EMIR and ESMA Regulations: procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs

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The Committee on Economic and Monetary Affairs adopted the report by Danuta Maria HÜBNER (EPP, PL) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs.

As a reminder, the proposal aims to introduce specific amendments to the European Market Infrastructure Regulation (EMIR) and the ESMA Regulation with a view to establishing a clear and consistent supervisory framework for EU and third country CCPs.

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

ESMA CCP Supervisory Committee: ESMA shall establish a **specific ESMA internal committee** for the purposes of preparing decisions and carrying out the tasks relating to the supervision of CCPs, of handling tasks related to CCPs in general, and of supervising Union and third-country CCPs in particular. The CCP Supervisory Committee shall be composed of authorities experienced in the supervision of CCPs. It shall be composed of a **permanent members** (a chair, a vice-chair, four directors, one representative of the ECB, and one non-voting representative of the Commission) and specific non-permanent members for the different CCPs. It would take its decisions by a simple majority of its members.

The chair, the vice-chair and the directors of the CCP Supervisory Committee shall act **independently and objectively** in the interest of the Union as a whole.

The European Parliament or the Council may invite the chair, the vice-chair or any of the Directors of the CCP Supervisory Committee to make a statement while fully respecting their independence. The chair shall report in writing on the main activities of the CCP Supervisory Committee to the European Parliament where requested.

During any investigations by the European Parliament, the CCP Supervisory Committee shall cooperate with the European Parliament.

National competent authorities: under the amending Regulation, national competent authorities shall continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012.

However, in order to promote consistency in the supervision of CCPs throughout the Union, a division of competences depending on the decisions concerned shall be established. Three categories of decisions shall be distinguished: those for which competent authorities should obtain prior consent of ESMA, those for which competent authorities should consult ESMA and those for which competent authorities should remain solely responsible.

Where a competent authority disagrees with the proposed amendment or the objection of ESMA, it shall have the right to submit a reasoned request to the Board of Supervisors asking it to assess that objection or amendment. The Board of Supervisors may either endorse or reject ESMA's objections or amendments.

Recognition of a third-country CCP: when considering the application of a third-country CCP for recognition, **ESMA shall assess the degree of systemic risk** that the CCP presents to the financial stability of the Union or of one or more of its Member States on the basis of the objective and transparent criteria provided for in the Regulation. A Commission delegated act should further specify those criteria.

Where a central bank of issue decides to impose an additional requirement on a systemically important third country CCP, it shall strive to make its decision as transparent as possible, while adequately respecting the need to protect confidential or sensitive information.

Central banks of issue shall assess the resilience of recognised third country CCPs to adverse market developments having regard to the risk they pose to the stability of the currency of the central bank of issue, the transmission of monetary policy and the smooth functioning of payment systems. In such cases, **cooperation and information sharing between central banks** of issue and ESMA should be ensured to prevent duplication.

The ESMA shall put in place cooperation arrangements with the relevant competent authorities of third countries whose legal and supervisory frameworks have been recognised as equivalent to this Regulation that shall cover all elements necessary to ensure, among others, the smooth exchange information, the coordination of supervisory activities, the effective monitoring of regulatory and supervisory developments in the third country and effective cooperation in emergency situations.
In order to facilitate the exchange of information on third country CCPs, **colleges for third country CCPs** should be established.