Draft RTS amending Commission Delegated Regulation (EU) No 153/.

Next Steps

ESMA will submit the Final Report and draft RTS to the European Commission. The European Commission has three months to decide whether to adopt the RTS (in the form of a Commission Delegated Regulation). Following the adoption, the RTS are then subject to non-objection by the European Parliament and the Council.

2 Legislative references and abbreviations

BIS	Bank for International Settlements
CCP	Central counterparty
CP	Consultation Paper
CRR	Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012
RTS 153/2013	Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties
EBA	European Banking Authority
EC	European Commission
EMIR	Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories
EMIR 3	Regulation (EU) No 2024/2987 of the European Parliament and of the Council of 27 November 2024 amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets
ESCB	European System of Central Banks
ESMA	European Securities and Markets Authority
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC
ESRB	European Systemic Risk Board

ETS Directive	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC
EU	European Union
FC	Financial counterparty
IMF	International Monetary Fund
MiFID II	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU
NCA	National competent authority
NFC	Non-financial counterparty
RTS	Regulatory Technical Standards

3 Introduction

1. During the 2022 energy price crisis, the European Commission requested ESMA to look into possible emergency measures to address to the level of margins and of excessive volatility in energy derivatives markets and in this way alleviate the burden on non-financial counterparties (NFCs).

2. ESMA adopted on 14 October 2022 a Final Report revising its regulatory technical standards (RTS) 153/2013 to temporarily expand the pool of eligible collateral to uncollateralised bank guarantees for NFCs acting as clearing members and to public guarantees for all types of counterparties. This change to RTS 153/2013 was temporary and targeted to "ensure the smooth functioning of the Union financial and energy markets" during heightened volatility, while preserving CCP soundness by requiring CCPs to set minimum collateralisation standards for accepted guarantees and to reflect guarantor exposures in their overall exposure calculations.

3. The temporary measure proposed in October 2022 was further extended in 2023 with a new amendment to RTS 153/2013 which did not reshape the longer-term regime; instead, it prevented a legal gap from opening between the expiry of the 2022 emergency measures and the full entry into force of the EMIR 3 regime (which provides for a permanent re-design of collateral eligibility). Because the 2022 measures (especially acceptance of certain guarantees) were due to expire at the end of November 2023, the 2023 amendment ensured continuity of the relief until September 2024, maintaining that NFCs (especially energy firms) did not suddenly lose access to collateral flexibility before the new EMIR framework was in place.

4. The text of the expired measure allowed for the acceptance by CCPs of uncollateralised bank guarantees in respect of wholesale energy products as defined in REMIT. Furthermore, it provided the conditions for public guarantees to be used as collateral under Article 46(1) of EMIR, including the issuer of the guarantee, the obligation for the CCP to demonstrate that it has low credit risk based upon an internal assessment, the allowed currencies, the legal characteristics of the guarantee (irrevocable, unconditional and the issuing and guaranteeing entities cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee) and the conditions for its execution (honoured within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint or any third party claim on it).

5. EMIR 3 amended Article 46 to broaden what EU CCPs may accept as "highly liquid collateral". The core change permits CCPs, subject to strict conditions, to accept public guarantees, public bank guarantees and commercial bank guarantees (including,

where specified, uncollateralised bank guarantees) as eligible collateral, provided those guarantees are unconditionally available on request within the CCP's liquidation period and the CCP captures the credit exposure to the guarantor in its risk and concentration management. Public guarantees are guarantees issued by a central government, a regional governments or local authorities, the European Financial Stability Facility, the European Stability Mechanism, the European Union or a multilateral development bank; while bank guarantees are those issued by credit institutions which may be commercial banks or public banks.

6. The new Article 46 does not restrict the acceptance of these guarantees to wholesale energy market. Furthermore, it does not limit the use of these guarantees only to NFC that are clearing members. Under EMIR 3, NFCs that are clients of clearing members can also use these guarantees as collateral. This change extends the liquidity relief further down the clearing chain, ensuring that smaller energy firms and other NFCs that clear indirectly are not excluded from the collateral framework.

7. ESMA needs to define permanently the conditions for the new guarantees which can be accepted by CCPs as collateral in application of the new Article 46 of EMIR. The new mandate requires ESMA to define the relevant conditions under which these types of guarantees may be accepted as collateral, including appropriate concentration limits, credit quality requirements and stringent wrong-way risk requirements.

8. The first amendment to RTS 153/2013 that will be required is to include public guarantees permanently in Article 39 of that RTS. After that, a number of conditions are being specified for the guarantees that CCP may accept in accordance with the new drafting of Article 46 of EMIR.

9. The sections 4 to 6 of this consultation paper present ESMA's initial proposal in relation to the conditions applicable to the three different types of guarantees at stake as well as an assessment of the feedback received during a public consultation that took place from 22 February to 30 April 2026.

10. In addition, while EMIR 3 has not amended Article 47 of EMIR on 'Investment Policy', ESMA is nevertheless proposing a couple of targeted updates to some of the provisions set out in RTS 153/2013 that have been adopted pursuant to ESMA's mandate under Article 47(8) of EMIR. As the co-legislators have not introduced, via EMIR 3, any changes to Article 47 of EMIR or to ESMA's mandate for the RTS under Article 47(8) of EMIR, those updates are strictly limited to what ESMA considers as necessary in light of recent developments (in particular due to the recent issuances by the EU of funding instruments (such as EU-bonds, EU-bills, NextGenerationEU Green Bonds and SURE social bonds) under the unified funding approach and due to the classification of emission allowances as financial instruments).

11. These targeted updates concern (i) the conditions under which debt instruments can be considered highly liquid, bearing minimal credit and market risk and hence can be considered as eligible financial instruments for the purpose of CCP investment policy (Article 47(1) of EMIR); and (ii) the highly secured arrangements in which financial instruments posted as margins or as default fund contributions can be deposited (Article 47(3) of EMIR). ESMA's final proposals in relation to these topics are set out in Section 7 of this Final Report.

4 Common conditions for the use of all guarantees

4.1 Concentration limits

12. EMIR requires ESMA to look specifically at concentration limits. Currently, Article 42 of RTS 153/2013 outlines the requirements for CCPs regarding concentration limits on collateral. CCPs are required, among others, to set concentration limits across various dimensions, including individual issuers, types of issuers and assets, and exposures to individual and all clearing members. These limits must be conservatively determined, considering factors such as the similarity of issuers by sector or geography, the credit risk of instruments or issuers based on internal assessments, and the liquidity and price volatility of the instruments.

13. A specific restriction is imposed whereby no more than 10% of a CCP's collateral may be guaranteed by a single credit institution or its group entities, unless commercial bank guarantees exceed 50% of total collateral, in which case the limit may be raised to 25%.

ESMA initial proposal

14. For the sake of legal certainty, ESMA considers it necessary to amend the wording of Article 42 of RTS 153/2013 so that there is clarity on the application of concentration limits to guarantees. However, ESMA does not consider it necessary to prescribe specific concentration limits. In this regard, the same rationale as that applied when ESMA first developed RTS 153/2013 would apply now, i.e. concentration limits directly prescribed in the RTS would not be sufficiently flexible to deal with risks or developments which arise or are identified in the future.

15. Furthermore, to ensure that the risk profile of guarantees is taken into account by the CCP when establishing concentration limits, it is necessary in ESMA's view to add a point (d) to the third paragraph of Article 42, specifically requiring CCPs to consider the level collateralisation of the guarantee when establishing concentration limits.

16. Finally, taking into consideration that non-financial clients can post these guarantees as collateral, CCPs may also consider whether the underlying activity of the non-financial client justifies the use of this collateral. This might be particularly relevant in the case of commodities markets, where some of the non-financial clients might have hedging positions which correspond to their physical activity, but they may need to use public or bank guarantees, because they do not have more liquid assets. For this reason, ESMA proposed a subparagraph (e) in paragraph three of Article 42, allowing the CCP to take into consideration the activity of the non-financial client, when and if communicated by the clearing member, when setting concentration limits.

Feedback from respondents

17. A broad range of respondents across different categories supported ESMA's approach to clarify that the existing concentration limit framework under Article 42 of RTS 153/2013 applies to guarantees accepted as collateral. Respondents generally considered that, since guarantees create exposure to the guarantor, their acceptance should be accompanied by a robust concentration risk framework consistent with EMIR risk-based approach and aimed at limiting issuer concentration, correlation and contagion risks.

18. While supporting this clarification, respondents raised several implementation points. First, a number of respondents across segments questioned the prudential rationale of the existing mechanism under which the single-issuer concentration limit may increase once guarantees exceed a specified share of total collateral, arguing that greater reliance on guarantees would typically warrant more conservative (not higher) issuer concentration thresholds. Second, several respondents called for greater clarity on the interpretation of "total collateral" for concentration limit purposes, noting that ambiguity could lead to inconsistent application across CCPs. Third, respondents highlighted the importance of transparency and governance around the calibration of concentration limits for guarantees. In this context, some respondents suggested strengthening governance arrangements (including risk committee involvement), clarifying CCP-level expectations on aggregate reliance on guarantees, and ensuring stress testing appropriately captures guarantor default risk and operational ability to draw on guarantees. Some respondents also noted the need to differentiate, where appropriate, across different types of guarantees (e.g., public vs commercial) and to preserve a principles-based, risk-sensitive approach allowing CCPs to calibrate limits proportionately and consistently.

19. Respondents expressed mixed views on whether the "level of collateralisation" of a guarantee should be explicitly included as a criterion for calibrating concentration limits. Several respondents across segments agreed that collateralisation (if any) can be a relevant risk indicator, particularly because uncollateralised guarantees increase

reliance on the issuer's creditworthiness and operational performance. However, respondents supporting the criterion typically stressed that collateralisation should form only one element of a holistic risk assessment and should not substitute for other key considerations such as enforceability, wrong-way risk and liquidity risk.

20. By contrast, several clients (particularly from energy and commodity markets) expressed concerns that explicitly referencing collateralisation could create ambiguity and be interpreted as implicitly favouring collateralised structures, thereby discouraging the practical use of uncollateralised guarantees. These respondents emphasised that the core assessment should focus on the credit quality and enforceability of the guarantee rather than collateralisation, and warned that prescriptive or biased treatment could undermine the policy objective of facilitating collateral diversification and easing liquidity pressures for non-financial counterparties. Some respondents also pointed to the need for a clear definition of "level of collateralisation" to avoid heterogeneous implementation.

21. Respondents broadly supported allowing CCPs to consider the underlying activity of the non-financial client when calibrating concentration limits, viewing this as a proportionate and risk-sensitive factor that can better reflect the economic nature of hedging-driven activity, particularly in commodity and energy markets. Many client respondents stressed that this criterion would help distinguish between operational hedging and speculative activity and could reduce unintended liquidity impacts on fundamentally sound non-financial entities that may lack large pools of highly liquid financial assets. CCP respondents similarly considered that sector-level information can help identify correlated exposures and concentration risks at CCP level, provided the approach remains risk-based and operationally feasible.

22. At the same time, respondents emphasised that the criterion should be implemented in a way that avoids creating new client-level due-diligence or information burdens and does not duplicate clearing members' existing controls. Several respondents highlighted that application should be based, where possible, on information already available to CCPs or high-level classifications communicated through the clearing chain, and that effective communication between clients, clearing members and CCPs would be important for operationalisation. A minority view questioned the need for this criterion, arguing it could duplicate clearing member due diligence and introduce complexity without clear benefits.

ESMA assessment of feedback

23. Regarding the concerns raised by some clearing members in relation to the possibility to increase the single issuer concentration limit to 25% when 50% of collateral is in the form of commercial bank guarantees, ESMA is of the view that this flexibility is needed

in case of smaller markets such as some local energy markets. Any potential higher risk that this increase in the concentration limit could imply should be appropriately managed by other conditions applicable to the acceptance of this type of collateral, such as the credit assessment of the guarantor and other legal and operational conditions proposed in the amending RTS. However, ESMA is conscious of the importance of robust concentration limits and agrees that these limits should be duly monitored as part of supervisory activities.

24. Regarding the suggestions from some clearing members to strengthen the governance framework around guarantees accepted as collateral, ESMA is of the view that the proposed framework is considered sufficiently robust and includes sufficient parameters to set concentration limits, while leaving some adequate discretion to CCPs. ESMA agrees with respondents on the need for a principles-based, risk-sensitive approach allowing CCPs to calibrate limits proportionately and consistently. Furthermore, the proposed amending RTS requires guarantees to be legally and operationally available in the period of risk. Additional proposals aimed at requiring CCPs to seek advice from their risk committee, define a limit on the proportion of their total collateral from uncollateralised guarantees or test the capacity to draw on the guarantee on a yearly basis would seem disproportionate.

25. A number of respondents have also suggested that providing a definition of “total collateral” would improve clarity and supervisory convergence. ESMA is however of the view that, given the regulatory text, this seems simply described as total CCP collateral and there is no further distinction related to required vs excess, only margin collateral, or divisions by business line or any other specific situation. Therefore, this does not need to be further clarified as any attempt to further specify this could also have unintended consequences.

26. Several respondents raised concerns on ESMA’s proposal to have the level of collateralisation as a criteria for concentration limits. Level 1 allows CCPs to accept fully uncollateralised bank guarantees, without obliging them to do it. Therefore, it is important, in cases where the CCPs accept this type of guarantees, to take into consideration the level of collateralisation when setting concentration limits, as the risks differ from collateralised to uncollateralised bank guarantees. This, however, should not be taken as an incentive to accept only collateralised bank guarantees. ESMA therefore suggests keeping its original proposal.

27. Given the general agreement with ESMA’s proposal for CCPs to be able to consider where relevant the underlying activity of NFC clients, ESMA is confirming it in its final RTS.

ESMA initial proposal

28. Currently, Article 46 of EMIR requires CCPs to take into account public bank guarantees or commercial bank guarantees when calculating its exposure to the bank, that is also a clearing member, issuing them. Hence, the risk from guarantees contributed by Clearing Members is well controlled by the stress test framework, as it is a precise calculation that ensures the core risk mechanism, the Cover-2 Default Fund buffer. However, this does not include guarantees issued by banks which are not clearing member, to which the CCP would not compute the risk in the context of stress tests. Article 42(4) of RTS 153/2013 sets out a concentration limit of 10% of total collateral per financial entity, which may go up to 25%. This limit can still become material depending on how the collateral is distributed and how concentrated it is across clearing members.

29. In its public consultation, ESMA requested views from respondents on whether a specific limit should be established for guarantees provided by non-clearing members so that an addition safeguard is incorporated in the framework.

Feedback from respondents

30. Views were divided on whether specific concentration limits should be introduced for guarantees provided by non-clearing members. While respondents broadly agreed that concentration risks associated with such guarantees need to be appropriately managed, they expressed differing views on whether this requires prescriptive regulatory limits or can be adequately addressed within CCP-led, risk-based frameworks.

31. Several respondents, including a CCP and some clearing members, supported the introduction of specific concentration limits. These respondents emphasised that exposures to non-clearing-member guarantors are not fully captured in CCP stress testing frameworks and argued that, in the absence of explicit limits, material concentrations could build up without adequate safeguards. They considered that specific limits would provide a prudential backstop and enhance the robustness and consistency of CCP risk management.

32. By contrast, a majority of client, together with some CCPs and other associations, did not support the introduction of prescriptive EU-level limits. These respondents argued that CCPs already manage such exposures through internal credit assessments, concentration monitoring and governance arrangements, and that rigid thresholds may be insufficiently risk-sensitive. They also warned that prescriptive limits could reduce the availability of guarantees or increase their cost, particularly where non-clearing-member banks play an important role in providing liquidity to non-financial

counterparties. In their view, a principles-based approach allowing CCPs to calibrate limits in a risk-sensitive manner would better reflect market realities.

33. Some respondents expressed intermediate views, supporting the need to manage concentration risks and recognising the limitations of stress-testing coverage, while favouring flexible approaches whereby CCPs retain discretion to set appropriate limits, potentially complemented by supervisory expectations or additional safeguards where needed.

ESMA assessment of feedback

34. ESMA has considered arguments both in favour of, and against, the introduction of specific concentration limits for bank guarantees provided by non-clearing members. Some feedback confirmed the potential vulnerability arising from the fact that exposures to guarantors are not explicitly captured within the Cover-2 stress testing framework.

35. At the same time, ESMA recalls that the Level 1 framework does not allow going beyond a cover-2 clearing member approach. ESMA also notes that this risk is mitigated by existing safeguards, notably the requirement that guarantors are of low credit risk, the application of concentration limits, and the operational characteristics attached to guarantees (e.g. unconditionality, legal certainty and timely enforceability).

36. In light of these elements, ESMA considers that, within the current legal framework, the identified concern cannot be fully addressed through additional stress testing requirements. The issue could nevertheless be revisited in the context of any future Level 1 review.

4.2 Use of guarantees by non-financial clients

37. Article 46(1) of EMIR, as amended by EMIR 3, introduces the possibility for CCPs to accept public guarantees, public bank guarantees, or commercial bank guarantees to cover initial and ongoing exposures not only to its clearing members that are non-financial counterparties, but also to clients of clearing members, provided those clients are non-financial counterparties. This is not an obligation for CCPs to accept this type of collateral but a possibility.

38. It could be argued that, by definition, the CCP does not have initial and ongoing exposures to clients. The CCP has exposures to clearing members and the clearing members to the CCP and to its clients. Therefore, reading the third subparagraph of

Article 46(1) in isolation could lead to confusion as to the objective of the provision. However, recital 55 of EMIR 3 makes it clear that the objective of this new provision is to "*facilitate access to clearing by non-financial entities that do not hold sufficient amounts of highly liquid assets*". On this basis, reading Article 46(1) together with Recital 55, the CCP may accept a guarantee for which the "principal" (the entity who has requested the guarantee) is a client of the clearing member. This means that, if the CCP accepts this guarantee, the guarantee would be issued at the request of the client and would be posted as collateral to the CCP by the clearing member to cover the CCP exposure flowing from the client's position. This represents a significant extension from the previous drafting of Article 46 of EMIR which limited the use of such guarantees to cover exposures to clearing members only.

ESMA initial proposal

39. In the public consultation document published in February 2026, ESMA presented its understanding of the functioning of bank guarantees for which the principal is the non-financial client. In doing this, ESMA took into consideration the new EMIR applicable framework and in particular the limitation in Article 46 of EMIR which requires that when a CCP accepts bank guarantees as collateral, these guarantees can only cover exposures to its clearing members and to clients which are NFCs. ESMA considered as well the fact that CCPs usually do not have a direct contractual relationship with clients (except for direct participation models). Therefore, if a guarantees is to be executed by the CCP and it can only cover exposures of non-financial clients which whom the CCP do not have a direct relationship, this means that there should be a flow of information allowing the CCP to be aware of the default of a client requiring the execution of the guarantee, but also and more importantly the CCP should be able to link the guarantee to that specific non-financial client so that the guarantee is not used to cover defaults of the clearing member or of other clients.

Feedback from respondents

40. A broad range of respondents agreed with ESMA's objective of clarifying the functioning of guarantees provided for non-financial clients. However, many respondents across all market segments considered that ESMA's description does not reflect how such guarantees should operate in practice, in particular as regards their usability in client default scenarios.

41. A significant number of respondents argued that limiting the execution of guarantees solely to situations where the clearing member defaults vis-à-vis the CCP would materially undermine their effectiveness. These respondents stressed that, under the principal-to-principal clearing model, clearing members remain responsible for managing client defaults and must have access to collateral posted by clients. In their

view, if guarantees cannot be relied upon in the event of a client default, they would not reduce the clearing member's exposure and would therefore not be accepted as viable collateral, potentially resulting in duplicative collateralisation.

42. In this context, many respondents emphasised the importance of ensuring that guarantees can mitigate risk both at CCP level and at clearing-member level. Several respondents supported arrangements allowing clearing members to benefit from guarantees in client default scenarios, for example through dual-beneficiary structures or equivalent mechanisms, while ensuring that the CCP retains primary protection in clearing member default scenarios. This would avoid that clearing members demand further collateral in relation to a guarantee that would not protect their exposure to their client. Respondents generally favoured a principles-based approach allowing flexibility in legal and operational structures rather than relying on a single prescribed mechanism.

43. Respondents also highlighted the importance of legal and operational features ensuring the effectiveness of guarantees, in particular their enforceability, clarity of beneficiary arrangements, and ability to be called in a timely and reliable manner. Instruments that are unconditional, irrevocable and payable on demand were widely considered more suitable for CCP collateral purposes. Several respondents also referred to the need to take into account existing market practices, including the widespread use of letters of credit and similar instruments.

44. At the same time, a smaller number of respondents broadly agreed with ESMA's description or supported aspects of it, while suggesting clarifications to better reflect variations in clearing models or legal frameworks.

45. Overall, respondents called for ESMA's description to better reflect market practice and to ensure that guarantees remain operationally workable and effective as collateral, while preserving robust risk management and legal certainty.

46. Several respondents, in particular from clearing members, highlighted that instruments with the characteristics of letters of credit may provide a more robust framework for CCP collateral purposes than traditional bank guarantees. These respondents emphasised that letters of credit typically constitute autonomous, irrevocable and on-demand payment obligations, which are not contingent on proving default or loss and can be honoured promptly. In their view, such features significantly reduce legal uncertainty, execution risk and reliance on underlying contractual relationships, thereby enhancing the effectiveness of guarantees in stress scenarios. Some clients also referred to the widespread use of letters of credit and standby letters of credit in commodity markets under internationally recognised frameworks, noting their operational reliability and alignment with existing market practice.

ESMA assessment of feedback

47. ESMA has taken note of the views expressed by respondents on how the guarantees posted as collateral should work, in particular views expressed in favour of considering different clearing models as well as the possibility to have two beneficiaries, so that clearing members can also execute the guarantee if needed. This is further discussed under Qs 6 to 9.

48. Respondents have also suggested that other instruments, in particular letters of credit, may be more appropriate than traditional bank guarantees for use as collateral, notably due to their operational and legal characteristics. ESMA notes, however, that its mandate under Article 46(3)(c) of EMIR explicitly requires it to specify the conditions under which public guarantees, public bank guarantees and commercial bank guarantees may be accepted as collateral. At the same time, EMIR does not provide a legal definition of "bank guarantee". In this context, ESMA considers that, independently of the specific terminology used to describe the contractual arrangement through which a credit institution provides a liquidity commitment in support of a client, the key consideration is whether such arrangements meet the risk management and operational conditions required under the proposed RTS. In particular, ESMA's focus is on ensuring that such instruments provide sufficient legal certainty, enforceability and timeliness of execution so that the risks associated with this type of collateral are appropriately managed, in line with the conditions set out in this final report..

Conditions applicable to guarantees for which the applicant is a client of a clearing member

ESMA initial proposal

49. In accordance with the elements underpinning the functioning of the guarantee that ESMA has previously described, ESMA suggested that the following specific conditions should apply to the use of guarantees to cover positions from non-financial clients of clearing members:

a) The guarantee must be issued to guarantee a non-financial client, clearly identifying this client;
b) The beneficiary of the guarantee should be the CCP. The guarantee may provide, under conditions to be defined by the CCP, the possibility of transfer of the beneficiary from the CCP to the clearing member of the client. This transfer clause can provide certain flexibility to the CCP and the clearing member and might be necessary when the client exits the market or the clearing member wants to assume direct control of the guarantee;
c) The guarantee must be posted to an individually segregated account at the name of the non-financial client who is the principal in the guarantee. This would allow to clearly link the guarantee to the positions of the client. This individually segregated account would also allow to identify the collateral of the client in case the clearing member defaults and the positions of its clients have to be transferred to another clearing member.
d) The guarantee should not be issued by an entity that is part of the same group as the non-financial clearing member or the non-financial client covered by the guarantee; nor, the clearing member of the non-financial client covered by the guarantee.

Feedback from respondents

50. Respondents broadly supported ESMA's objective of specifying conditions for the acceptance of guarantees where the applicant is a non-financial client of a clearing member, and generally agreed that clear client identification, robust enforceability and appropriate issuer eligibility are necessary safeguards. Many respondents emphasised that guarantees must remain practically usable while ensuring legal certainty and effective risk management.

51. A key point of divergence concerned the proposed beneficiary structure. Many respondents across CCPs, clearing members and clients argued that a framework in which the CCP is the sole beneficiary risks being unworkable in practice, because clearing members remain responsible for managing client defaults under the principal-to-principal model and must be able to benefit from the guarantee in client default scenarios. These respondents therefore supported requiring dual-beneficiary arrangements or mandatory beneficiary transfer mechanisms (or equivalent structures) to ensure the guarantee effectively reduces the clearing member's exposure and can be relied upon in client default management. Other respondents stressed the importance of the CCP being protected as primary beneficiary, in particular to avoid legal uncertainty in clearing member default scenarios.

52. Views also diverged on the requirement to post guarantees to individually segregated accounts. While some respondents supported individual segregation as enhancing attribution, portability and legal clarity, a larger group of respondents considered an ISA-only requirement overly restrictive and potentially incompatible with common clearing models (including for certain third-country participants). These respondents supported allowing certain omnibus structures (e.g., gross omnibus) provided robust client-to-guarantee attribution and record-keeping are ensured.

53. Most respondents supported limiting guarantees to appropriately regulated issuers and avoiding intra-group issuance, though several called for proportionality and clarity regarding the treatment of third-country institutions, including whether and how equivalence and enforceability safeguards should apply.

54. Some respondents, particularly clearing members, emphasised that eligible guarantees should be interpreted as encompassing instruments that exhibit the key characteristics of letters of credit, namely autonomy, irrevocability, unconditionality and on-demand payment. These respondents argued that such features are essential to ensure that guarantees function as effective risk-mitigation tools, particularly in client-default scenarios, and that instruments lacking these characteristics may not provide sufficient certainty of timely execution. In this context, they suggested that the RTS should focus on the substantive legal and operational characteristics of the instrument rather than its formal classification, thereby allowing the use of letters of credit or equivalent instruments where they meet the required conditions.

55. A broad majority of respondents did not support mandating CCPs to implement an internal mechanism to identify the default of a non-financial client. CCPs, some clearing members and some clients, emphasised that under the principal-to-principal clearing model the clearing member is responsible for monitoring and managing client defaults and is the party with the necessary contractual relationship and real-time information to perform this function. They argued that imposing a CCP-level detection mechanism would duplicate existing processes, introduce unnecessary operational complexity, and be misaligned with the established clearing architecture, particularly since CCP risk exposure materialises primarily through the clearing member.

56. Some respondents nonetheless considered that rapid information flows around client default events could be beneficial for operational coordination, for example to inform CCP decision-making on whether a guarantee should be called by the CCP or left to the clearing member where the CCP is fully covered. Overall, respondents favoured preserving the existing allocation of responsibilities, while ensuring that client-to-guarantee attribution and notification arrangements support effective execution when needed.

DRAFT ESMA assessment of feedback – for discussion

57. The responses to the public consultation, corroborated by subsequent discussions with industry stakeholders, show a near-unanimous view that, in a principal-to-principal clearing model, guarantees should be structured in a way that allows the clearing member to benefit from the instrument. Respondents consistently indicated that restricting guarantees to a single beneficiary would be overly limiting and could significantly reduce the willingness of clearing members to accept guarantees from their clients, thereby undermining their practical usability. Many respondents have also highlighted that the possibility to include a transfer clause proposed in ESMA's initial proposal is an indirect way of achieving the same result of a double-beneficiary structure, although more burdensome.

58. Against this background, while at the same time taking into consideration Article 46 of EMIR which requires the guarantee to be unconditionally available upon request, ESMA considers that the beneficiary structure of guarantees should be operationally workable and underpinned by clear and robust legal and procedural arrangements, ensuring that the CCP's ability to execute the guarantee is fully preserved. To reflect this feedback, ESMA has amended its initial proposal to allow CCPs to accept guarantees for which the CCP is the beneficiary and once the claim of the CCP is fully satisfied, if any, the clearing member might benefit from that guarantee. This flexibility respects the CCP's ability to call and execute the guarantee when necessary for default management purposes, in line with Article 46 of EMIR.

59. ESMA has taken note of respondents' views regarding its initial proposal to mandate the use of individually segregated accounts for guarantees posted as collateral. In light of the concerns raised by a majority of respondents, including during ESMA's public hearing, in particular as regards operational complexity and potential restrictions on the usability of guarantees, ESMA has decided not to prescribe the type of account in which such guarantees should be held. At the same time, ESMA considers it essential to maintain the underlying principle set out in Article 46 of EMIR, namely that guarantees can be used only to cover exposures of non-financial clients. Accordingly, irrespective of the account structure used, CCPs should be able to demonstrate that legal and operational arrangements ensure the clear identification of the client for which the guarantee has been issued and prevent any commingling with collateral from financial clients or use of such guarantees to cover exposures of financial clients or financial clearing members..

60. Finally, with regard to the exchange of information on client default events between clearing members and CCPs, ESMA considers it appropriate to preserve the existing allocation of responsibilities under the principal-to-principal clearing model, whereby clearing members remain responsible for identifying and managing client defaults. At

the same time, ESMA acknowledges the importance of timely and reliable information flows to ensure the effective execution of guarantees where necessary.

61. ESMA therefore proposes to require CCPs to define, in their rules, policies and procedures, arrangements ensuring that client to guarantee attribution and notification mechanisms are in place. Such arrangements should enable the CCP to receive the relevant information in a timely manner and to ensure that guarantees can be executed effectively when needed, without duplicating existing processes or imposing unnecessary operational burdens on market participants.

5 Specific conditions for the use of public guarantees

ESMA initial proposal

62. The conditions for the use of public guarantees as collateral are largely detailed in Section 2a of the Annex I of RTS 153/2013. This section was included in the RTS 153/2013 as part of the emergency measures to alleviate the liquidity pressure on NFC during the 2022 energy crisis. Therefore, the conditions set forth therein are no longer applicable since these conditions were temporary.

63. ESMA sees the emergency measure as a good basis to build the conditions that should apply on a permanent basis when CCPs accept public guarantees as collateral. On top of changes included to ensure this type of guarantees can be used by non-financial clients (cf. section 3.2 of this consultation paper), the industry experience during the time the emergency measures were in place should also inform some potential adjustments to those conditions.

64. According to some industry feedback, the possibility to use public guarantees as collateral has had limited effect due, at least in part, to credit and liquidity risks issues linked to the type of guarantor. In order to make the framework more robust in this regard, some industry players suggest a number of additional conditions to limit the list of eligible public guarantors to guarantors for which a credit rating and financial data are available and that fulfil the conditions determined by the risk management framework of the CCP. ESMA understands the need for reliable financial data on which the CCPs can base their internal assessment of the guarantor and agrees with the need for the guarantor to respect the conditions determined by the risk management framework of the CCP accepting this type of collateral.

Feedback from respondents

65. A broad range of respondents supported ESMA's proposal to require that CCPs have access to credit ratings and reliable financial data on guarantors, considering this an essential component of prudent risk management. Respondents emphasised that such information is necessary for the assessment and ongoing monitoring of guarantor creditworthiness, particularly given the heterogeneity of guarantor types and the risks associated with guarantees that are not backed by cash. CCP and infrastructure respondents in particular highlighted that insufficient transparency on guarantors can create material challenges for assessing credit, liquidity and concentration risks, especially in the case of certain public entities.

66. At the same time, several client respondents and one industry association expressed reservations about making external credit ratings and comprehensive financial data mandatory in all cases. These respondents argued that some public guarantors, while not formally rated, may nonetheless be highly creditworthy, and warned that rigid requirements could reduce the pool of eligible guarantors, increase costs and limit the usability of guarantees for non-financial counterparties. They therefore favoured a more proportionate and flexible approach, allowing CCPs to rely on a broader range of information, including internal assessments and publicly available data.

67. Overall, respondents supported strengthening CCPs' access to relevant credit and financial information, while highlighting the need to ensure proportionality and to avoid unnecessarily restricting the availability of guarantors.

ESMA assessment of feedback

68. ESMA notes the broad support expressed by respondents for requiring CCPs to have access to credit ratings and reliable financial information on guarantors as part of prudent risk management and the ongoing assessment of guarantor creditworthiness. At the same time, some respondents highlighted the need for proportionality, noting that certain guarantors may not have external credit ratings despite being highly creditworthy.

69. In light of the feedback received, ESMA considers that the requirement remains appropriate but should be calibrated to ensure sufficient flexibility in practice. ESMA therefore maintains its initial proposal while clarifying that the assessment should include credit ratings or other publicly available financial information of the guarantor, where available.

ESMA initial proposal

70. From a liquidity risk perspective, ESMA has also been made aware of some challenges for CCPs when executing and liquidating public guarantees in a default scenario. Unlike commercial banks, public bodies generally lack access to real-time gross settlement systems such as T2 in the Eurozone, which CCPs rely on for immediate settlement. Consequently, public guarantors would need to depend on a payment agent integrated into the contractual framework. To ensure enforceability, the CCP would need a direct and executable claim against the payment agent backed by the public guarantee. ESMA understands the potential additional complexity due to the need for an intervention of a payment agent. However, this obligation for a public body to have access to real-time gross settlement such as T2 might be overly complex, resulting in a limitation of the number of potential public guarantors.

Feedback from respondents

71. Respondents broadly agreed with ESMA's assessment that the key consideration for public guarantees is the ability to ensure timely, final and reliable payment under stress conditions, rather than the specific payment infrastructure used. In this context, many respondents supported the view that requiring public guarantors to have direct access to real-time gross settlement systems such as T2 would be disproportionate and could unduly restrict the pool of eligible guarantors.

72. However, CCPs emphasised that direct access to real-time gross settlement systems provides a high degree of certainty in terms of payment timing and finality, and therefore significantly reduces operational and liquidity risks in default scenarios. These respondents highlighted that reliance on intermediaries or payment agents may introduce additional risks, particularly under stress, and considered that robust settlement arrangements are critical to ensure that guarantees can be effectively realised within the CCP's liquidation timeframe.

73. By contrast, clearing members and clients, stressed that equivalent levels of assurance can be achieved through alternative arrangements, provided that guarantees are legally enforceable and can be executed on demand without delay. These respondents emphasised that many otherwise creditworthy public guarantors do not have direct real-time gross settlement systems access and that introducing such a requirement could reduce market access and increase costs without proportionate benefits.

74. Some respondents adopted an intermediate position, recognising that direct real-time gross settlement systems access is highly desirable but supporting a flexible, risk-based approach whereby CCPs assess the adequacy of settlement arrangements, including through additional risk-mitigation measures where needed.

75. Overall, respondents supported ESMA's focus on ensuring timely and reliable payment under guarantees, while favouring flexibility in how this objective is achieved in practice.

ESMA assessment of feedback

76. ESMA notes the broad support expressed by respondents for focusing on the ability to ensure timely, final and reliable payment under stress conditions, rather than requiring direct access by public guarantors to real time gross settlement systems. Respondents generally considered that a mandatory requirement for direct access could be disproportionate and unnecessarily restrict the pool of eligible guarantors.

77. While some respondents highlighted the additional certainty provided by direct access to such systems, ESMA considers that the proposed approach appropriately balances robust risk management with proportionality and operational flexibility. ESMA therefore confirms its initial proposal.

ESMA initial proposal

78. Finally, it has been brought to the attention of ESMA that some legal risks in relation to public guarantees should be addressed. This is because, contrary to bank guarantees which are well-known and highly standardised instruments, the use of public guarantees is more recent and less standardised. Furthermore, the variety and complexity of the public sector legal frameworks make it necessary to find solutions to address any potential legal risk.

79. A possible solution to address these legal risks could be found in the use of legal opinions. A legal opinion could help the CCP to obtain confirmation of the legal compliance of guarantees issued by public bodies with some necessary requirements. These requirements might include:

80. The effective representation of the public guarantor, meaning that the persons executing the guarantee and any related agreements, such as those with a payment agent, have the proper authority and that the guarantor possesses the legal capacity to enter into such obligations within its statutory mandate.

81. The validity of the guarantee should also be assured, ensuring that the guarantee creates enforceable payment claims on first demand and that the choice of law and jurisdiction is recognised under the legal framework governing both the guarantor and the payment agent. Furthermore, the guarantee must not be subject to contestation, revocation, or any mechanism that could undermine its binding nature after execution.

82. Enforceability is also important. The CCP must be able to assert and enforce claims under the guarantee and any related payment agent agreement without restrictions such as waiting periods or special authorisations, and the agreed venue for enforcement must be legally recognised.

83. Therefore, before accepting a public guarantee as collateral, ESMA is of the view that the CCP should obtain an independent legal opinion confirming the enforceability and validity of the guarantee and any related payment agent agreement under the applicable law. This legal opinion should cover, at a minimum: (a) the capacity and authority of the public guarantor to issue the guarantee and enter into related agreements; (b) the legal validity of the guarantee and the recognition of the choice of law and jurisdiction; and (c) the enforceability of the CCP's rights under the guarantee and related agreements, including the absence of restrictions such as revocation rights, waiting periods, or special authorisations.

Feedback from respondents

84. A majority of respondents supported ESMA's proposal to require public guarantees to be accompanied by an independent legal opinion confirming the effective representation of the guarantor, the validity of the guarantee and its enforceability. Respondents from CCP, clearing members and some clients, considered that such a requirement is necessary to ensure legal certainty and robust risk management, given the diversity of legal frameworks governing public guarantors and the potential risks relating to capacity, enforceability and cross-border execution. In their view, a legal opinion provides assurance that the guarantee constitutes a valid and binding obligation that can be relied upon in default scenarios.

85. At the same time, several client respondents and one industry association expressed reservations about making legal opinions mandatory in all cases. These respondents argued that a systematic requirement could be disproportionate, particularly for guarantees issued by well-established public entities or sovereigns whose legal capacity is widely recognised. They warned that obtaining legal opinions could be costly and time-consuming, potentially limiting the availability of guarantees and undermining their usability for NFCs. They therefore favoured a more flexible or risk-based approach, whereby legal opinions would be required only where specific legal uncertainty arises.

86. Some respondents supporting the proposal also emphasised the need for proportionality in implementation, noting that overly prescriptive requirements as to the content or form of legal opinions could reduce their availability or lead to practical challenges in certain jurisdictions. Overall, respondents agreed on the importance of

ensuring legal certainty and enforceability, while differing on whether an independent legal opinion should be required in all cases or applied more flexibly.

ESMA assessment of feedback

87. ESMA notes the broad support expressed by respondents for requiring public guarantees to be accompanied by an independent legal opinion confirming the effective representation of the guarantor, as well as the validity and enforceability of the guarantee. Respondents generally considered that such a requirement is important to ensure legal certainty and robust risk management, in particular in light of the diversity of legal frameworks applicable to public guarantors.

88. While some respondents advocated for a more flexible or risk-based approach, citing proportionality and operational concerns, ESMA considers that maintaining a consistent requirement for an independent legal opinion remains appropriate to ensure the reliability and enforceability of public guarantees across jurisdictions. ESMA therefore confirms its initial proposal.

6 Conditions for the use of bank guarantees

ESMA initial proposal

89. Section 2 of Annex I of RTS 153/2013 describes the conditions for the use of bank guarantees as collateral. Two types of bank guarantees are currently included in this section of Annex I, commercial bank guarantees and central bank guarantees.

90. In relation to commercial bank guarantees, ESMA sees benefits in clarifying in the new drafting that the guarantor can only be a credit institution as defined under the Capital Requirements Regulation (CRR). This would provide legal clarity as to the nature of the guarantor. Furthermore, the third subparagraph of the Article 46(1) of EMIR provides that “A CCP (…) and may specify [in its operating rules] that it can accept fully uncollateralised public bank guarantees or commercial bank guarantees. It is important in ESMA’s view to clarify in Section 2 of Annex I that the CCP may accept uncollateralised bank guarantees.

Feedback from respondents

91. A broad majority of respondents supported ESMA's proposal to require that guarantors of commercial bank guarantees be credit institutions as defined in Article 4(1)(1) of the Capital Requirements Regulation (CRR) which does not refer to a specific country of authorisation. According to them, anchoring eligible guarantors within the CRR framework enhances legal certainty and ensures that guarantors are subject to harmonised prudential and supervisory requirements. In their view, this supports confidence in the creditworthiness and operational reliability of guarantees, particularly in default scenarios, and facilitates consistent risk assessment across CCPs.

92. At the same time, a limited number of respondents expressed concerns that restricting eligibility strictly to CRR-defined credit institutions could be overly narrow. These respondents highlighted that certain other regulated or publicly backed financial institutions may also be well suited to act as guarantors and are subject to robust oversight. They cautioned that a rigid institutional definition could reduce the pool of available guarantors, particularly for non-financial counterparties in certain markets, and therefore supported a more flexible, risk-based approach.

93. Overall, respondents broadly supported ESMA's objective of strengthening legal certainty and prudential soundness of guarantors, while emphasising the need for proportionality in order to preserve the availability of guarantees in practice.

94. An overwhelming majority of respondents supported ESMA's proposal to explicitly clarify in RTS 153/2013 that CCPs may accept uncollateralised bank guarantees, in line with the amended Level 1 framework under EMIR 3. Respondents consistently considered that such clarification is necessary to provide legal certainty, ensure consistent interpretation across CCPs, and avoid divergence in the practical availability of guarantees.

95. Respondents broadly agreed that the RTS should focus on clarifying the existing framework rather than introducing a separate category of collateral. In particular, several respondents highlighted that only instruments that are autonomous, irrevocable, unconditional and payable on demand should be considered eligible, given the need to ensure timely and reliable execution in default scenarios. Respondents also emphasised that the clarification should not imply any obligation for CCPs or clearing members to accept such guarantees, preserving full discretion within existing risk management frameworks.

96. Some respondents noted that the current drafting of the RTS does not yet provide sufficient clarity, as it does not explicitly refer to uncollateralised guarantees, and therefore suggested further refinements to ensure that the Level 2 framework fully

reflects the policy intent of EMIR 3. A number of respondents also stressed that these instruments should be subject to appropriate risk management safeguards, including concentration limits and assessment of enforceability, given their non-funded and non-transferable nature.

97. Overall, respondents strongly supported ESMA's approach, emphasising the importance of legal clarity, consistency with EMIR 3 and the continued usability of guarantees as a collateral tool.

98. Several respondents, in particular clearing members, emphasised that the clarification regarding uncollateralised bank guarantees should explicitly capture instruments such as letters of credit or equivalent on-demand payment undertakings. These respondents underlined that such instruments, due to their autonomous, irrevocable and unconditional nature, provide a higher degree of legal certainty and timeliness of execution compared to more traditional, contingent guarantees. They therefore supported an approach whereby the RTS focuses on the substantive characteristics of eligible instruments, ensuring that only guarantees capable of being honoured promptly and without legal or procedural impediments are recognised within CCP collateral frameworks.

ESMA assessment of feedback

99. ESMA notes the broad support expressed by respondents for limiting eligible guarantors to credit institutions as defined under the CRR, in order to ensure legal certainty and a harmonised prudential framework for guarantors. The current drafting caters for the possibility for CCP to allow third-country institutions to be guarantor as long as they comply with the definition contained in Article 4(1)(1) of CRR. ESMA therefore confirms its initial proposal.

100. ESMA also notes the strong support expressed by respondents for clarifying in RTS 153/2013 that CCPs may accept uncollateralised bank guarantees, in line with the amended Level 1 framework under EMIR 3. In light of the feedback received, ESMA considers that the proposed approach appropriately reflects the Level 1 mandate and provides the necessary legal clarity, while preserving CCP discretion within their existing risk management frameworks. ESMA therefore maintains its initial proposal.

ESMA initial proposal

101. Finally, considering the new drafting of Article 46 of EMIR, a new paragraph 3 should be added in Section 2 of Annex I, specifying the conditions for the use of public bank guarantees as collateral. These conditions would be largely inspired by the current conditions for commercial bank guarantees.

102. The conditions applicable to public bank guarantees could largely follow the principles already established for commercial bank guarantees in Annex I, Section 2 of Delegated Regulation (EU) No 153/2013. This ensures consistency in risk management standards and maintains the robustness of collateral requirements, while adapting to the specific nature of public entities. The provisions for commercial bank guarantees already establish robust requirements regarding irrevocability, unconditionality, enforceability, and timely availability of funds within the liquidation period. These principles remain relevant for public bank guarantees, as they aim to provide the CCP with reliable collateral that can be realised without legal or operational impediments in a default scenario.

103. EMIR 3 has not provided an explicit definition of “public bank”. Some preliminary feedback from the industry suggests that further clarity on this would be welcome. Without providing a closed definition of what is a “public bank”, ESMA sees merit in clarifying what can be considered as “public banks”. This should refer to “publicly owned” banks other than multilateral development banks listed under Article 117(2) of Regulation (EU) No 575/2013 and central banks.

Feedback from respondents

104. A broad majority of respondents supported ESMA’s approach to align, as a starting point, the conditions applicable to public bank guarantees with those applicable to commercial bank guarantees. Respondents across all categories agreed that core risk principles (such as enforceability, irrevocability, mitigation of wrong-way risk and timely availability of funds) are equally relevant irrespective of whether the guarantor is a public or a commercial bank, and that such alignment promotes consistency, legal certainty and robust risk management.

105. At the same time, many respondents emphasised that public banks may differ materially from commercial banks in terms of their legal basis, governance structures and applicable public-law constraints. These respondents therefore supported a calibrated approach combining a common baseline of requirements with targeted adjustments where necessary to reflect public-bank-specific risks, in particular with respect to legal enforceability, reliability and timeliness of payments, and the availability of appropriate financial information.

106. Several clients supported the underlying principle but raised concerns regarding the current drafting of the RTS, noting that it could be interpreted as introducing a presumption of full collateralisation for public bank guarantees. These respondents warned that such an approach could undermine the effectiveness of public bank guarantees as a liquidity tool and called for clearer alignment with commercial bank

guarantees, including avoiding prescriptive wording that may unduly restrict their usability.

107. Overall, respondents broadly endorsed ESMA's approach, while highlighting the need for proportionality, drafting clarity and sufficient flexibility to ensure that public bank guarantees remain a viable collateral option.

108. There was very strong support across respondents for ESMA's proposal to clarify the definition of "public bank", in light of the absence of a definition in EMIR. Respondents from all market segments considered that this lack of definition creates legal uncertainty and operational frictions, requiring CCPs to perform case-by-case assessments that may hinder the effective use of public bank guarantees.

109. Respondents broadly supported ESMA's approach to base the definition on objective legal and institutional criteria, in particular public ownership or control, while distinguishing public banks from central banks and multilateral development banks. Many respondents emphasised that the definition should be sufficiently clear and operationally workable, while also reflecting the diversity of public banking institutions across jurisdictions.

110. At the same time, several respondents stressed that the definition should remain sufficiently flexible and not be overly restrictive. In particular, they noted that a narrow definition or an approach limited to specific jurisdictions could exclude otherwise credible public institutions and reduce the availability of guarantees. Several respondents therefore supported a principles-based approach and highlighted the importance of allowing CCPs to retain discretion to assess whether specific institutions meet the relevant risk requirements.

111. Some respondents also raised technical drafting considerations, noting potential ambiguities in the use of the concept of "public ownership" and suggesting refinements to ensure clarity and avoid unintended scope issues.

112. Overall, respondents strongly supported ESMA's initiative to clarify the definition of "public bank", emphasising that such clarification is essential to ensure legal certainty and consistent application across CCPs while preserving flexibility and market accessibility. Some of them suggested that ESMA provides further context or examples.

ESMA assessment of feedback

113. ESMA notes the broad support expressed by respondents for aligning, as a starting point, the conditions applicable to guarantees issued by public banks with those

applicable to guarantees issued by commercial banks. ESMA also takes note of respondents' comments that certain elements of the proposed drafting could be interpreted as implying a requirement for full collateralisation of guarantees issued by public banks. In light of the feedback received, ESMA considers that the proposed approach remains appropriate and therefore maintains its initial proposal, while clarifying in a recital the drafting to avoid unintended interpretations regarding full collateralisation requirements.

114. With regard to the definition of "public bank", ESMA notes the strong support from respondents for providing additional clarity in the absence of a definition under EMIR, while also highlighting the need to preserve sufficient flexibility. Taking these comments into account, ESMA does not consider it appropriate to introduce a standalone definition of "public bank" in the RTS. Instead, ESMA has clarified in a recital that the assessment should be based on the principle of public ownership or public control.

7 Investment policy (Article 47 of EMIR)

115. Article 47(1) of EMIR provides that CCPs are required to invest their financial resources only in cash or in highly liquid financial instruments with minimal market and credit risk and that CCPs' investments must be capable of being liquidated rapidly with minimal adverse price effect.

116. Article 47(3) of EMIR provides that financial instruments posted as margins or as default fund contributions must, where available, be deposited with operators of securities settlement systems that ensure the full protection of those financial instruments, or, alternatively, other highly secure arrangements with authorised financial institutions may be used.

117. Article 47(8) of EMIR mandated ESMA, after consulting EBA and the ESCB, to develop draft RTS specifying, among other things:

    (a) the financial instruments that can be considered highly liquid, bearing minimal credit and market risk as referred to in Article 47(1) of EMIR;

    (b) the highly secured arrangements referred to in Article 47(3) of EMIR.

118. ESMA's RTS under Article 47(8) of EMIR are set out in RTS 153/2013, in particular in Chapter XI (Articles 43 – 46) and Annex II.

119. Article 47(1) of EMIR is further specified via Article 43 of RTS 153/2013, which currently provides that “debt instruments can be considered highly liquid, bearing minimal credit and market risk if they are debt instruments meeting each of the conditions set out in Annex II”. As regards the conditions listed in Annex II, condition (a) currently requires that the debt instruments are issued or explicitly guaranteed by: (i) a government; or (ii) a central bank; or (iii) a multilateral development bank as listed under Section 4.2 of Part 1 of Annex VI to Directive 2006/48/EC; or (iv) the European Financial Stability Facility or the European Stability Mechanism where applicable.

120. Article 47(3) of EMIR is further specified via Article 44 of RTS 153/2013, which currently provides, in paragraph 1, that “If a CCP is unable to deposit the financial instruments referred to in Article 45 or those posted to it as margins, default fund contributions or contributions to other financial resources, both by way of title transfer and security interest, with the operator of a securities settlement system that ensures the full protection of those instruments then such financial instruments shall be deposited with any of the following:

(a) a central bank (…);

(b) an authorised credit institution as defined under Directive 2006/48/EC (…);

(c) a third-country financial institution that is subject to and complies with prudential rules considered by the relevant competent authorities to be at least as stringent as those laid down in Directive 2006/48/EC (…).”

7.1 Highly liquid financial instruments with minimal market and credit risk (Article 47(1) of EMIR)

ESMA initial proposal

121. The first proposed update, as presented in the CP, concerned the conditions under which debt instruments can be considered highly liquid, bearing minimal credit and market risk and hence can be considered as eligible financial instruments for the purpose of CCP investment policy, as set out in paragraph 1 of Annex II to RTS 153/2013.

122. In particular, ESMA proposed to amend the list of entities listed in paragraph 1, point (a), of Annex II to RTS 153/2013 to allow debt instruments issued by or explicitly guaranteed by the European Union (EU), the Bank for International Settlements (BIS) and the International Monetary Fund (IMF), to be eligible financial instruments for CCP investments, provided that the other conditions listed in paragraph 1 of Annex II to RTS 153/2013 are also met.

123. As regards the debt instruments issued by the EU (such as EU-bonds, EU-bills, NextGenerationEU Green Bonds and SURE social bonds), ESMA noted that their issuance had benefitted from a high degree of market demand and confidence in its credit quality, as confirmed by the credit ratings of the EU, the oversubscription of the debt issuance, and the high levels of market depth and liquidity, indicating that these instruments would bear minimal credit and market risk in line with other sovereign issuances in the EU.

124. As regards the inclusion of the BIS and the IMF, ESMA deemed it appropriate to expand the list of accepted public entities at the international level to increase the diversification of collateral risk at minimal market and credit risk. Furthermore, such a change would be in line with other pieces of EU legislation, in particular with Article 118 of CRR[1], which assigns a 0 % risk weight for exposures to the BIS and the IMF.

Feedback from respondents

125. Respondents representing CCPs agreed with ESMA's proposal to include debt instruments issued or guaranteed by the EU, BIS and IMF as eligible under CCP investment policies. Those respondents emphasised that EU issuance has become significant, liquid and widely trusted, and that its omission from RTS 153/2013 reflects the outdated nature of the current framework, given developments since the COVID-19 pandemic.

126. Beyond this specific amendment, CCP respondents argued that the consultation should be used to update CCP investment policy requirements more broadly. In particular, they raised the following:

- Scope of eligible instruments and issuers: Several CCP respondents argued for a more principles based and non-exhaustive approach to eligible issuers and instruments, aligned with the concept of high-quality liquid assets (HQLA). They suggested that assets eligible in central bank credit operations or accepted as margin under EMIR should also be eligible for CCP investments, subject to concentration limits and existing safeguards.

- Additional eligible instruments: Several respondents representing CCPs also encouraged ESMA to clarify that covered bonds, short term instruments (such as commercial papers) and high-quality corporate bonds may qualify as highly liquid instruments where they meet existing Annex II criteria. These additions

[1] 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, pp. 1–337.

were seen as a way to improve diversification, manage maturity constraints and reduce reliance on sovereign debt.

- Use of derivatives for hedging interest rate risk: Respondents representing CCPs considered the current prohibition on using derivatives to hedge interest rate risk to be unjustified, given that derivatives are already permitted for currency hedging. They argued that this would materially improve CCPs' liquidity and investment risk management without increasing risk.

- Average time to maturity (ATM) limits: CCP respondents broadly viewed the current two-year cap on the weighted average maturity of investment portfolios as overly restrictive. They suggested either extending the cap (e.g. to five years) or replacing it with a principles-based approach under which CCPs set their own quantitative limits, subject to supervisory approval.

- Cash deposits collateralisation: Multiple CCP respondents argued that the current requirement to collateralise 95% of overnight cash held at non central bank institutions creates unintended incentives to withdraw deposits from central banks. They proposed amending the rule so that 95% of total cash is either collateralised or held at a central bank.

- Highly secure arrangements for the deposit of financial instruments and cash: Some CCP respondents asked to broaden the definition of highly secure arrangements to include state bodies performing functions similar to central banks, arguing that exposures to such entities are economically equivalent.

- Concentration limits: Several CCP respondents questioned the usefulness of applying concentration limits by "types of financial instruments", arguing that CCP investments are already tightly constrained to high quality debt and hedging instruments. They suggested that this requirement could be removed.

- Clarification of liquidity and risk criteria: Some CCP respondents proposed further clarification of concepts such as "high liquidity" and "minimal market and credit risk", including references to central bank eligibility, observable market depth and risk-based metrics, combined with CCP specific governance and supervisory oversight.

127. Respondents representing participants of CCPs (e.g. clearing members and clients, including NFCs) also supported ESMA's proposal to include instruments issued or guaranteed by the EU, BIS and IMF as eligible investments. They agreed that these instruments typically exhibit strong liquidity, high credit quality and deep secondary

markets, and considered the proposal a welcome modernisation of the investment eligibility framework.

128. Those respondents also emphasised that liquidity and resilience under stress are essential conditions for eligibility. They, therefore, underscored that such instruments should only be eligible where they can be sold rapidly, including under stressed market conditions, without material price impact, in line with the existing requirements under Annex II of RTS 153/2013.

129. One respondent representing participants of CCPs encouraged ESMA to consider more broadly other types of financial instruments that CCPs should be allowed to invest in, such as public debt constant Net Asset Value (CNAV) MMF funds where the underlying assets qualify as highly liquid financial instruments under Article 41(1) of EMIR and Annex II of RTS 153/2013.

ESMA assessment of feedback

130. ESMA notes the broad support from respondents (both from CCPs and participants of CCPs) to the consultation for the inclusion of debt instruments issued or guaranteed by the EU, BIS and IMF as eligible investments under CCP investment policies. ESMA agrees that the EU, in particular, has become a more prominent issuer and that its instruments typically exhibit strong liquidity and credit quality. The targeted amendments proposed by ESMA reflect these developments while remaining consistent with the requirements set out in Article 47 of EMIR and Annex II of Delegated Regulation (EU) No 153/2013.

131. ESMA also acknowledges stakeholders' interest in a broader review of the CCP investment framework and has carefully considered the broader set of comments received. However, at this stage, ESMA does not consider it appropriate to extend the scope of the review beyond the targeted amendments (as proposed by ESMA in the CP), for the reasons set out below.

132. Several respondents suggested that this review of RTS 153/2013 should be used to fundamentally revise CCP investment rules, including through a more principles-based framework aligned with HQLA concepts or by expanding the range of eligible instruments and issuers.

133. ESMA does not agree with these suggestions. The current framework is anchored in Level 1 requirements under Article 47(1) of EMIR, which strictly limits CCP investments to cash or highly liquid financial instruments with minimal market and credit risk that can be liquidated rapidly with minimal adverse price impact. Article 47(8) of EMIR provides a specific mandate for ESMA to further specify, in particular: (i) which

instruments meet these criteria and (ii) the highly secure arrangements for the deposit of financial instruments and cash.

134. In this context, ESMA wishes to emphasise that EMIR 3 has not amended Article 47 of EMIR nor ESMA's mandate under Article 47(8) of EMIR, unlike e.g. Article 46 of EMIR which has been amended substantially by EMIR 3. This, in ESMA's view, leads to the conclusion that the co-legislators did not see any shortcomings with the provisions set out in Article 47 of EMIR nor with the provisions adopted thereunder via RTS 153/2013.

135. ESMA, therefore, proposed (in its CP) only limited targeted changes to the RTS provisions that had been adopted under Article 47(8) of EMIR, i.e. changes that it thought were necessary to enhance legal clarity and to address regulatory gaps. The objective of this review, in relation to Article 47 of EMIR, has thus been limited to targeted and proportionate updates to reflect market developments, not a comprehensive redesign of the CCP investment regime.

136. ESMA therefore considers that it should not introduce a fundamentally different principles-based or non-exhaustive framework that would effectively replace the existing conditions set out in Annex II of RTS 153/2013, as any substantial broadening of eligible assets beyond the existing structure may go beyond the Level 1 mandate.

137. Regarding the respondents' suggestion to align eligibility with HQLA or central bank collateral frameworks, ESMA acknowledges that such frameworks can provide useful reference points. However, the EMIR framework pursues a distinct objective, namely ensuring that CCP investments can be liquidated rapidly under stressed conditions with minimal adverse price impact. ESMA thus believes that eligibility under central bank operations or HQLA classification cannot be automatically transposed into the CCP context. In ESMA's view, the Annex II criteria remain the appropriate benchmark, as they are specifically tailored to CCP risk management needs.

138. As regards the requested clarification or expansion to explicitly include covered bonds, commercial paper, high-quality corporate bonds or MMFs, ESMA recalls that Article 43 of RTS 153/2013 requires that debt instruments meet all conditions in Annex II to qualify as highly liquid instruments. These conditions already provide an objective and risk-based framework for assessing eligibility of debt instruments for CCP investments. ESMA does not consider it appropriate to create additional categories of instruments in the RTS or to weaken or reinterpret the Annex II criteria through clarification, as such changes would not be consistent with the limited scope of this review.

139. With regard to the respondents' proposal to allow derivatives for interest rate hedging, ESMA does not support this suggestion. The current framework reflects a deliberate regulatory choice to limit CCP investments to simple and highly liquid instruments; and to minimise additional sources of counterparty, operational and wrong-way risk. Allowing derivatives beyond currency hedging would introduce additional complexity and risks not consistent with the conservative nature of the investment framework under Article 47 EMIR.

140. Concerning the suggestion by respondents to extend or remove the current two-year weighted average maturity cap, ESMA wishes to underline that maturity limits are a key safeguard to ensure that CCP investment portfolios maintain sufficient liquidity and resilience under stress, consistent with Article 47(1) EMIR. Moving to a principles-based approach or significantly extending the limit would reduce the predictability and comparability of CCP practices, and potentially weaken the liquidity profile of investment portfolios. ESMA therefore does not propose changes to the existing framework in this regard.

141. With reference to the proposal by respondents to amend the 95% collateralisation requirement for overnight deposits held at commercial banks, ESMA considers that the current requirement is an important safeguard ensuring that CCP exposures to commercial banks are appropriately secured, and that risks arising from cash deposits are mitigated.

142. As regards the respondents' suggestion to broaden the definition of highly secure arrangements for the deposit of financial instruments and cash to include additional public sector entities, ESMA recalls that Articles 47(3) and 47(4) of EMIR set clear limits on the types of entities and arrangements that may be used for this purpose. Expanding the scope to additional entities, beyond the targeted amendments proposed by ESMA, would require a reassessment of the Level 1 framework, as well as a comprehensive assessment to establish whether exposures to such entities can be considered as equivalent (from a risk perspective) to central banks.

143. With regard to the respondents' remark regarding the usefulness of applying concentration limits by "types of financial instruments", ESMA considers that concentration limits and their detailed criteria are core components of the risk control framework and ensure a consistent and conservative implementation across CCPs. ESMA considers that a removal of any such safeguards would materially alter the prudential calibration of the framework and be therefore not appropriate in the context of a targeted RTS review.

144. Regarding the call by respondents for additional guidance on "high liquidity" and "minimal market and credit risk", ESMA notes that these concepts are already

operationalised through the detailed conditions set out in Annex II of RTS 153/2013, including issuer and instrument characteristics, and that this framework ensures objectivity and supervisory convergence. ESMA therefore does not consider it necessary to introduce further interpretative criteria.

7.2 Highly secure arrangements for the deposit of financial instruments posted as margins or as default fund contributions (Article 47(3) of EMIR)

ESMA initial proposal

145. The second proposed update, as presented in the CP, concerned the highly secured arrangements in which financial instruments posted as margins or as default fund contributions can be deposited, as set out in Article 44 of RTS 153/2013.

146. In particular, ESMA proposed to amend Article 44(1) of RTS 153/2013, by adding a new point (d), to include the Union Registry referred to in Article 19 of the ETS Directive[2] and maintained by the European Commission, in case of emission allowances (referred to in Section C(11) of Annex I to MiFID II[3]) accepted by CCPs as collateral in accordance with Article 46(2) of EMIR, i.e. where emission allowances are the underlying of the derivative contract or the financial instrument that originates the CCP exposure.

147. As explained in the CP, ESMA believes that such a change is necessary to cover the situation of some CCPs which would accept emission allowances as collateral in accordance with Article 46(2) of EMIR, but at the same time would be unable to comply with Article 47(3) of EMIR, as emission allowances cannot be deposited with operators of securities settlement systems (as required under Article 47(3) of EMIR) or with the other highly secured arrangements for the deposit of financial instruments as currently set out in Article 44 of RTS 153/2013 (i.e. with a central bank, an authorised credit institution as defined under Directive 2006/48/EC[4] (CRD IV/CRR) or a third-country financial institution).

[2] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC; OJ L 275, 25.10.2003, pp. 32–46.
[3] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast); OJ L 173, 12.6.2014, pp. 349–496.
[4] Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast); OJ L 177, 30.6.2006, pp. 1–200.

148. Furthermore, it should be stressed that EMIR Level 1, as well as RTS 153/2013, had entered into force before emission allowances were classified as financial instruments (in accordance with MiFID II, which entered into force on 3 January 2018), and hence could not be covered under the original wording of Article 44 of RTS 153/2013, as that Article only concerns financial instruments.

149. In the CP, ESMA also explained that it did not propose to designate emission allowances as 'highly liquid financial instruments with minimal market and credit risk' and hence as eligible financial instruments in which CCPs may invest pursuant to Article 47(1) of EMIR, as ESMA is of the view that emission allowances do not fulfil these criteria and, thus, such designation would be inappropriate. Instead, the proposal would simply allow CCPs that accept emission allowances as collateral (under Article 46(2) of EMIR) to deposit the emission allowances posted as margins at the Union Registry.

Feedback from respondents

150. Respondents representing CCPs agreed with the proposed change. They welcomed the inclusion of the Union Registry in Article 44(1) of RTS 153/2013, noting that this would enable CCPs to accept emission allowances as collateral where these are linked to the underlying exposure. Overall, CCP respondents viewed the proposal as a necessary and practical adjustment.

151. Respondents representing participants of CCPs also agreed with the proposed change. Several respondents explicitly endorsed the use of the Union Registry as a highly secure arrangement for holding emission allowances, highlighting that this would address an existing regulatory mismatch and close a gap between Article 44 of RTS 153/2013 and Article 47(3) of EMIR.

152. These respondents also supported the clarification provided by ESMA in the CP that emission allowances should not be re-classified as eligible CCP investment instruments, while agreeing that they may be accepted as collateral under specific conditions, i.e. when linked to the underlying derivative (as provided by Article 46(2) of EMIR).

153. Two respondents representing participants highlighted an inconsistency between the treatment of cash and securities collateral, noting that securities are subject to more restrictive holding location requirements without a clear risk-based justification. They proposed aligning the treatment of securities collateral with that of cash collateral to improve collateral mobility, efficiency, and market functioning.

154. Some respondents representing participants warned against overly prescriptive requirements, emphasising the need to preserve CCP flexibility in managing collateral arrangements, particularly in markets with volatile margin flows (e.g. commodities). They also stressed the importance of avoiding additional operational or regulatory burdens that could discourage CCPs from accepting certain financial instruments as collateral.

ESMA assessment of feedback

155. ESMA welcomes the broad support expressed by respondents to the consultation for the proposed amendment to Article 44(1) of RTS No 153/2013, in particular the inclusion of the Union Registry as a highly secure arrangement for holding emission allowances posted as margins and default fund contributions. ESMA notes that both CCPs and clearing participants consider this amendment as necessary to enhance legal clarity and to address a regulatory gap and to align the RTS framework with the provisions of Article 47(3) of EMIR, as well as 46(2) of EMIR.

156. ESMA also notes respondents' agreement with the clarification that emission allowances should not be considered as eligible instruments for CCP investment policy, but may be accepted as collateral where they are linked to the underlying derivative exposure, in line with Article 46(2) of EMIR.

157. ESMA also takes note of additional comments raised by respondents regarding the broader treatment of collateral, including (i) the comparative treatment of cash and securities collateral and (ii) the need to preserve flexibility and avoid overly prescriptive requirements.

158. As regards the alleged inconsistency between the treatment of cash and securities collateral, some respondents argued that securities collateral is subject to more restrictive holding location requirements than cash collateral. They suggested aligning both regimes to enhance collateral mobility and efficiency.

159. ESMA does not agree that the current framework reflects an unjustified inconsistency. First, some of these differences may derive directly from the wording of EMIR Level 1:

> (i) as regards financial instruments (i.e. including securities), Article 47(3) of EMIR requires financial instruments posted as margins or as default fund contributions to be deposited, where available, with operators of securities settlement systems that ensure the full protection of those financial instruments. Alternatively, Article 47(3) of EMIR allows other highly secure arrangements with authorised financial institutions to be used;

(ii) as regards cash, Article 47(4) of EMIR, requires cash deposits of a CCP to be performed through highly secure arrangements with authorised financial institutions or, alternatively, through the use of the standing deposit facilities of central banks or other comparable means provided for by central banks.

160. Article 47(3) of EMIR is then further specified by Article 44 of RTS 153/2013. Article 44(1) of RTS 153/2013 currently provides that financial instruments may be deposited with (a) central banks, (b) EU credit institutions, (c) third-country credit institutions.

161. Article 47(4) of EMIR is further specified via Article 45 of RTS 153/2013. Article 45(1) of RTS 153/2013 provides that in addition to central banks, cash may be deposited with EU credit institutions or with third-country credit institutions.

162. Therefore, in accordance with RTS 153/2013, both cash and financial instruments may be deposited with central banks, EU credit institutions and third-country credit institutions. The difference is that Article 47(3) of EMIR explicitly requires financial instruments to be deposited with operators of securities settlement systems, where available.

163. In addition, the distinction between cash and securities collateral reflects fundamental differences in their risk profiles, including:

- Custody and settlement risks associated with securities, which require robust segregation and holding arrangements;
- Legal and operational risks, particularly in stressed conditions, including enforceability and portability; and
- Liquidity characteristics, which may differ materially between cash and non-cash assets.

164. The existing requirements for securities collateral are therefore designed to ensure a high level of protection of client assets and the resilience of CCPs, in line with EMIR objectives. Aligning the regimes without adequately accounting for these differences could weaken safeguards and introduce additional risks.

165. As regards the concerns expressed by some respondents regarding overly prescriptive requirements, the need to maintain CCP flexibility, and additional operational or regulatory burdens that could disincentivise the acceptance of certain collateral types, ESMA fully agrees with the importance of preserving CCP flexibility and avoiding unnecessary regulatory burden. In this respect, ESMA notes that:

- The proposed amendment is targeted and limited in scope, focusing on recognising the Union Registry as an eligible holding arrangement rather than introducing new prescriptive operational requirements; and

- The acceptance of emission allowances as collateral remains conditional and risk-based, notably requiring a link to the underlying exposure, which mitigates potential risks.

166. ESMA therefore considers that the proposal does not introduce undue operational constraints and, on the contrary, may enhance collateral availability and efficiency by enabling the use of emission allowances under appropriate safeguards.

167. Accordingly, ESMA maintains its proposals in relation to highly secured arrangements for the deposit of financial instruments without any changes.

8 Annexes

8.1 Annex I

Legislative mandate to develop technical standards

Article 46

Collateral requirements

3. ESMA, in cooperation with EBA, and after consulting the ESRB and the members of the ESCB, shall develop draft regulatory technical standards to specify:

(…)

(c) the relevant conditions under which public guarantees, public bank guarantees and commercial bank guarantees may be accepted as collateral under paragraph 1, including appropriate concentration limits, credit quality requirements and stringent wrong-way risk requirements for public bank guarantees and commercial bank guarantees.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 25 December 2025.

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

Article 47

Investment policy

8. In order to ensure consistent application of this Article, ESMA shall, after consulting EBA and the ESCB, develop draft regulatory technical standards specifying the financial instruments that can be considered highly liquid, bearing minimal credit and market risk as

referred to in paragraph 1, the highly secured arrangements referred to in paragraphs 3 and 4 and the concentration limits referred to in paragraph 7.

ESMA shall submit those draft regulatory technical standards to the Commission by 30 September 2012.

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

8.2 Annex II

Cost-benefit analysis

8.2.1 Concentration limits

Specific objective	Adjust concentration limit requirements to the public and bank guarantees, as well as to extension to non-financial clients to use those bank guarantees.
Policy option 1	Risk-sensitive limits, set by CCPs, considering non-financials' activity.
Policy option 2	Specific concentration limits set in the RTS.
Preferred option	**Policy option 1.**

Impact of the proposed policy options	
Option 1	
Benefits / drawbacks	Reduces CCP credit-risk concentration, while providing flexibility for the CCP to adapt the exact level of risks. Enhances clearing liquidity during market stress in commodity sectors. Allows for a fairer treatment of non-financial clients with commodities exposure. Requires CCPs to develop methodologies for underlying activity risk assessment. May be viewed as regulatory arbitrage without clear criteria.
Compliance costs	It could generate some additional costs for the CCPs, to adapt concentration limits depending on underlying activity.
Supervision costs	It should not increase supervisory costs.
Option 2	
Benefits / drawbacks	Reduces CCP credit-risk concentration. Promotes transparency.

	Restricts access for NFCs in commodity markets reliant on guarantees. Provides less flexibility for concentration limits to work overtime depending on how the market evolve. Changing the concentration limits would require regulatory changes.
Compliance costs	Lower than option 1.
Supervision costs	Unchanged.

8.2.2 Segregation of guarantees

Specific objective	**Ensure CCPs can identify the collateral corresponding to the non-financial client who is principal to the guarantee.**
Policy option 1	Guarantees posted as collateral to cover non-financial clients should be posted to an individually segregated account.
Policy option 2	Guarantees posted as collateral to cover non-financial clients could be posted to account structures allowing the identification of collateral corresponding to the non-financial client who is the principal to the guarantee without mandating individually segregated accounts.
Policy option 3	Guarantees posted as collateral to cover non-financial clients could be posted to omnibus accounts or to individually segregated accounts.
Preferred option	**Policy option 2**

Impact of the proposed policy options	
Option 1	
Benefits / drawbacks	Ensures legal and operational separation. Supports portability and default management. Increases IT, operational and reconciliation infrastructure. Higher ongoing costs for both CCPs and clients.

Compliance costs	It generates additional costs for the CCPs and the clients.
Supervision costs	It should not increase supervisory costs.
Option 2	
Benefits / drawbacks	Ensures that CCPs can identify the collateral corresponding to the non-financial client who is principal to the guarantee and that guarantees are used only to cover exposures of non-financial clients. CCPs can rely on alternative legal and operational arrangements capable of achieving the comparable legal and economic outcome than individually segregated accounts, but potentially reducing implementation and operational costs CCPs would need to demonstrate that their arrangements provide a sufficient level of traceability and protection, which may require additional governance and documentation.
Compliance costs	Could potentially increase for CCPs to develop or adapt procedures, systems and documentation. But lower than under Option 1, as CCPs would not be required to establish and maintain individually segregated accounts where alternative arrangements can achieve the same result.
Supervision costs	Unchanged.
Option 3	
Benefits / drawbacks	More economical than individually segregated accounts. Operationally more complex and riskier as the guarantees are issued for one principal (the non-financial client) and cannot be commingled.
Compliance costs	Putting in place processes to ensure that the collateral (guarantee) corresponding to the non-financial client who defaults can be identified might bear costs, although lower to those incurred under option 1.
Supervision costs	Unchanged.

8.2.3 Legal opinions for public guarantees

Specific objective	Ensure CCPs have the necessary legal assurance when accepting guarantees issued by public guarantors.
Policy option 1	Mandatory independent legal opinion.
Policy option 2	CCP internal legal checks.
Preferred option	**Policy option 1**

Impact of the proposed policy options	
Option 1	
Benefits / drawbacks	Ensures enforceability across legal systems, meeting CCP legal certainty needs. May add a cost to the non-financial client, or the guarantor.
Compliance costs	It might generate cost for the non-financial client or the guarantor.
Supervision costs	It should not increase supervisory costs.
Option 2	
Benefits / drawbacks	Balances risk assessment with reduced cost. More complex for CCPs in-house legal assessment, given in particular the diversity of administrative legal frameworks in jurisdictions where non-financial clients might be based.
Compliance costs	Higher cost for the CCP.

Supervision costs	Unchanged.

8.3 Annex III - Draft RTS amending Commission Delegated Regulation (EU) No 153/2013

COMMISSION DELEGATED REGULATION (EU) .../...

of XX Month YYYY

amending Commission Delegated Regulation (EU) No 153/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards conditions for the acceptance of public guarantees and bank guarantees as collateral and changes to investment policy

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, and in particular Articles 46(3) and 47(8) thereof,

Whereas:

(1) In order to ensure the prudent management of the risks arising from the acceptance of public guarantees, public bank guarantees and commercial bank guarantees as collateral, including legal, operational, liquidity and concentration risks, it is necessary to amend Delegated Regulation (EU) No 153/2013 and establish specific conditions applicable to those guarantees.

(2) The conditions set out in this Regulation, including those related to risk management, concentration limits and legal certainty, should not be interpreted as requiring guarantees to be collateralised or as limiting the possibility for CCPs to accept fully uncollateralised guarantees.

(3) Concentration limits set by CCPs in relation to eligible collateral should cover public and bank guarantees. Considering the specific needs of non-financial clients operating notably in commodity markets, CCPs should take into account the underlying activity of these entities, if communicated to the clearing member, when setting specific concentration limits for public and bank guarantees posted by these clients as collateral.

(4) To ensure consistency with Article 46 of Regulation (EU) No 648/2012 and to preserve legal certainty and risk management objectives, CCPs should be able to identify the client for which a guarantee has been issued and to ensure that such guarantees are not used to cover exposures of other clients or clearing members, irrespective of the type of account structure used.

(5) In the case of guarantees issued to guarantee a non-financial client, it is necessary to ensure that the CCP retains the ability to rely on the guarantee for the purposes of performing its default management functions. At the same time, in the principal-to-principal clearing model, clearing members remain responsible for managing the risks arising from their clients' positions. Therefore, while the CCP should be the beneficiary of such guarantees, the collateral arrangements may allow the clearing member, once all claims of the CCP have been fully satisfied, if any, to make use of any remaining available amounts. Such arrangements should not impair the CCP's ability to call and execute the guarantee in a timely and effective manner whenever necessary.

(6) When accepting as collateral guarantees issued to cover non-financial clients' exposures, CCPs should establish and maintain in their rules, policies and procedures arrangements ensuring that this type of collateral is supported by effective client-to-guarantee attribution and by timely and reliable notification mechanisms. Such arrangements shall ensure that the CCP is able to easily identify the client for which the guarantee has been issued and to obtain the information necessary to enable the prompt and effective execution of the guarantee when required, without duplicating the responsibility of clearing members for identifying and managing client defaults.

(7) In the absence of a definition of "public bank" in Regulation (EU) No 648/2012, and in light of the diversity of institutional arrangements across jurisdictions, it is not appropriate to introduce a definition of "public bank" in this Regulation. Nevertheless, in order to ensure legal certainty and consistent application, the assessment of guarantees issued by such institutions should be based on objective criteria, in particular the existence of public ownership or public control. This approach should allow CCPs to identify relevant institutions while preserving sufficient flexibility to take into account differences in legal structures and governance frameworks across Member States.

(8) Guarantees issued by public entities may be governed by public law requirements which might be difficult for the CCP to assess, having regard to the different jurisdictions where non-financial clients may be established. For this reason, in order to provide the required legal certainty to the CCP accepting this type of guarantees as collateral, the the guarantee should be accompanied by an independent legal opinion confirming effective representation of the public guarantor, the validity and the enforceability of the guarantee.

(9) In light of recent developments in Union funding markets, it is appropriate to update certain provisions of Commission Delegated Regulation (EU) No 153/2013 relating to investment policy and highly secure arrangements for the deposit of financial instruments posted as margins or as default fund contributions. In particular, the Union has, under the unified funding approach, issued a range of debt instruments, including EU-bonds, EU-bills, NextGenerationEU Green Bonds and SURE social bonds, which have benefited from a high degree of market demand and confidence, and have demonstrated high levels of market depth and liquidity while bearing minimal credit and market risk. Accordingly, debt instruments issued or explicitly guaranteed by the Union should be eligible financial instruments for the purposes of the investment policy of CCPs. Furthermore, in order to align the provisions on investment policy with Regulation (EU) No 575/2013, which assigns a 0 % risk weight to exposures to the Bank for International Settlements (BIS) and the International Monetary Fund (IMF), debt instruments issued or explicitly guaranteed by the BIS and the IMF should also be recognised as eligible financial instruments for investment purposes..

(10) Furthermore, emission allowances having been classified as financial instruments in accordance with Directive 2014/65/EU[5] and considering that they can be accepted as collateral in accordance with Article 46(2) of Regulation (EU) No 648/2012, Commission Delegated Regulation (EU) No 153/2013 should also be amended to add the Union Registry referred to in Article 19(1) of Directive 2003/87/EC[6] to the list of highly secure arrangements for the deposit of financial instruments posted as margins or as default fund contributions.

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

(12) ESMA has developed the draft regulatory technical standards in cooperation with the European Banking Authority (EBA) and after consulting the European Systemic Risk Board (ESRB) and the European System of Central Banks (ESCB). In accordance with Article 10 of Regulation (EU) 1095/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)[7], ESMA has conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,

HAS ADOPTED THIS REGULATION:

5 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast); OJ L 173, 12.6.2014, pp. 349–496.
6 Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC; OJ L 275, 25.10.2003, pp. 32–46.
7 OJ L 331, 15.12.2010, p. 84.

Article 1

Amendments to Commission Delegated Regulation (EU) No 153/2013

Commission Delegated Regulation (EU) No 153/2013 is amended as follows:

(1) Article 39, is replaced by the following:

'Article 39

Financial instruments, bank guarantees, public guarantees and gold

For the purposes of Article 46(1) of Regulation (EU) No 648/2012, financial instruments, bank guarantees, public guarantees and gold that meet the conditions set out in Annex I shall be considered as highly liquid collateral.'

(2) Article 42, is amended as follows:

a. in paragraph 2, point (c) is replaced by the following:

'(c) type of asset or guarantee';

b. in paragraph 3, point (a) is replaced by the following:

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

c. In paragraph 3, the following points are added:

i. '(d) the level of collateralisation of guarantees;'

ii. '(e) the underlying activity of the non-financial client.'

d. Paragraph 4 is replaced by the following:

'4. A CCP shall ensure that no more than 10 % of its collateral is guaranteed by a single credit institution, be it a commercial or a public bank, or equivalent third country financial institution, or by an entity that is part of the same group as the credit institution or third country financial institution. Where the collateral received by the CCP in the form of bank

guarantees, from commercial or public banks, is higher than 50 % of the total collateral, this limit may be set up to 25 %.'

e. Paragraph 5 is replaced by the following:

'5. In calculating the limits provided for in paragraph 2, a CCP shall include the total exposure of a CCP to an issuer, including the amount of the cumulative credit lines, certificates of deposit, time deposits, savings accounts, deposit accounts, current accounts, money-market instruments, guarantees, and reverse repurchase facilities utilised by the CCP. These limits shall not apply to collateral held by the CCP in excess of the minimum requirements for margins, default fund or other financial resources.'

f. Paragraph 6 is replaced by the following:

'6. When determining the concentration limit for a CCP's exposure to an individual issuer, a CCP shall aggregate and treat as a single risk its exposure to all financial instruments or guarantees issued by the issuer or by a group entity, explicitly guaranteed by the issuer or by a group entity, and to financial instruments issued by undertakings whose exclusive purpose is to own means of production that are essential for the issuer's business.'

(3) In Article 44(1), the following point is added:

'(d) the Union Registry referred to in Article 19(1), first subparagraph, of Directive 2003/87/EC in case of emission allowances referred to in Section C(11) of Annex I to Directive 2014/65/EU accepted by a CCP as collateral in accordance with Article 46(2) of Regulation (EU) No 648/2012.'

(4) Annex I is amended in accordance with Annex I of this Regulation.

(5) Annex II is amended in accordance with Annex II of this Regulation.

Article 2

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, DD MM YYYY,

For the Commission

The President

ANNEX I

Annex I to Delegated Regulation (EU) No 153/2013 is amended as follows:

(1) section 2 is replaced by the following:

'Section 2

Bank guarantees

1. A commercial bank guarantee, subject to limits set out by the CCP in application of Article 42 of this Regulation, shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

(a) it is issued to cover the CCP's initial and ongoing exposure towards a non-financial clearing member or a non-financial client;

(aa) When a commercial bank guarantee is issued to guarantee a non-financial client, it shall be posted to an account structure that ensures that the guarantee is used exclusively to cover exposures of the non-financial client for which it has been issued. CCPs shall be able to demonstrate that the legal and operational arrangements governing such accounts enable the identification of the relevant clients and prevent the use of the guarantee to cover exposures of clearing members or clients that are financial counterparties;

(ab) The CCP shall be the beneficiary of a commercial bank guarantee issued to guarantee a non-financial client. Once the claims of the CCP have been fully satisfied, if any, the clearing member may, where permitted under the collateral arrangement, make use of any remaining available amounts;

(ac) CCPs shall establish and maintain in their rules, policies and procedures arrangements ensuring that guarantees issued to cover exposures of non-financial clients are supported by effective client-to-guarantee attribution and timely notification mechanisms;

(b) it has been issued by a credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 that has low credit risk based upon an adequate internal assessment by the CCP. In performing such assessment the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

(c) it is denominated in one of the following currencies:

(i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to adequately manage;

(ii) a currency in which the CCP clears contracts, in the limit of the collateral required to cover the CCP's exposures in that currency;

(d) it is irrevocable, unconditional and the issuer cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee;

(e) it can be honoured on demand within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint;

(f) it is not issued by:

(i) an entity that is part of the same group as the non-financial clearing member or the non-financial client covered by the guarantee;

(ii) an entity whose business involves providing services critical to functioning of the CCP, unless that entity is an EEA central bank or a central bank of issue of a currency in which the CCP has exposures;

(iii) the clearing member of the non-financial client;

(g) it is not otherwise subject to significant wrong-way risk;

(h) when commercial bank guarantees are backed by collateral, that collateral shall meet the following conditions:

(i) it is not subject to wrong way risk based on a correlation with the credit standing of the guarantor or the non-financial clearing member or the non-financial client, unless that wrong way risk has been adequately mitigated by haircutting of the collateral;

(ii) the CCP has prompt access to it and it is bankruptcy remote in case of the simultaneous default of the clearing member and the guarantor.

2. A bank guarantee issued by a central bank shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

(a) it is issued by an EEA central bank or a central bank of issue of a currency in which the CCP has exposures;

(b) it is denominated in one of the following currencies:

(i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to adequately manage;

(ii) a currency in which the CCP clears transactions, in the limit of the collateral required to cover the CCP's exposures in that currency;

(c) it is irrevocable, unconditional and the issuing central bank cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee;

(d) it can be honoured within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint or any third party claim on it.

3. A public bank guarantee, not covered by paragraph 1 or 2 of this section, subject to limits set out by the CCP in application of Article 42 of this Regulation, shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

(a) it is issued to cover the CCP's initial and ongoing exposure towards a non-financial clearing member or a non-financial client;

(b) When a public bank guarantee is issued to cover the CCP's initial and ongoing exposure towards a non-financial client, it shall be posted to an account structure that ensures that the guarantee is used exclusively to cover exposures of the non-financial client for which it has been issued or other non-financial clearing members or non-financial clients. CCPs shall be able to demonstrate that the legal and operational arrangements governing such accounts enable the identification of the relevant clients and prevent the use of the guarantee to cover exposures of financial counterparties clients or financial counterparties clearing members;

(c) The CCP shall be the beneficiary of a public bank guarantee issued to guarantee a non-financial client. Once the claims of the CCP have been fully satisfied, if any, the clearing member may, where permitted under the collateral arrangement, make use of any remaining available amounts;

(d) CCPs shall establish and maintain in their rules, policies and procedures arrangements ensuring that guarantees issued to cover exposures of non-financial clients are supported by effective client-to-guarantee attribution and timely notification mechanisms.

(e) it has been issued by a publicly owned bank not covered by paragraph 2 of this section, that has low credit risk based upon an adequate internal assessment by the CCP. In performing such assessment the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;

(f) it is denominated in one of the following currencies:

(i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to adequately manage;

(ii) a currency in which the CCP clears contracts, in the limit of the collateral required to cover the CCP's exposures in that currency;

(g) it is irrevocable, unconditional and the issuer cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee;

(h) it can be honoured on demand within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint;

(i) it is not issued by:

(i) an entity that is part of the same group as the non-financial clearing member or the non-financial client covered by the guarantee;

(ii) an entity whose business involves providing services critical to functioning of the CCP, unless that entity is an EEA central bank or a central bank of issue of a currency in which the CCP has exposures;

(iii) the clearing member of the non-financial client;

(j) it is not otherwise subject to significant wrong-way risk;

(k) when public bank guarantees are backed by collateral, that collateral shall meet the following conditions:

(i) it is not subject to wrong way risk based on a correlation with the credit standing of the guarantor or the non-financial clearing member or the non-financial client, unless that wrong way risk has been adequately mitigated by haircutting of the collateral;

(ii) the CCP has prompt access to it and it is bankruptcy remote in case of the simultaneous default of the clearing member and the guarantor.'

(2) In Annex I, Section 2a is replaced by the following:

'SECTION 2a

Public guarantees

A public guarantee that does not meet the conditions for a central bank guarantee set out in Section 2, paragraph 2, shall meet all of the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

(a) it is issued to guarantee a non-financial clearing member or a non-financial client;

(aa) When a public guarantee is issued to guarantee a non-financial client, it shall be posted to an account structure that ensures that the guarantee is used exclusively to cover exposures of the non-financial client for which it has been issued or other non-financial clearing members or non-financial clients. CCPs shall be able to demonstrate that the legal and operational arrangements governing such accounts enable the identification of the relevant clients and prevent the use of the guarantee to cover exposures of financial counterparties clients or financial counterparties clearing members.;

(ab) The CCP shall be the beneficiary of a public guarantees issued to guarantee a non-financial client. Once the claims of the CCP have been fully satisfied, if any, the clearing member may, where permitted under the collateral arrangement, make use of any remaining available amounts;

(ac) CCPs shall establish and maintain in their rules, policies and procedures arrangements ensuring that guarantees issued to cover exposures of non-financial clients are supported by effective client-to-guarantee attribution and timely notification mechanisms.

(b) it is explicitly issued or guaranteed by any of the following:

(i) a central government in the EEA;

(ii) regional governments or local authorities in the EEA, where there is no difference in risk between exposures of regional governments or local authorities and the central government of that Member State because of the specific revenue-raising powers of the former, and the existence of specific institutional arrangements the effect of which is to reduce their risk of default;

(iii) the European Financial Stability Facility, the European Stability Mechanism, or the Union, where applicable;

(iv) a multilateral development bank as listed under Article 117(2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council ([7]) and established in the Union;

(c) the CCP can demonstrate that it has low credit risk based upon an internal assessment by the CCP;

(d) the public guarantor respects the conditions determined by the risk management framework of the CCP;

(e) it is denominated in one of the following currencies:

(i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to adequately manage;

(ii) a currency in which the CCP clears transactions, in the limit of the collateral required to cover the CCP's exposures in that currency;

(f) it is irrevocable, unconditional and the issuing and guaranteeing entities cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee;

(g) it can be honoured within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint or any third party claim on it.

For the purposes of point (c), the CCP shall employ, in performing the assessment referred to in that point, defined and objective methodology that shall not fully rely on external opinions. The assessment shall also include credit ratings or other publicly available financial information of the guarantor, where available.

For the purposes of points (f) and (g), the public guarantee shall be accompanied by an independent written legal opinion confirming the enforceability and validity of the guarantee and any related payment agent agreement under the applicable law. The legal opinion shall, at a minimum, confirm that:

(i) the public guarantor has the legal capacity and authority to issue the guarantee and enter into any related agreements, and that all necessary permits and approvals have been obtained;

(ii) the guarantee and any related payment agent agreement create legally valid and enforceable payment obligations on first demand, and that the choice of law and jurisdiction clauses are recognized under the legal framework governing the public guarantor and the payment agent;

(iii) the guarantee and any related agreements cannot be contested, revoked, or otherwise rendered non-binding after execution; and

(iv) the CCP's rights under the guarantee and any related agreements can be judicially asserted and enforced without restrictions, waiting periods, or special authorizations, and that the agreed venue for enforcement is legally recognized.'

ANNEX II

Annex II to Delegated Regulation (EU) No 153/2013 is amended as follows:

(1) In paragraph 1, point (a), of Annex II to Commission Delegated Regulation (EU) No 153/2013, the following sub-points are added:

'(v) the Union;

(vi) the Bank for International Settlements;

(vii) the International Monetary Fund.'