



VERDIPAPIRSENTRALEN ASA
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OUR REFERENCE
22/5678

YOUR REFERENCE

DATE
6 February 2024

Report from annual review

1. Introduction

Finanstilsynet has carried out an annual review of Verdipapirsentralen ASA in accordance with the requirements of Article 22 of the CSDR (Regulation (EU) No 909/2014 of the European Parliament and of the Council).¹ Verdipapirsentralen ASA, with the business name Euronext Securities Oslo ('ES-OSL'), is the only undertaking in Norway that is authorised to conduct central securities depository (CSD) activities in accordance with the requirements of the CSDR. ES-OSL's authorisation under the CSDR became effective as of 1 March 2022.

The review took place from 1 March to 31 December 2022 (the 'review period').

Minimum requirements for the documentation to be obtained by Finanstilsynet in connection with its annual review are laid down in Articles 40-43 of Commission Delegated Regulation (EU) 2017/392 (RTS 2017/392²). In accordance with Article 40 (2)(c) of RTS 2017/392, Finanstilsynet has also requested additional information in order to assess ES-OSL's compliance with the requirements of the CSDR during the review period.

ES-OSL received Finanstilsynet's preliminary review report on 20 November 2023 (the 'Report'). ES-OSL gave its comments to the Report in a letter dated 22 December 2023 (the 'Response').

In this report, Finanstilsynet discusses certain operational incidents that may pose a risk to ES-OSL and that occurred either in connection with the CSDR authorisation or in connection with changes made during the review period. This includes ES-OSL's follow-up of account operators, CSD links and incident management. In addition, Finanstilsynet comments on some of the expectations expressed when ES-OSL was granted the authorisation under the CSDR.

Please send a copy of this report to your statutory auditor.

2. Euronext Securities Oslo in brief

ES-OSL's authorisation under the CSDR includes the three core services set out in Section A of the Annex to the CSDR:

¹ Implemented in Norwegian law in the Central Securities Depository Act, Section 1-1, first subsection.

² Implemented in Norwegian law in the Central Securities Depository Regulations, Section 1(4).

- 1) initial recording of securities in a book-entry system ('notary service')
- 2) providing and maintaining securities accounts at the top tier level ('central maintenance service')
- 3) operating a securities settlement system ('settlement service')

The authorisation also includes additional services related to the core services as well as other ancillary services.

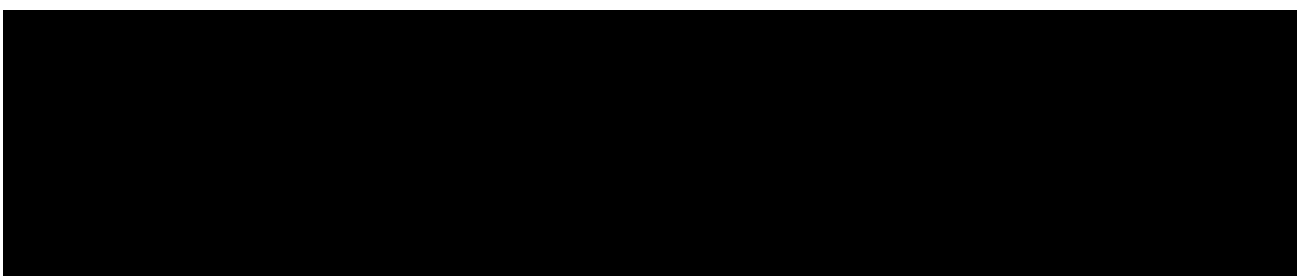
ES-OSL is 100% owned by Euronext Nordics Holding AS (which also owns 100% of the shares in Oslo Børs ASA and 66.7% of the shares in Nord Pool Holding AS), which in turn is 100% owned by Euronext N.V. In addition to ES-OSL, Euronext N.V. owns CSDs in Denmark (Euronext Securities Copenhagen), Italy (Euronext Securities Milan) and Portugal (Euronext Securities Porto).

The authorisation to operate in accordance with the CSDR was granted subject to a condition related to the calculation of equity. The calculation shall be based on a minimum period of 12 months for orderly winding-down. ES-OSL has calculated the capital requirement based on its annual financial statements for 2022 and confirmed that a period for orderly winding-down of 12 months has been applied.

ES-OSL has chosen to retain the model of decentralised recording of book entries, as permitted by Article 31 of the CSDR, i.e. that account operators carry out the registration in the register.

ES-OSL offers settlement in Norwegian central bank money through the VPO NOK settlement system. The other CSDs in the Euronext Group participate in the pan-European settlement system T2S, which enables settlement of central bank money across securities markets in the EU. At the end of the review period, there were 38 direct participants³ in VPO NOK, of which 28 were Norwegian.

A special feature of the Norwegian CSD, which also applies to the other Nordic CSDs, is that investors have accounts in their own name in the securities depository, which means that the CSD has a large number of accounts. At year-end 2022, ES-OSL had approximately 1.5 million⁴ accounts.



³ Statistical data reported in accordance with Article 42(1)(a) of RTS 2017/392

⁴ Calculated based on information in the 2021 and 2022 annual reports

⁵ ES-OSL's annual report for 2022

⁶ Statistical data reported in accordance with Article 42(1)(c) of RTS 2017/392

⁷ Statistical data reported in accordance with Article 42(1)(f) of RTS 2017/392

⁸ Statistical data reported in accordance with Article 42(1)(f) of RTS 2017/392

⁹ Statistical data reported in accordance with Article 42(1)(f) of RTS 2017/392

During 2022, a total of 12 604 360 settlement instructions were settled, divided into 9 625 158 DVP (Delivery Versus Payment) and 2 979 202 FOP (Free of Payment)¹⁰ instructions.

3. Oversight of account operators' activities

3.1. Legal basis

According to the Norwegian Central Securities Depositories Act, Section 6-5, first subsection, 'A CSD shall maintain satisfactory oversight of account operators' activities to ensure their compliance with law, regulations and the CSD's rules'.

3.2. Finanstilsynet's assessments in the Report

When ES-OSL was granted authorisation in accordance with the CSDR, ES-OSL provided information on planned new controls and follow-up measures to be implemented to fulfil the requirement for satisfactory oversight set out in Section 6-5 of the Central Securities Depositories Act. The new follow-up measures were to include an annual self-declaration form from all account operators, a periodic questionnaire to selected account operators, regular contact meetings with account operators and improved training of account operators' employees. In connection with its annual review, Finanstilsynet received a report from ES-OSL with a description of the follow-up measures they had actually implemented during the review period.

In the Report, Finanstilsynet stated that several of the outlined measures, which in Finanstilsynet's opinion were considered necessary to enable ES-OSL to meet its obligation to maintain satisfactory oversight, were only at the planning stage at the end of the review period. Finanstilsynet pointed out that ES-OSL was required to maintain satisfactory oversight as from 1 March 2022. The only measures that had been implemented almost as planned were the collection of self-declaration forms and dispatch of questionnaires to selected account operators based on a risk-based approach. The questionnaire was sent to three account operators (in spite of the original plan to send it to 10-15 account operators). Subsequent to this, a thematic inspection of account operators for bonds was carried out.

In the Report, Finanstilsynet pointed out that some account operators had not received the annual self-declaration form due to the fact that ES-OSL did not have a complete list of active account operators. Finanstilsynet stated that in order to maintain satisfactory oversight of account operators, ES-OSL was required, at all times, to have a full overview of legal entities with an active account operator agreement. Finanstilsynet was therefore not reassured by the fact that it had to contact ES-OSL repeatedly in order to receive a satisfactory overview of active account operators. In addition, there were inconsistencies between the final overview received by Finanstilsynet and the number of account operators listed in ES-OSL's Annual Risk Report. In the Report, Finanstilsynet expressed an expectation that ES-OSL will always have a complete overview for internal use and regularly update the information on its website.

One measure in ES-OSL's plan for following up account operators was to arrange semi-annual contact meetings with the largest account operators and contact meetings with a selection of smaller account operators based on a risk-based approach. Topics on the agenda included 1) compliance

¹⁰ Statistical data reported in accordance with Article 42(1)(h) of RTS 2017/392

with the registration rules, 2) errors, inconsistencies and incidents related to the account operator and 3) changes that could affect the account operators' ability to carry out its duties. In the Report, Finanstilsynet pointed out that meetings had been held with only one account operator, and that these meetings appeared to focus more on relationship building than on oversight. Finanstilsynet stressed the importance of moving the oversight part of these meetings to separate meetings with other participants from ES-OSL.

ES-OSL's plans to improve account operators' training had also not been realised. In the Report, Finanstilsynet stated that the account operators' expertise is crucial to ensure correct recording in the register, and Finanstilsynet was therefore critical of the fact that the training had not yet been improved. Finanstilsynet emphasised the importance of this being rectified as quickly as possible.

Finanstilsynet noted that ES-OSL had strengthened its oversight of account operators by hiring a Client Compliance Officer who joined ES-OSL on 1 June 2023. In the Report, Finanstilsynet nevertheless questioned why this had taken such a long time. Finanstilsynet stated that ES-OSL apparently had not taken account of the increased workload and need for additional resources that the plans submitted to Finanstilsynet would entail. Finanstilsynet pointed out that ES-OSL always must have sufficient resources to comply with legal requirements, including oversight of account operators' activities.

Finally, Finanstilsynet questioned whether the oversight measures planned by ES-OSL were sufficient to detect errors. ES-OSL was asked to consider further oversight measures in the form of more active controls, for example various random checks, to ensure satisfactory oversight of account operators.

3.3. ES-OSL's comments in the Response

ES-OSL acknowledges that it has deviated from the plan on oversight of account operators' activities that was presented to Finanstilsynet when the authorisation under the CSDR was granted. This mainly referred to the postponement of the improved training programme for account operators, as priority was given to other follow-up and oversight measures targeting account operators. ES-OSL acknowledges that it underestimated the workload associated with its oversight activities and that its oversight activities have thus been negatively affected.

With regard to the list of active account operators, ES-OSL states that it did not have adequate quality assurance measures in place to secure the quality of the data submitted to Finanstilsynet. ES-OSL states that it has implemented a number of improvement measures, including immediate reconciliation and updating of all available and published lists, and established procedures for this. A dedicated procedure was put in place in November 2023.

ES-OSL stated that in addition to appointing a Client Compliance Officer in June 2023, it has established another position that was filled in April 2023. This position is dedicated to following up registration methods and related matters, including compliance with the CSDR when issuing financial instruments. The position holder is also responsible for CSD links and other related tasks.

With regard to Finanstilsynet's request to ES-OSL to consider further oversight measures in the form of more active controls, ES-OSL refers to the plan presented to ES-OSL's Board of Directors on 12 December 2023. The plan includes the establishment of a committee to monitor the oversight

of account operators and propose improvements, handle disciplinary cases against account operators and issue quarterly reports to ES-OSL's Board of Directors. The plan also includes the introduction of a technical block when registering foreign shares and mutual funds, as well as a requirement that the account operators' compliance officers confirm the information in the annual self-declaration form. E-learning with final tests and certification of master users at the account operators will be rolled out in March 2024.

ES-OSL also states that in autumn 2023, as part of a Group Internal Control Project aimed at strengthening the group's internal controls, it chose to focus on risk and internal controls related to registration in the securities depository.

According to the Response, activities to oversee account operators have been on the agenda of ES-OSL's User Committee. The purpose has been to draw greater attention to the important role of account operators for the CSD under the current business model, and to make account operators understand that they have an obligation to contribute in connection with the oversight activities.

3.4. Finanstilsynet's conclusion

ES-OSL implemented certain oversight measures vis-à-vis account operators during the review period, but several of the planned measures were not implemented, including the strengthening of account operators' training. In Finanstilsynet's opinion, this measure is particularly important since it is crucial that account operators have the required knowledge to make correct recordings in the register. Finanstilsynet's conclusion is that ES-OSL's oversight of account operators during the review period was inadequate and not in compliance with the Central Securities Depositories Act Section 6-5, first subsection concerning satisfactory oversight of account operators. Finanstilsynet is critical of ES-OSL's inadequate follow-up of account operators during the review period.

In order to be able to maintain satisfactory oversight of the account operators, it is essential to have information about which legal entities have an active account operator agreement. Finanstilsynet is therefore critical of the fact that ES-OSL found it challenging to obtain precise information about this upon request. Finanstilsynet expects that new procedures will ensure that ES-OSL at all times will have an overview of which legal entities are and have been subject to control measures.

Finanstilsynet takes note of the fact that ES-OSL allocated dedicated resources to strengthening the oversight of account operators during 2023, refined the framework for oversight of account operators and decided on several new oversight measures. Finanstilsynet welcomes ES-OSL's introduction of a new framework but emphasises that it comes too late.

4. CSD Links

4.1. Legal basis

The requirements for CSD links follow from Article 48 of the CSDR and Articles 84-86 of RTS 2017/392.

According to Article 84(1)(i) of RTS 2017/392, all link arrangements shall be reviewed at least annually by the receiving CSD and the requesting CSD.

According to Article 48(5) of the CSDR, a CSD that uses an indirect link shall measure, monitor and manage the additional risks arising from the use of that indirect link and take appropriate measures to mitigate them. For indirect links, requesting CSDs are also required to perform an annual due diligence of intermediaries to make sure that they comply with the additional requirements for indirect links in Article 85(1) and (2) of RTS 2017/392, cf. Article 85(3).

Requirements for reconciliation procedures for linked CSDs follow from Article 48(6) of the CSDR and Article 86 of RTS 2017/392.

During the review period, ES-OSL had indirect links to Clearstream Banking S.A. (Clearstream) and Euroclear Bank SA/NV (Euroclear), with [REDACTED] and [REDACTED] as intermediaries. ES-OSL has entered into intermediary agreements with [REDACTED] and [REDACTED], respectively, to ensure that the links and intermediaries meet the requirements set out in Articles 84-86 of RTS 2017/392. The intermediary agreement contains a provision stating that the intermediaries shall assist ES-OSL in the annual reviews of the links, and the requirements for the review follow from the 'Procedure for Due Diligence of the Relevant CSD', which is attached to the intermediary agreement.

4.2. Finanstilsynet's assessments in the Report

4.2.1. Annual review pursuant to Article 84(1)(i) of RTS 2017/392

ES-OSL has stated that its annual review of the links in which ES-OSL is the requesting CSD was partly based on the intermediaries' due diligence of the links. [REDACTED] had not performed a due diligence of Euroclear since 2021. Finanstilsynet's assessment in the Report was therefore that there had been no adequate review of the link to Euroclear during the review period. Finanstilsynet pointed out that a confirmation from [REDACTED] that it had not uncovered or been made aware of significant changes at the receiving CSD that affect the deliveries in the CSD link was not sufficient to satisfy the requirement for an annual review of the link.

With regard to the link with [REDACTED] as intermediary, ES-OSL stated that [REDACTED] had been in frequent contact with the receiving CSD through extensive questionnaires and subsequent follow-up meetings. However, it was unclear to Finanstilsynet whether the review had been carried out in accordance with the intermediary agreement and the related due diligence procedure. Finanstilsynet pointed out that if ES-OSL was to rely on reviews carried out by others, it had to be ensured that the contracting parties actually carried out such reviews or, alternatively, ES-OSL would have to conduct the reviews itself.

It was Finanstilsynet's understanding that ES-OSL had not performed a due diligence of the CSD links where ES-OSL was the receiving CSD prior to 1 March 2023, but that ES-OSL was planning to do so during the first half of 2023. Finanstilsynet therefore concluded that ES-OSL had not complied with the requirement set out in Article 84(1)(i) of RTS 2017/392 for an annual review of the links where ES-OSL is the receiving CSD.

4.2.2. Due diligence of intermediaries pursuant to Article 85(3) of RTS 2017/392

In the Report, Finanstilsynet pointed out that ES-OSL must have procedures in place to monitor and manage the additional risks resulting from the use of indirect links and ensure that the additional requirements set out in Article 85 of RTS 392 are met. In connection with the review, ES-OSL confirmed that it had performed a due diligence of the intermediaries.

In the Report, Finanstilsynet referred to section 3.5 of the intermediary agreement, which states that the intermediary shall submit an annual 'ISAE3402 report' to ES-OSL to enable ES-OSL to verify that the intermediary has sufficient operational capacity and systems in accordance with Article 85(1)(d) of RTS 2017/392. In connection with the review, ES-OSL announced that ██████ had stopped preparing such reports as it no longer offers sub-custody services. Finanstilsynet therefore questioned whether ES-OSL had complied with the requirement set out in Article 85(1)(d) of RTS 2017/392.

4.2.3. Reconciliation

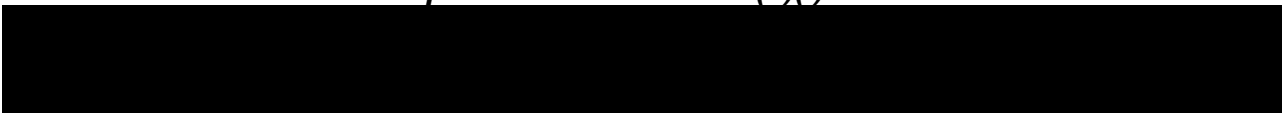
In ES-OSL's link model, reconciliation is carried out in two separate steps, first between the receiving CSD and the intermediary, and then between the intermediary and ES-OSL. In the Report, Finanstilsynet emphasised that ES-OSL must therefore address and manage the risk arising from not having direct information about the assets held by the intermediary on behalf of ES-OSL in the receiving CSD.

According to ES-OSL's procedures, ES-OSL shall randomly and at least once a month check the notifications on holdings and transactions to determine whether the recordings in ES-OSL match those registered in the account with the receiving CSD, as evidenced by the notifications received. ES-OSL stated that checks were carried out during the initial period when the reconciliation solution was in production, as well as a second time for each receiving CSD. In the Report, Finanstilsynet pointed out that ES-OSL had not followed its own procedure of monthly checks and thus had not adequately followed up the intermediary and the additional risk arising from the use of intermediaries related to reconciliation, cf. Article 48(5) and (6) of the CSDR.

In connection with the review, ES-OSL had stated that during the review period there had been mismatches in the reconciliation of the CSD links of a less serious nature, which in most cases had been quickly rectified. However, a number of mismatches had taken longer to correct. ES-OSL stated that there had been no inconsistencies identified as 'undue creation or deletion' with subsequent demands for suspension of the relevant instrument pursuant to Article 65(2) of RTS 2017/392. In the Report, Finanstilsynet asked ES-OSL to explain why these mismatches did not trigger a requirement for suspension.

4.3. ES-OSL's comments in the Response

4.3.1. Annual review pursuant to Article 84(1)(i) of RTS 2017/392



In its Response, ES-OSL also states that the intermediary cannot share information about the receiving CSD with third parties, and that the due diligence reports to be prepared by the intermediary therefore cannot be shared with ES-OSL. ES-OSL recognises that this is an inherent weakness of an indirect link arrangement and shares Finanstilsynet's view that ES-OSL must nevertheless ensure that the intermediary fulfils the obligations laid down in the intermediary agreement. ES-OSL will assess what controls can be implemented in the future to ensure the necessary confirmation that the intermediary has complied with the obligations set out in the above-mentioned procedure.

ES-OSL also points out that the CSD links are controlled through the daily follow-up carried out by the intermediary, the account operator, the issuer and ES-OSL in connection with reconciliation and the follow-up of mismatches.

In its Response, ES-OSL acknowledges that the requirement for an annual review of links where ES-OSL is the receiving CSD was not met for 2022.

4.3.2. Due diligence of intermediaries pursuant to Article 85(3) of RTS 2017/392

In its Response, ES-OSL stated that it is considering leaving out the requirement in the intermediary agreement that the intermediary must submit an annual ISAE 3402 report. In ES-OSL's opinion, its own follow-up of the intermediaries ensures enhanced control and monitoring of the specific risks associated with the use of the relevant intermediaries, thus enabling ES-OSL to verify that the intermediaries have the required operational capacity and systems in line with Article 85 of RTS 2017/392. The ISAE 3402 report was deemed appropriate when establishing the links in question but does not necessarily directly cover all of the intermediary's duties under the intermediary agreement.

4.3.3. Reconciliation

In its Response, ES-OSL acknowledges that it has failed to follow the procedure for monthly control of copies of the notifications from the receiving CSD to determine whether the holdings recorded in ES-OSL match the holdings registered in the account with the receiving CSD. ES-OSL states that it has implemented new control procedures and that its capacity to follow up CSD links has been strengthened.

With regard to the requirement for suspension in the event of reconciliation mismatches pursuant to Article 65(2) of RTS 2017/392, ES-OSL states that there may have been situations where it has not decided on suspension in accordance with the provision due to an incorrect understanding of the provision. The existing procedure has been updated to underline the requirement for suspension. ES-OSL emphasises that all identified reconciliation mismatches have been corrected on an ongoing basis without consequences for the market.

4.4. Finanstilsynet's conclusion

4.4.1. Annual review pursuant to Article 84(1)(i) of RTS 2017/392

Finanstilsynet maintains the view expressed in the Report that there was no adequate review of the link with ██████ as intermediary. Among other things, ES-OSL had based its review of the link to Euroclear on a due diligence performed by ██████, but ██████ had not performed such due diligence since 2021. In Finanstilsynet's view, the requirement in Article 84(1)(i) of RTS 2017/392 has thus not been met for this link. Finanstilsynet is critical of the fact that no due diligence of the link was performed during the review period, but notes that ES-OSL will follow up ██████ in the due diligence process for 2023. However, Finanstilsynet points out that the responsibility for carrying out an annual review rests with ES-OSL, and that ES-OSL must therefore carry out the review itself if its contracting party fails to do so in a satisfactory manner.

In the Report, Finanstilsynet asked whether the review of the links where ██████ acted as intermediary had been carried out in accordance with the intermediary agreement. In its Response, ES-OSL stated that the intermediary cannot share information about the receiving CSD with third parties. It is therefore Finanstilsynet's understanding that ES-OSL cannot confirm that the review of the CSD links carried out by ██████ meets the requirement in the intermediary agreement, and that ES-OSL thus cannot confirm that the requirement in Article 84(1)(i) of RTS 2017/392 has been met. Finanstilsynet notes that ES-OSL will assess what controls can be implemented in the future to ensure the necessary confirmation that the intermediary has complied with the obligations set out in the intermediary agreement.

Finanstilsynet again emphasises that the responsibility for reviewing the CSD links lies with ES-OSL and expects ES-OSL to ensure that the requirement for an annual review is complied with, either through the contracting parties or by performing the reviews itself. Finanstilsynet also points out that the statutory obligation to perform an annual review is not fulfilled by carrying out other statutory controls of the link.

Finanstilsynet is critical of ES-OSL's failure to perform a review of links where ES-OSL is the receiving CSD during the review period. Finanstilsynet is particularly critical of the fact that ES-OSL informed Finanstilsynet that such due diligence would be carried out during the first half of 2023, without this being done. Finanstilsynet expects such due diligence to be performed soon.

4.4.2. Due diligence of intermediaries pursuant to Article 85(3) of RTS 2017/392

Finanstilsynet notes that ES-OSL considers its own follow-up of intermediaries to be a better way of verifying that the intermediaries meet the requirements of Article 85 of RTS 2017/392 than an ISAE 3402 report, and that ES-OSL is therefore considering leaving out the requirement for such a report from the intermediary agreement.

4.4.3. Reconciliation

In the Report, Finanstilsynet pointed out that ES-OSL had not followed its own procedure for manual reconciliation of copies of the notifications from the receiving CSD and thus had not adequately followed up the intermediary and the additional risk arising from the use of the intermediary related to reconciliation. In Finanstilsynet's view, the requirement to monitor and

manage the additional reconciliation risk arising from the indirect link, cf. Article 48(5) and (6) of the CSDR have not been met. Finanstilsynet takes this matter seriously and expects ES-OSL to have procedures in place to ensure that controls are carried out and that the procedures are followed. Finanstilsynet notes that ES-OSL has implemented new control procedures.

In its Response, ES-OSL states that there may have been reconciliation mismatches in the CSD links where it has not been decided to suspend the securities issue for settlement in accordance with the requirement in Article 65(1) of RTS 2017/392 due to an incorrect understanding of the provision. Finanstilsynet notes that the existing procedure has been updated to clarify the requirement set out in the provision. Finanstilsynet stresses the importance of having correct and detailed procedures in place and takes note of the information.

5. Incident management

5.1. Legal basis

A CSD shall have comprehensive and well-documented procedures to record, monitor and resolve all operational incidents, cf. Article 71(4) of RTS 2017/392, including a system to classify the incidents that takes account of their impact on the CSD's provision of services. Furthermore, the CSD shall have a system for reporting material operational incidents to senior management and to Finanstilsynet. After an incident has occurred, the CSD shall review the incident and attempt to identify the causes and make required improvements to ensure that the same will not happen again. Such reports shall be sent to Finanstilsynet and Norges Bank as soon as they have been prepared.

In connection with the annual review, ES-OSL shall prepare a report on the operational incidents that occurred during the review period and affected the provision of core services, the measures taken to address them and the results thereof, cf. Article 41(h) of RTS 2017/392.

5.2. Finanstilsynet's assessments in the Report

5.2.1. Incident management procedures

In connection with the review, Finanstilsynet was presented ES-OSL's framework for incident management consisting of the procedures 'Incident Management', 'Business Procedure Reporting to Authorities' and 'Procedure Task Force'.

In the Report, Finanstilsynet pointed out that in many respects, it considered the 'Incident Management' procedure to be too narrow, inconsistent and too general. As an example, there was uncertainty about the scope of the procedure, role descriptions, terminology, the responsibility for reporting and who should be involved in the work. Finanstilsynet pointed out that it was unclear which incidents were covered by the procedure, as the definition of incidents in the introduction only related to IT incidents.

In the Report, Finanstilsynet stated that a CSD shall have a system to classify the incidents that takes account of their impact on the CSD's provision of services, cf. Article 71(4)(a) of RTS 2017/392. The table classifying incidents in ES-OSL's 'Incident Management' procedure included a very general guide that briefly outlined the consequences of the various incidents. Finanstilsynet pointed out that the table did not cover all types of incidents, and that it provided limited guidance in

assessing the severity and consequences of an incident. In Finanstilsynet's view, the procedures did not meet the requirements in Article 71(4)(a) of RTS 2017/392.

In the 'Incident Management' procedure, there was a separate section 2.4 that covered reporting, stating that critical and severe incidents shall be reported to senior management. It further stated that, if necessary, the board of directors and the authorities could also be notified. In Finanstilsynet's opinion, this was inconsistent with what was stated earlier in the procedure, as well as with current regulations.

It was Finanstilsynet's understanding that the 'Incident Management' procedure only regulated the instant reporting to senior management and Finanstilsynet. The procedure was thus intended to ensure that the reporting requirements in Article 71 (4)(b) of RTS 392 were met. However, Finanstilsynet could not see that the preparation of a post-incident review to be submitted to Finanstilsynet and Norges Bank in accordance with Article 71(4)(c) of RTS 2017/392 was covered by the procedure.

In the Report, Finanstilsynet also pointed out that the responsibility for reporting incidents to Finanstilsynet was regulated differently in the 'Incident Management' procedure and in the 'Business Procedure Reporting to Authorities'. According to the 'Incident Management' procedure, the Head of Legal & Regulations was responsible for reporting both critical incidents and breaches of regulations to Finanstilsynet. However, according to the 'Business Procedure Reporting to Authorities', Compliance was responsible for completing and submitting all reports to the authorities. According to the latter procedure, Compliance was also responsible for finding the template to be used for reporting critical regulatory breaches to Finanstilsynet, while the Head of Legal was responsible for finding the template to be used when reporting incidents to Finanstilsynet and Norges Bank.

In the introduction to the 'Procedure Task Force', it was stated that it was intended to ensure that incidents that were or could become critical were addressed quickly and correctly. However, it was not clear to Finanstilsynet what was to be classified as a critical incident that triggered the activation of this procedure.

5.2.2. Reported incidents

In connection with the annual review, ES-OSL was to prepare a report on the operational incidents that occurred during the review period and affected the provision of core services, the measures taken to address them and the results thereof, cf. Article 41(h) of RTS 2017/392. In the Report, Finanstilsynet pointed out that the submitted list of operational incidents was very general and, in order to enable Finanstilsynet to assess the scope of the incidents and how they had been addressed, a more detailed report needed to be prepared.

The overview of incidents showed that three of the incidents categorised as severe had not been reported to Finanstilsynet. ES-OSL's explanation was that the incidents were considered to be less severe than first assumed. In the Report, Finanstilsynet pointed out that incidents must be reported without delay to Finanstilsynet, irrespective of whether the incidents actually affected external parties or ES-OSL's activities.

Finanstilsynet also emphasised that breaches of regulatory requirements may also constitute an operational incident that must be reported to Finanstilsynet.

5.3. ES-OSL's comments in the Response

5.3.1. Incident management procedures

In its Response, ES-OSL states that it is in the process of establishing and implementing a new and more robust incident management framework that harmonises incident management across the group. The 'Procedure Task Force' has been replaced by the new 'SIP' procedure ('Serious Incident Protocol') and the 'Incident Management' procedure will be replaced by a new and more robust version for the group in Q1 2024. A new 'Reporting incidents to authorities' procedure will be implemented in Q1 2024, and the 'Reporting to authorities' procedure will remain in force.

Even though ES-OSL is adjusting and improving its procedures, it argues in its Response that its current incident management procedures satisfy the requirements in Article 71 of RTS 2017/392. ES-OSL also states that it has focused on ensuring that its employees have adequate knowledge of and comply with the procedures.

In its Response, ES-OSL states that the definition of incidents in the introduction to the 'Incident Management' procedure was only intended as an example, and since other types of incidents were discussed later in the procedure, it was evident that the procedure covered these as well.

In its Response, ES-OSL points out that a table has been included in the 'Incident Management' procedure that divides the incidents into categories 1 to 5, and ES-OSL considers this classification to meet the requirements of Article 71(4)(a) of RTS 2017/392. ES-OSL nevertheless states that the methodology for classifying incidents has been changed in the new procedures that are in the process of being implemented. The new procedure includes an incident severity matrix based on 'impact' and 'severity'. In ES-OSL's opinion, the updated classification in the new procedure also meets the requirements in RTS 2017/392.

In the Report, Finanstilsynet questioned whether section 2.4 in the 'Incident Management' procedure on reporting was in line with other provisions in the procedure. In its Response, ES-OSL argues that reporting to senior management follows from section 2.2 of the procedure, and that section 2.4 addresses other types of reporting.

In the Report, Finanstilsynet pointed out that the 'Incident Management' procedure did not include procedures for preparing a post-incident review, as required in Article 71(4)(c) of RTS 2017/392. In its Response, ES-OSL states that the current reporting processes are in line with the requirements of the RTS but says it will take Finanstilsynet's comments into account and clarify the wording in the new framework.

With regard to who at ES-OSL is responsible for reporting incidents to Finanstilsynet, ES-OSL states in its Response that both the 'Incident Management' procedure and the 'Reporting to Authorities' procedure state that this is the responsibility of the Head of Legal. ES-OSL further states that according to the 'Reporting to Authorities' procedure, the Compliance Officer is responsible for submitting certain other reports to the authorities.

It was not clear to Finanstilsynet when the ‘Procedure Task Force’ was to be used. In its Response, ES-OSL states that the ‘Procedure Task Force’ has been replaced by a SIP procedure, and that the criteria for triggering a SIP incident have been adjusted in the updated procedures.

5.3.2. Reported incidents

In its Response, ES-OSL states that it will prepare a more detailed report on operational incidents in connection with subsequent reviews.

In the new ‘Reporting incidents to authorities’ procedure, ES-OSL will specify that reporting of incidents to Finanstilsynet is not conditional on the incident actually affecting external players or ES-OSL's activities.

In its Response, ES-OSL states that it takes note of Finanstilsynet's view that breaches of regulatory requirements may constitute a reportable incident.

5.4. Finanstilsynet's conclusion

5.4.1. Incident management procedures

Finanstilsynet notes that ES-OSL is in the process of establishing a new framework for incident management, and that ES-OSL will submit the new procedures in connection with the review for 2023. Finanstilsynet will review the new procedures at the time.

With regard to the scope of the ‘Incident Management’ procedure, ES-OSL explains that the definition in the introduction was intended to be an example only. In Finanstilsynet's opinion, this is not obvious, and the updated procedures are expected to clarify which incidents are covered.

Finanstilsynet maintains that the table in the procedures that applied in 2022 did not meet the classification requirements in Article 71(4)(a) of RTS 2017/392. The table provided very limited guidance on when an incident should be classified into the various categories. Since the classification is important for the further management of the incidents, Finanstilsynet stresses the importance of having a satisfactory system in place. Finanstilsynet notes that the classification of incidents has been changed in the new procedures.

With regard to Section 2.4 of the ‘Incident Management’ procedure, it is still unclear to Finanstilsynet what this section is intended to regulate. ES-OSL claims that reporting to senior management and the authorities is regulated by other provisions of the procedure, and that section 2.4 refers to different types of reporting. However, it is Finanstilsynet's understanding that section 2.4 applies precisely to the reporting of incidents to senior management and the authorities, and this section is expected to be changed in the new procedural framework.

In the Report, Finanstilsynet pointed out that the ‘Incident Management’ procedure did not include a requirement for a post-incident review. In its Response, ES-OSL argued that its processes meet the requirements of the RTS without further explanation. Finanstilsynet points to the requirement in Article 71(a) of RTS 2017/392 that CSD's procedures shall ensure that a post-incident review is prepared and that this is not specified in the submitted procedures. Finanstilsynet is therefore still of

the opinion that the procedures do not meet the requirement set out in Article 71(4) of RTS 2017/392 and expects an update in the new procedural framework.

In the Report, Finanstilsynet has pointed to a number of issues in the ‘Reporting to Authorities’ procedure. Finanstilsynet takes note of ES-OSL's explanation of who is responsible for reporting incidents to Finanstilsynet but stresses that this is not a logical understanding of the procedure. Finanstilsynet’s understanding of the procedure is that the Head of Legal is responsible for finding the template to be used for reporting incidents to Finanstilsynet and Norges Bank. It is, however, Compliance that must collect information, complete the report and submit the report to the authorities. Finanstilsynet notes that roles and the responsibility for reporting to various authorities have been further specified in the new procedural framework and expects the description of who is responsible for the various reporting in the ‘Reporting to Authorities’ procedure to be changed.

In the Report, Finanstilsynet pointed out that it was unclear when the ‘Procedure Task Force’ was to be used. ES-OSL has stated that the ‘Procedure Task Force’ has been replaced by a SIP procedure implemented in Q4 2023 and that the criteria for triggering a SIP incident have been changed in the new procedure. Finanstilsynet takes note of the information.

After its review, Finanstilsynet concludes that the incident management procedures that were in force during the review period contained several errors and inconsistencies and thus did not meet the requirements in Article 71 of RTS 2017/392. In connection with the review, ES-OSL stated that relevant procedures had been updated and that measures had been implemented to ensure that its employees became familiar with the changes. Finanstilsynet is critical of the fact that the procedures, even after such a review, did not meet legal requirements. Finanstilsynet notes that a new framework that will reflect Finanstilsynet's remarks is in the process of being implemented.

5.4.2. Reported incidents

Finanstilsynet notes that ES-OSL states that it will prepare a more detailed report on operational incidents in connection with subsequent reviews.

In its Response, ES-OSL states that it takes note of Finanstilsynet's view on which incidents should be considered to be reportable. Finanstilsynet expects this to be reflected in the new framework for incident management.

6. Other comments related to the CSDR authorisation

6.1. Legal Entity Identifier (LEI)

In the Report, Finanstilsynet pointed out that according to Article 55(2)(a) of RTS 2017/392 and Article 11 of RTS 2017/394, all issuers must be identified using a Legal Entity Identifier (LEI). It was evident from the CSDR application that ES-OSL had not registered a LEI for about 15% of its issuers, and Finanstilsynet assumed in its letter of 1 February 2022 that ES-OSL would ensure that the missing LEIs for issuers were put in place. In connection with its annual review, Finanstilsynet asked for a description of the process to obtain LEI codes and, if relevant, an overview of the proportion of issuers that did not have a LEI as at 1 January 2023.

ES-OSL disclosed that 4.3% of issuers did not have a LEI as at 1 January 2023. The overview received showed that the proportion had been relatively stable since March 2022. It was therefore Finanstilsynet's understanding that little effort had been made during the review period to obtain LEI codes, despite Finanstilsynet's stated assumption in its letter of 1 February 2022. In its Response, ES-OSL stated that 61 issuers (equivalent to 2.5%) lacked a LEI as at 1 December 2023, and that it had implemented a systematic approach in 2023 for following up issuers in lack of a LEI.

Finanstilsynet takes note of the information.

6.2. Clarification and specification of requirements for key participants in the settlement system

According to Article 67(3) of RTS 2017/392, a CSD shall have clear and transparent criteria, methodologies and standards in order to ensure that participants in the settlement system meet the operational requirements.

In connection with the CSDR application, ES-OSL referred to the 'Procedure for establishing, changing and terminating customer relationships', where the following was stated under the section on requirements for technical systems and security levels at the account operator: 'Account operators shall meet the requirements stipulated in the VPS Technical Manual and User Documentation and keep updated on changes thereto'. In connection with the CSDR authorisation, Finanstilsynet stated that it is not enough to refer to the VPS Technical Manual and User Documentation in ES-OSL's procedures and that it was necessary to clarify and specify the criteria in order to make the participants familiar with the requirements. In addition, this is of significance to ES-OSL's subsequent compliance review. In connection with its annual review, Finanstilsynet asked ES-OSL to report on the measures taken in the procedures relating to participants in the settlement system.

In connection with the annual review, ES-OSL pointed out that the criteria for participants are specified in the VPO NOK Regulations, the Technical Handbook and user documentation, and explained what type of information is available where. However, Finanstilsynet could not see that ES-OSL had implemented any new measures and stated in the Report that it was therefore still of the opinion that ES-OSL did not meet the requirement in Article 67(3) of RTS 2017/392.

In its Response, ES-OSL has stated that a list of operational criteria was prepared in 2023 and that a procedure that will apply across Euronext's CSDs is being developed and is scheduled to be implemented in the second quarter of 2024.

Finanstilsynet takes note of the information.

For Finanstilsynet

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This document has been electronically approved and does not require handwritten signatures.