

Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories (Text with EEA relevance)

CHAPTER XII

CSD LINKS

(Article 48(3), (5), (6) and (7) of Regulation (EU) No 909/2014)

Article 84

Conditions for the adequate protection of linked CSDs and of their participants

- 1 A CSD link shall be established and maintained under the following conditions:
 - a the requesting CSD shall meet the requirements of the receiving CSD's participation rules;
 - b the requesting CSD shall conduct an analysis of the receiving third-country CSD's financial soundness, governance arrangements, processing capacity, operational reliability and any reliance on a third party critical service provider;
 - c the requesting CSD shall take all necessary measures to monitor and manage the risks that are identified following the analysis referred to in point (b);
 - d the requesting CSD shall make the legal and operational terms and conditions of the link arrangement available to its participants allowing them to assess and manage the risks involved;
 - e before the establishment of a CSD link with a third-country CSD, the requesting CSD shall perform an assessment of the local legislation applicable to the receiving CSD;
 - f the linked CSDs shall ensure the confidentiality of information in connection to the operation of the link. The ability to ensure confidentiality shall be evidenced by the information provided by the CSDs, including any relevant legal opinions or arrangements;
 - g the linked CSDs shall agree on aligned standards and procedures concerning operational issues and communication in accordance with Article 35 of Regulation (EU) No 909/2014;
 - h before the link becomes operational, the requesting and receiving CSDs shall:
 - (i) conduct end-to-end tests;
 - (ii) establish an emergency plan, as part of the business continuity plans of the respective CSDs, identifying the situations where the securities settlement systems of the two CSDs malfunction or break down, and provide for the remedial actions planned if those situations occur;
 - i all link arrangements shall be reviewed at least annually by the receiving CSD and the requesting CSD taking into account all relevant developments, including market and IT developments, as well as any developments in local legislation referred to in point (e);

Changes to legislation: Commission Delegated Regulation (EU) 2017/392, Article 84 is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) EUR 2017 No. 392 may be subject to amendment by EU Exit Instruments made by the Bank of England under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 3. These amendments are not currently available on legislation.gov.uk. Details of relevant amendments can be found at https://www.legislation.gov.uk/ukdsi/2018/01/13/51501_1_1.

to in point (i) shall also include an assessment of any developments that may allow supporting DVP settlement.

For the purposes of point (e), in performing the assessment, the CSD shall ensure that the securities maintained in the securities settlement system operated by the receiving CSD benefit from a level of asset protection comparable to the one ensured by the rules applicable to the securities settlement system operated by the requesting CSD. The requesting CSD shall require from the third-country CSD a legal assessment addressing the following issues:

- (i) the entitlement of the requesting CSD to the securities, including the law applicable to proprietary aspects, the nature of the rights of the requesting CSD on the securities, the possibility of encumbering the securities;
- (ii) the impact of insolvency proceedings opened against the receiving third- country CSD on the requesting CSD regarding the segregation requirements, settlement finality, procedures and time limits to claim the securities in the relevant third country.

2 In addition to the conditions referred to in paragraph 1, a CSD link providing for DVP settlement shall be established and maintained under the following conditions:

- a the requesting CSD shall assess and mitigate the additional risks resulting from the settlement of cash;
- b a CSD that is not authorised to provide banking-type ancillary services in accordance with Article 54 of Regulation (EU) No 909/2014, and which is involved in the execution of cash settlement on behalf of its participants, shall not receive credit and shall use prefunding mechanisms covered by its participants in relation to the DVP settlements to be processed through the link;
- c a CSD that uses an intermediary for the cash settlement shall ensure that the intermediary performs that settlement efficiently. The CSD shall conduct yearly reviews of the arrangements with that intermediary.

3 In addition to the conditions referred to in paragraphs 1 and 2, an interoperable link shall be established and maintained under the following conditions:

- a the linked CSDs shall agree on equivalent standards concerning reconciliation, opening hours for the processing of the settlement and of corporate actions and cut-off times;
- b the linked CSDs shall establish equivalent procedures and mechanisms for transmission of settlement instructions to ensure a proper, secure and straight through processing of settlement instructions;
- c where an interoperable link supports DVP settlement, the linked CSDs shall reflect at least daily and without undue delay the results of the settlement in their books;
- d the linked CSDs shall agree on equivalent risk-management models;
- e the linked CSDs shall agree on equivalent contingency and default rules and procedures referred to in Article 41 of Regulation (EU) No 909/2014.

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Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 13](#)