

Framework for the recovery and resolution of central counterparties

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The Committee on Economic and Monetary Affairs adopted the joint report by the Jakob von WEIZSÄCKER (S&D, DE) and Kay SWINBURNE (ECR, UK) on the proposal for a regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365.

As a reminder, the draft Regulation lays down **rules and procedures for the recovery and resolution of central counterparties** (CCPs) authorised in accordance with [Regulation \(EU\) No 648/2012](#) of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Resolution authorities and colleges: Member States where a CCP is established shall and Member States may designate one resolution authority that is empowered to apply the resolution tools and exercise the resolution powers as set out in this Regulation.

Where a resolution authority designated is entrusted with other functions, the **effective operational independence** of that resolution shall be ensured.

Competent authorities and resolution authorities and ESMA shall cooperate closely in the preparation, planning and, to the extent possible, in the application of resolution decisions.

ESMA shall assess CCP recovery and resolution arrangements across the Union in terms of their aggregate effect on Union financial stability through **regular stress-testing** and **crisis simulation exercises**.

Recovery and resolution planning: CCPs shall draw up and maintain a **comprehensive and effective recovery plan** providing for measures to be taken in the case of both default and non-default events and combinations of both in order to restore their financial position **without any public financial support** in order to enable them to continue to provide clearing services.

The plans shall consider the **interests of all stakeholders** that are likely to be affected by that plan and ensure that clearing members do not have unlimited exposures toward the CCP.

Recovery tools shall allow to address **losses** from default and non-default events; re-establish a matched book following a default event; address uncovered liquidity shortfalls; and replenish the financial resources of the CCP, including its own funds, to a level sufficient in order for the CCP to meet its obligations and to support the continued and timely operation of the critical functions of the CCP.

Members specified the items that shall be included in the recovery plan. These include, among others:

- a summary of the key elements of the plan and a summary of overall recovery capacity;
- a communication and disclosure plan outlining how the CCP intends to manage any potentially negative market reactions while acting in as transparent a manner as possible;

- a comprehensive range of capital, loss allocation and liquidity actions required to maintain or restore the viability and financial position of the CCP;
- appropriate conditions and procedures to ensure the timely implementation of recovery actions, as well as a wide range of recovery options, including an estimation of the timeframe for executing each material aspect of the plan;
- arrangements and measures to reduce risk.

Such plans should contemplate an appropriate range of scenarios envisaging both systemic stress and stress specific to the CCP. The scenarios should contemplate situations of stress that would be **more extreme** than those used for the purposes of regular stress testing, while remaining plausible, such as the failure of more than two clearing members to which the CCP has the largest exposures and one or several other CCPs.

Resolution plans: the resolution authority of the CCP shall, after consultation with the competent authority and ESMA and in coordination with the resolution college, draw up a resolution plan for each CCP.

These plans shall take into consideration the CCP's failure due to default events; non-default events and broader financial instability or system wide events and shall not assume public financial support. The plans shall clearly distinguish between scenarios based on the circumstances.

The resolution authority shall have the power to **modify or amend the operating rules of the CCP**, including as regards its terms of participation, where such changes are necessary to remove impediments to resolvability.

Early intervention: where a CCP infringes or is likely to infringe the prudential requirements of Regulation (EU) No 648/2012, or poses a risk to the financial stability of the global financial system, the Union financial system, or parts of either thereof, the competent authority would have specific powers to intervene in the activities of CCPs before they reach the default waterfall.

Early intervention rights shall:

- **include the power to restrict or prohibit any remuneration of equity** and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP and it may restrict, **prohibit or freeze any payments of variable remuneration** as per Directive 2013/36/EU and discretionary pension benefits or severance packages to management.

Administrative penalties and other administrative measures: without prejudice to the right of Member States to provide for and impose criminal penalties, Member States shall lay down rules on administrative penalties and other administrative measures applicable where the provisions of this Regulation have not been complied with.

The powers to impose administrative penalties provided for in this Regulation shall be attributed to resolution authorities or, where different, to competent authorities, depending on the type of infringement.

Member States shall ensure that resolution authorities and competent authorities **publish on their official website** at least any administrative penalties imposed by them for infringing the provisions laid down in this Regulation where such penalties have not been the subject of an appeal or where the right of appeal has been exhausted.