ISDA Safe, Efficient Markets

20 March 2026

ISDA position paper on Better Regulation and Supervision in the European Commission's Market Integration and Supervision Package proposal

1. Introduction

ISDA welcomes the opportunity to comment on the European Commission's (EC) Market Integration and Supervision Package (MISP) proposal. This paper discusses the review of the ESMA regulation, addressing issues such as a) appropriate sequencing of the effective dates in Level 1 (primary) legislation and of the technical standards adopted at Level 2 that are meant to provide detail supporting consistent, definitive implementation of Level 1 legislation in financial services across the EU, b) further enhancement of 'No-Action' relief processes, c) the inclusion a secondary competitiveness mandate for ESMA and d) supervisory failures and suspension of services. It also comments more broadly on how the EU framework can effect better regulation and supervision of EU capital markets.

We strongly support the EU's Saving and Investment Union (SIU) objectives of integrating capital markets in the European Union, and of enhancing the competitiveness of participants in EU and global markets. We are convinced that improving the law-making process and supervisory practices would lead to a significant reduction of the administrative burden associated with implementation and, given ESMA's role as advising the EC on drafting Level 2 standards, development of EU requirements. This will significantly contribute to the SIU ambitions.

This commentary focuses primarily on the ESMA Regulation, as well as better regulation and supervision of EU capital markets more broadly. We will comment on other aspects of the MISP package, such as MiFIR post-trade transparency and the reforms to SFR and FCD, separately. Our key recommendations on the ESMA Regulation can be summarised as follows:

- **Introduce appropriate sequencing in the dates of effectiveness of Primary (Level 1) and secondary (technical standards, at Level 2) financial services legislation** by hardwiring transitional provisions in EU law which clarify that Level 1 requirements only become applicable after related Level 2 legislation has been finalised and made subject to an appropriate implementation period.
- **Reforms to 'No-Action' processes**, by integrating the EC in the process, improving legal clarity, and enhancing the flexibility of the Article 9a process.
- **Include competitiveness of EU markets in the ESMA mandate,** in addition to ESMA's market integration and innovation objectives.
- **ESMA and/or peer review should focus on NCAs when supervisory failures manifest** and such failures should not automatically trigger suspension of services by firms supervised by errant NCAs.

ISDA also observes that over time, despite the hardwiring of the so-called 'Lamfalussy' approach into EU regulation, the level of detail in Level 1 and 2 regulation has at times become misaligned with the principles underpinning the Lamfalussy approach. Some of the problems caused by this tendency motivate our proposals herein to upgrade the ability for the EU authorities to adopt 'no action' relief. ISDA believes that the legislation amended in the MISP, and indeed level 1 regulation more broadly should be as simple and principles-based as possible, and capable of being easily adapted to the evolution of market practices and international developments. Level 2 should detail how these principles should be implemented in a consistent manner across the EU in practice, while seeking to minimise (to the extent possible) the burden of compliance with these requirements. Level 3 should be used to calibrate the parameters defined at Level 2.

ISDA further reflects that one of the driving forces behind the establishment of the Wise Men's group (chaired by Alexandre Lamfalussy) was the slow speed at which EU legislation moved through the decision-making apparatus. Every effort should be made to make EU decision-making and EU supervision more agile in terms both of the ability to enact legislation quickly (if necessary) and to react to 'events' (e.g through forbearance).

2. Introduce appropriate sequencing in the dates of effectiveness of Primary (Level 1) and secondary (technical standards, at Level 2) financial services legislation

Several pieces of EU legislation have been marred by uncertainty, leading to unnecessary extra financial and other burdens for market participants because the Level 1 (primary legislation) has entered into effect prior to related Level 2 (secondary, technical legislation) being finalised, effective and/or no provision has been made for regulated firms to benefit from a reasonable implementation period for their compliance efforts.

On occasions, this uncertainty has forced market participants to contemplate the prospect of having to implement EU regulatory requirements twice - once to comply with an ambiguous Level 1 text and a second time to comply according to the detailed provisions adopted following the technical rulemaking process (see Annex 1 for examples of this occurrence).

Apart from the unreasonable financial burden such a scenario implies for regulated firms in the EU, compliance based on high-level texts subject to divergent interpretation and implementation also undermines the EU's objective of enhancing supervisory convergence and deeper EU capital markets.

This challenge of appropriately sequencing application dates of EU financial services legislation at Level 1 and Level 2, also sometimes referred to as the 'Lamfalussy process', is longstanding. As early as November 2007, the EC acknowledged that misalignment between Level 1 and Level

2 legislation created uncertainty and avoidable implementation costs.[1] Besides the outcome of the report, no reforms have been introduced in the last two decades.

Therefore, we encourage the co-legislators to seize the opportunity to implement the Council conclusions of 12 December 2025, which state in Paragraph 9e that *'Further, the implementation timelines should as a rule ensure simultaneous application of legislative acts and of the delegated and implementing acts adopted pursuant to those legislative acts, while allowing for sufficient time for Member States' implementation and businesses' transition.'*

For example, the Active Account Requirements (AAR), requiring in-scope firms to clear a certain amount of interest rate derivatives transactions at EU CCPs, became applicable in June 2025 whereas the relevant regulatory technical standards (RTS) in Level 2 were only published in the Official Journal on 6 February 2026 and entered into force on 26 February. Therefore, firms subject to the AAR have had to contemplate implementation of these requirements twice: first, between June 2025 and February 2026, on the basis of the Level 1 text alone, and now again in accordance with the detailed provisions set out in the newly applicable RTS.

ISDA proposes the inclusion of a provision in the ESMA Regulation hardwiring the principle that Level 1 EU requirements only become applicable at an appropriate date after technical standards have been finalised at Level 2.

While ISDA understands that there is some scepticism as to the legal basis of such a provision (because the effectiveness of Level 1 legislation would be dependent on provisions detailed by ESMA and/or other ESAs), ISDA observes several helpful examples of transitional provisions already adopted in EU legislation, where Level 1 application was contingent on the finalisation of relevant Level 2 legislation in addition to appropriate implementation periods. Annex 2 provides a non-exhaustive list of examples of helpful transitional provisions supporting orderly implementation of EU legislation. Such provisions require compliance only when the detailed meaning of Level 1 legislation, as elaborated in Level 2 standards, is fully understood and in effect.

Co-legislators could deviate from this principle supported in such an amendment to the ESMA Regulation when drafting and negotiating specific pieces of legislation in the event they think that there are tangible benefits for market participants.

Most industry calls for No-Action relief in EU financial regulation relate to misalignment of the application dates of Level 1 and 2 legislation. As such, our recommendation herein should be considered alongside that below, regarding amendment to Article 9a on No-Action letters.

[1] Communication from the Commission - Review of the Lamfalussy process - Strengthening supervisory convergence, COM(2007) 727, 20 November 2007.

Appropriate remediation of these recurrent and unnecessary issues would be a big step towards simplification and burden reduction in EU financial regulation.

One alternative remedy would be to include a long-stop date when the Level 1 obligation would begin to apply regardless of whether the Level 2 has been adopted or entered into force, but this approach would not be satisfactory, in particular because uncertainty would persist where Level 2 rules have not been adopted by the time Level 1 is effective, and/or if they are only available in draft form.

ISDA will be happy to provide legal drafting for co-legislators to consider which would have the effect of hardwiring the principle that Level 1 EU requirements only become applicable at an appropriate date after technical standards have been finalised at Level 2.

3. Reforms to No-Action relief

Market participants may call for 'no-action relief' because, as mentioned, technical standards which should elaborate the meaning of primary legislation have not been finalised or become effective. Other events that motivate such calls include unexpected market stresses caused by exogenous shocks, such as happened following the outbreak of COVID-19.

In this context, we welcome the addition of Article 9a(1)(e) referring to cases where *'significant market developments lead to a disproportionate burden of compliance'* as well as the addition of sub-paragraph (d) addressing situations of temporary exemptions turning into permanent exemptions.

However, we are concerned that the addition of these two additional reasons for Article 9a No-Action letters may not address the fundamental shortcoming in current Article 9a: the (in)ability of ESMA to disapply EU law on a temporary basis and do so in a timely fashion, in many important cases.

One key hurdle relates to instances where calls for forbearance relate to obligations under Level 1 legislation, agreed between the European Parliament and the Council (as happened in the case of the EMIR 3 AAR, previously mentioned). ESMA may not be legally able ('Meroni doctrine') to disapply EU law as, in such cases, it does currently not have legal discretion to do so.

As such, we recommend supplementing Article 9a of the ESMA Regulation by giving the European Commission a power to suspend legislative requirements on a time-limited basis by adopting Level 2 acts, making use of urgency procedures.

Such an approach would strike the right balance between respect for the co-legislators' decisions and allowing the EU legislative apparatus to react to challenges in the market in a timely fashion. Comparable powers already exist in some EU financial legislation. For example, EMIR Article

6a allows the European Commission to temporarily suspend the clearing obligation (part of the Level 1 text). Similarly, the EC enjoys similar powers for the derivatives trading obligation under MiFIR.

Furthermore, we note the EC's proposed amendments in the opening paragraph of Article 9a, replacing *'exceptional'* with *'urgent and unforeseen'*. We think the wording remains too limiting. ESMA should have sufficient flexibility to provide needed no-action relief if refraining to do so would lead to the disorderly functioning of markets or disproportionate compliance burdens. If market participants raise legitimate concerns to ESMA, these could be deemed as 'foreseen' and may not be deemed eligible for No-action relief.[2]

A reformed Article 9a would equip the EC and ESMA with conditional means to mitigate disorderly implementation (with the associated burden) of regulatory requirements, due, for example, to cliff edge effects, liquidity dislocations and/or geopolitical shocks – circumstances in which immediate full compliance may undermine the objectives the legislation seeks to protect. Supervisors in other major jurisdictions, such as the US, UK and Canada, are equipped with similar tools – a competitive disadvantage the EU should tackle now.

4. Include competitiveness of EU markets in the ESMA mandate

ISDA believes that ESMA should be provided with a secondary competitiveness mandate. Such a competitiveness mandate would have benefits for the EC, ESMA and European markets.

The EC and ESMA have ambitions for ESMA to be mandated with ever more centralised supervisory power in EU financial markets. One of the challenges that the EC and ESMA have in building support for such centralisation of power in ESMA is the wariness of market participants with well-established and deep supervisory relationships with National Competent Authorities (NCAs). It takes time, trust and confidence to build such relationships but if ESMA was mandated to *consider* the impact of their regulatory and supervisory actions on the competitiveness of the firms they regulate this would build confidence among these firms.

While ISDA understands that ESMA is not a legislator in the strict sense of the word (as it advises the EC on the content of secondary legislation), it is unclear to us why ESMA should not consider competitiveness in providing such advice. Such a mandate would align with Recital 5 of the proposal – in the context of transferring supervisory powers and enhanced convergence tools – which refers to *"more integrated, competitive and resilient capital markets that deliver better outcomes for investors, firms and the broader economy"*.

[2] The wording *'urgent and unforeseen'* may be interpreted as more restrictive for ESMA than the current wording (*'exceptional'*). We understand the EC's intention has been to simplify Article 9a practices. Therefore, a simple change from 'urgent and unforeseen' to 'urgent **or** unforeseen' or a deletion of the term unforeseen may be a simple solution.

The EC, in its role as the ultimate legislator at Level 2, can also consider competitiveness in so doing (as it currently does).

This secondary competitiveness mandate for ESMA would be subordinate to its primary mandates to safeguard financial stability, support regulatory convergence, protect investors and protect the public interest.

We note that the UK regulators (FCA and Bank of England PRA) have been provided with a secondary competitiveness mandate in recent years.[3]

This mandate should focus on the competitiveness of EU capital markets from the point of view of market participants. The mandate should come with a clear monitoring framework designed to assess ESMA's contribution to the attractiveness and competitiveness of EU capital markets and be subject to a strengthened accountability process vis-à-vis the Commission and co-legislators.

We propose that competitiveness, subject to appropriate clarification of its meaning, is introduced as an additional secondary objective under ESMA Regulation Article 1(5).

5. **ESMA and/or peer review should focus on NCAs when supervisory failures manifest and such failures should not automatically trigger suspension of services by firms supervised by errant NCAs**

ISDA members are concerned about the suggested ESMA powers in relation to a possible supervisory failure of a NCA, as articulated in Article 17aa. Article 17aa provides that a dispute between ESMA and NCAs may lead to 'corrective actions' by ESMA, *'which may include actions in relation to existing financial products, services, activities or entities that have been affected by the identified supervisory shortcomings'*.

However, supervisory failures by NCAs are beyond the control of market participants, and their provision of services and products should not be affected by the actions or omissions of NCAs in their supervision. Supervisory failures do not automatically translate into a lack of compliance by market participants nor is there a direct relationship between supervisory failures and the quality of the products and services offered.

Measures as a response to supervisory failures should never entail the de-facto banning of offering products and services, including on a cross-border basis, unless there is clarity that the offering of such products and services would not have been authorised absent the 'identified supervisory shortcomings' and such products do negatively interfere with ESMA's primary objective of investor protection. Instead, 'corrective actions' should directly target the problems

[3] FCA - Secondary International Competitiveness and Growth Objective report 2024/25 – July 2025: https://www.fca.org.uk/publication/corporate/sicgo-report-2024-25.pdf

associated with the supervisory failure but not unduly impact market participants. Possible ways of addressing this issue include the tools offered in articles 17, 29 and 30 of the ESMA Regulation, e.g. by issuing an opinion to the competent authority or setting out appropriate follow-up measures in a peer review report that could be adopted in the form of guidelines and recommendations.

Similarly, Article 17aaa aims to give ESMA powers in relation to the suspension of rights to provide services on a cross-border basis. Paragraph 2 states that in the event ESMA has 'reasonable grounds' it could *'take a decision requiring that competent authorities to order the relevant entity to suspend the provision of services or activities on a cross-border basis'.*

Suspension of services is an intrusive tool that can be equated with a temporary withdrawal of authorization and appears both legally uncertain and disproportionate. In addition, we have concerns that market participants may face dual punishments for infringement (for example, the NCAs fines a firm and ESMA suspends cross-border provision).

We propose to amend Article 17aa and 17aaa by introducing more targeted and proportionate 'corrective actions' focusing on NCAs directly and not market participants thereby avoiding harmful and disproportionate side-effects for EU markets.

Lastly, we emphasise both that the EU regulatory and supervisory framework should disincentivize 'supervisory forum shopping' and that the distribution of products and services which are fraudulent or not compliant with EU regulation, should always be addressed through robust supervisory actions.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 77 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

Annex 1: Examples of L1 and L2 misalignment and cases where No-Action powers would have been helpful – non-exhaustive list

The list contains a non-exhaustive list of examples where misalignment of Level 1 and Level 2 requirements led to disproportionate costs of implementation and could have been resolved by a reformed Lamfalussy process or the ability of ESMA or the EC to make use of 'No-Action' relief powers.

- **EMIR 3 – Active Account Requirement**

EMIR 3 has been published in the Official Journal on 24 December 2024 and AAR in accordance with the Level 1 text became applicable as of 25 June 2025. However, the relevant RTS, specifying how AAR should be compliant with, including requirements on operational conditions and reporting, were only published in the Official Journal of the European Union on 6 February 2026.

- **EMIR 3 – Article 7d reporting**

Similar to the above, Article 7d reporting in relation to clearing activities in third countries, has been made applicable for 25 December 2025 (1 year after the publication of EMIR 3 Level 1 in the OJ). In light of lacking clarity around the requirements (for example, the wording 'non-financial instrument in Article 7d) and the absence of relevant Level 2 specification, led the industry to reach out to ESMA. On 11 December 2025, ESMA addressed concerns by publishing a statement, stating that *'Therefore, it is expected that the first reporting under Article 7d of EMIR on 2025 data will be submitted together with the 2026 reporting cycle, following the implementation of the necessary Level 2 measures.'*

- **Taxonomy – Article 8 reporting**

The extended scrutiny period of the Taxonomy Article 8 DA (Omnibus DA) created legal uncertainty and resulted in a delay in the publication of the DA (also due to two EP motions to reject it that ultimately failed to pass). ESMA had to publish recommendations and the EC draft FAQs to clarify that undertakings may choose which reporting rules to apply for the financial year 2025 for reports due 1 January 2026, having the option of applying the simplified rules as amended by the Omnibus DA or, alternatively, applying the previous rules in full. The existence of a no-action letter would have clarified from the onset that the Trading Book KPI does not need to be reported in 2026, even if the credit institution chooses to apply the reporting rules of the Article 8 Taxonomy DA that were applicable until 31 December 2025.

- **ESG disclosures under the Benchmarks Regulation**

Following the initial sustainable finance package, the EU Benchmarks Regulation (BMR) introduced ESG disclosures for benchmarks as well as two labels for carbon-related benchmarks,

the Climate- Transition and Paris-aligned benchmarks. The ESG disclosure requirements became – in accordance with the Level 1 text – applicable from 30 April 2020. However, relevant RTS have not been established. On 29 April 2020, ESMA issued its first No-Action letter under Article 9a. A reformed Lamfalussy process would have proactively tackled such timing gap issue. Importantly, the No-Action letter itself states in Paragraph 5 that: *From a legal perspective, neither ESMA nor the competent authorities possess any power to allow the disapplication of applicable Union law. In view of these exceptional circumstances, ESMA considers that it is necessary for competent authorities to address the absence of the delegated acts supplementing Articles 13(1)(d) and 27(2a) of Regulation (EU) 2016/1011 through consistent risk-based supervisory and enforcement practices*

- **MiFIR Review – transparency, consolidated tape, transaction reporting provisions**

In the MiFIR Review, the co-legislators adopted revised Level 1 requirements that entered into force on 28 March 2024, despite the fact that a substantial number of mandated Level 2 measures (RTS and ITS on transparency, consolidated tape, transaction reporting and commodity derivatives) were not yet finalised. This created a risk of legal uncertainty and operational disruption. To address this, the European Commission and ESMA relied on a combination of explicit transitional provisions in the Level 1 text, a Commission interpretative notice on the application of those provisions, and ESMA public statements confirming that existing Level 2 rules would continue to apply until the new technical standards are adopted and become applicable. This coordinated approach allowed the revised MiFIR framework to enter into force on schedule while preserving supervisory continuity and avoiding a regulatory cliff edge during the interim period.

- **EMIR – Application of variation margin requirements to non-centrally cleared derivatives**

In internationally agreed standards on margin requirements for non-centrally cleared derivatives, the application date of variation margin was the 1 March 2017. Unlike the initial margin requirements, variation margin was not subject to phase-in and the application of the requirements required a legal documentation exercise concerning more than 150.000 contractual relationships, most of them with small counterparties not well prepared for it. For this reason, most jurisdictions applying margin rules for non-centrally cleared derivatives granted regulatory forbearance for 6 months, i.e. enforcement delayed until the 1 September 2017 (United States of America, Japan, South-Korea, Singapore, Hong-Kong, Australia), putting Europe in isolation with the application of the rules as of the 1 March 2017 and putting all EU counterparties (both dealers and clients) at competitive risk compared to counterparties located in other jurisdictions.

Annex 2: Examples transitional provisions – non-exhaustive list

The below constitutes a non-exhaustive list of examples with transitional provisions, preventing unnecessary cliff-edge effects and double implementation efforts by making Level 1 application contingent on Level 2.

- **PEPP – Article 74 – entire regulation**

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 apply 12 months after the publication in the Official Journal of the European Union of the delegated acts referred to in Articles 28(5), 30(2), 33(3), 36(2), 37(2), 45(3) and 46(3).

- **BMR Article 51 – spot FX benchmarks**

"A spot foreign exchange benchmark provided by an administrator located in a third country may be used for existing and new financial instruments and financial contracts, or for measuring the performance of an investment fund until the date of entry into force of the implementing act referred to in Article 18a(3)."

- **EMIR 3 Article 5 – FC+ and NFC+ classification**

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

It shall apply from 24 December 2024 with the exception of Article 1, points (4) and (9) amending Articles 4a(1), (2) and (3) and Article 10(1), (2) and (3), respectively, of Regulation (EU) No 648/2012, which shall not apply until the date of entry into force of the regulatory technical standards referred to in Article 10(4) of Regulation (EU) No 648/2012 as amended by Article 1, point (9), of this Regulation.

- **CRR – Article 497 - transitional provisions extension for third-country CCPs**

1. Up until 15 months after the date of entry into force of the latest of the eleven regulatory technical standards referred to at the end of the first subparagraph of Article 89(3) of Regulation (EU) 648/2012, or until a decision is made under Article 14 of that Regulation on the authorisation of the CCP, whichever date is earlier, an institution may consider that CCP to be a QCCP, provided that the condition laid down in the first part of that subparagraph has been met.

2. Up until 15 months after the date of entry into force of the latest of the ten regulatory technical standards referred to at the end of the second subparagraph of Article 89(3) of Regulation (EU) 648/2012, or until a decision is made under Article 25 of that Regulation on the

recognition of the CCP established in a third country, whichever date is earlier, an institution may consider that CCP to be a QCCP,

3. The Commission may adopt an implementing act under Article 5 of Regulation (EU) No 182/2011 extending the transitional provisions in paragraphs 1 and 2 of this Article by a further six months, in exceptional circumstances where it is necessary and proportionate to avoid disruption to international financial markets.

- **CSDR – Article 76 – settlement discipling regime**

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

2. Article 3(1) shall apply from 1 January 2023 to transferable securities issued after that date and from 1 January 2025 to all transferable securities.

3. Article 5(2) shall apply from 1 January 2015.

By way of derogation from the first subparagraph of this paragraph, in the case of a trading venue that has access to a CSD referred to in Article 30(5), Article 5(2) shall apply at least six months before such a CSD outsources its activities to the relevant public entity, and in any event from 1 January 2016.

4. The settlement discipline measures referred to in Article 6(1) to (4) shall apply from the date of entry into force of the delegated act adopted by the Commission pursuant to Article 6(5).

5. The settlement discipline measures referred to in Article 7(1) to (13) and the amendment laid down in Article 72 shall apply from the date of entry into force of the delegated act adopted by the Commission pursuant to Article 7(15).

- **PSD2 – Article 115 – security requirements**

1. By 13 January 2018, Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

2. They shall apply those measures from 13 January 2018.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

4. By way of derogation from paragraph 2, Member States shall ensure the application of the security measures referred to in Articles 65, 66, 67 and 97 from 18 months after the date of entry into force of the regulatory technical standards referred to in Article 98.

- **SFTR – Article 33 – reporting obligations**

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

2. This Regulation shall apply from 12 January 2016, with the exception of:

(a) Article 4(1), which shall apply:

(i) 12 months after the date of entry into force of the delegated act adopted by the Commission pursuant to Article 4(9) for financial counterparties referred to in points (3)(a) and (b) of Article 3 and third-country entities referred to in point (3)(i) of Article 3 which would require authorisation or registration in accordance with the legislation referred to in points (3)(a) and (b) of Article 3 if they were established in the Union;

(ii) 15 months after the date of entry into force of the delegated act adopted by the Commission pursuant to Article 4(9) for financial counterparties referred to in points (3)(g) and (h) of Article 3 and third-country entities referred to in point (3)(i) of Article 3 which would require authorisation or registration in accordance with the legislation referred to in points (3)(g) and (h) of Article 3 if they were established in the Union;

(iii) 18 months after the date of entry into force of the delegated act adopted by the Commission pursuant to Article 4(9) for financial counterparties referred to in points (3)(c) to (f) of Article 3 and third-country entities referred to point (3)(i) of Article 3 which would require authorisation or registration in accordance with the legislation referred to in points (3)(c) to (f) of Article 3 if they were established in the Union; and

(iv) 21 months after the date of entry into force of the delegated act adopted by the Commission pursuant to Article 4(9) for non-financial counterparties;

(b) Article 13, which shall apply from 13 January 2017;

(c) Article 14, which shall apply from 13 July 2017 in the case of collective investment undertakings subject to Directive 2009/65/EC or Directive 2011/61/EU that are constituted before 12 January 2016;

(d) Article 15, which shall apply from 13 July 2016, including for collateral arrangements existing on that date.

- **EMIR – Article 89 – pension scheme arrangements**

2. By 17 August 2014, the Commission shall prepare a report, after consulting ESMA and EIOPA, assessing the progress and effort made by CCPs in developing technical solutions for the transfer by pension scheme arrangements of non-cash collateral as variation margins, as well as the need for any measures to facilitate such solution. If the Commission considers that the necessary effort to develop appropriate technical solutions has not been made and that the adverse effect of centrally clearing derivative contracts on the retirement benefits of future pensioners remain unchanged, it shall be empowered to adopt delegated acts in accordance with Article 82 to extend the three-year period referred to in Article 89(1) once by two years and once by one year.

- **CRR – Article 461 – liquidity coverage requirements**

1. EBA shall, after consulting the ESRB, by 30 June 2016 report to the Commission on whether the phase-in of the liquidity coverage requirement as specified in Article 460(2) should be amended. Such analysis shall take due account of market and international regulatory developments as well as Union specificities.

EBA shall in its report assess in particular a deferred introduction of the 100 % minimum binding standard, until 1 January 2019. The report shall take into account the annual reports referred to in Article 509(1), relevant market data and the recommendations of all competent authorities.

2. Where necessary to address market and other developments, the Commission shall be empowered to adopt a delegated act in accordance with Article 462 to alter the phase-in specified in Article 460 and defer until 2019 the introduction of a 100 % binding minimum standard for the liquidity coverage requirement set out in Article 412(1) and to apply in 2018 a 90 % binding minimum standard for the liquidity coverage requirement.

For the purposes of assessing the necessity of deferral the Commission shall take into account the report and assessment referred to in paragraph 1.

A delegated act adopted in accordance with this Article shall not apply before 1 January 2018 and shall enter into force by 30 June 2017.

- **CRR – Article 461a – Own funds requirement for market risk**

1. The Commission shall monitor the differences between the implementation of international standards on own funds requirements for market risk in the Union and in third countries, including as regards the impact of the rules in terms of own funds requirements and as regards their date of application.

2. Where significant differences in such implementation are observed, the Commission shall be empowered to adopt delegated acts in accordance with Article 462 to amend this Regulation by:

(a) applying, until the date of application of the legislative act referred to in paragraph 3 of this Article or for up to three years in the absence of such an act, and where necessary to preserve a level playing field and to offset those observed differences, targeted operational relief measures or targeted multipliers equal to or greater than 0 and lower than 1 in the calculation of the institutions' own funds requirements for market risk, for specific risk classes and specific risk factors, using one of the approaches referred to in Article 325(1), and laid out in:

(i) Articles 325c to 325ay, specifying the alternative standardised approach;

(ii) Articles 325az to 325bp, specifying the alternative internal model approach;

(iii) Articles 326 to 361, specifying the simplified standardised approach;

(b) postponing for up to two years the date from which institutions shall apply the own funds requirements for market risk set out in Part Three, Title IV, or any of the approaches to calculate the own funds requirements for market risk referred to in Article 325(1).

Where the Commission adopts the delegated act referred to in the first subparagraph, the Commission shall, where appropriate, submit a legislative proposal to the European Parliament and to the Council to adjust the implementation in the Union of international standards on own funds requirements for market risk to preserve in a more permanent manner a level playing field with third countries, in terms of own funds requirements and the impact of those requirements.

3. By 10 July 2026, EBA shall submit a report to the European Parliament, to the Council and to the Commission on the implementation of international standards on own funds requirements for market risk in third countries.

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal, in order to ensure a global level playing field.'

- **Crowdfunding Regulation – Article 48 – crowdfunding services under national law**

1. Crowdfunding service providers may continue in accordance with the applicable national law to provide crowdfunding services that are included within the scope of this Regulation until 10 November 2022 or until they are granted an authorisation referred to in Article 12, whichever is sooner.

2. For the duration of the transitional period referred to in paragraph 1 of this Article, Member States may have in place simplified authorisation procedures for entities that, at the time of entry into force of this Regulation, are authorised under national law to provide crowdfunding

services. The competent authorities shall ensure that the requirements laid down in Article 12 are complied with before granting authorisation pursuant to such simplified procedures.

3. By 10 May 2022, the Commission shall make an assessment, after consulting ESMA, on the application of this Regulation to crowdfunding service providers that provide crowdfunding services only on a national basis and on the impact of this Regulation on the development of national crowdfunding markets and on access to finance. On the basis of that assessment, the Commission shall be empowered to adopt delegated acts in accordance with Article 44 to extend the period referred to in paragraph 1 of this Article once by a 12-month period.

- **Omnibus on sustainability reporting – Account Directive – Article 29d – mark up of sustainability reporting by undertakings and parent undertakings**

*1. Undertakings subject to the requirements of Article 19a of this Directive shall prepare their management report in the electronic reporting format specified in Article 3 of Commission Delegated Regulation (EU) 2019/815 (*5) and shall mark up their sustainability reporting, including the disclosures provided for in Article 8 of Regulation (EU) 2020/852, in accordance with the electronic reporting format specified in that Delegated Regulation. Until such rules on the marking-up are adopted by way of that Delegated Regulation, undertakings shall not be required to mark up their sustainability reporting.*