Basic information

2017/0810(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Decision	Procedure lapsed or withdrawn
Statute of the European System of Central Banks and of the European Central Bank: clearing and payment systems **Subject** 5.20.03 European Central Bank (ECB), ESCB	

Key players

Council of the European Union	
European Commission	Commission DG: Financial Stability, Financial Services and Capital Markets Union Commissioner: MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary
07/07/2017	Legislative proposal published	10850/2017	Summary
11/09/2017	Committee referral announced in Parliament, 1st reading		
14/12/2017	Referral to joint committee announced in Parliament		
19/06/2018	Vote in committee, 1st reading		
19/06/2018	Rejection by committee to open interinstitutional negotiations with report adopted in committee		
25/06/2018	Committee report tabled for plenary, 1st reading	A8-0219/2018	Summary
04/07/2018	Decision by Parliament, 1st reading	T8-0288/2018	Summary
04/07/2018	Results of vote in Parliament		
04/07/2018	Matter referred back to the committee responsible for interinstitutional negotiations		

Technical information

Procedure reference	2017/0810(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Rules of Procedure EP 61 Rules of Procedure EP 59 Treaty on the Functioning of the European Union TFEU 129-p3

Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	CJ32/9/00255

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE619.417	13/04/2018	
Amendments tabled in committee		PE622.113	12/06/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0219/2018	25/06/2018	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T8-0288/2018	04/07/2018	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	10850/2017	07/07/2017	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	C(2017)6810	03/10/2017	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Statute of the European System of Central Banks and of the European Central Bank: clearing and payment systems

2017/0810(COD) - 03/10/2017 - Document attached to the procedure

The Commission has issued a **favourable opinion** on the ECB's recommendation submitted on 22 June 2017 according to which it seeks to amend the scope of Article 22 of the Statute of the European System of Central Banks (ESCB) and the ECB to include clearing systems for financial instruments under its regulatory competence.

It agreed with the ECB that the increasing systemic importance of central counterparties (CCPs) could give rise to risks that could affect clearing systems, which may have a negative bearing on the smooth operation of payment systems and the implementation of the single monetary policy.

It also shares the ECB's view that the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union is an additional challenge for the Union.

In absence of an explicit reference to clearing systems for financial instruments or CCPs in the Treaty or the ESCB and ECB Statute, the Commission considered that the **ECB should clearly empowered to adopt the necessary measures regarding clearing systems for financial instruments** in order to achieve the objectives of the ESCB and to carry out its basic tasks, in particular to maintain price stability.

This would allow the ECB to fully play the enhanced role envisaged for central banks of issue in the Commission's legislative proposal of 13 June 2017 to amend Regulation (EU) No 648/2012. This proposal seeks to strengthen the responsibilities of the central banks of issue with regard to CCPs authorised or recognised to operate in the Union.

However, the Commission is of the opinion that the ECB's recommended amendment to Article 22 of the ESCB and ECB Statute **should be rephrased** to emphasise:

- that the ECB's regulatory and decision-making powers aim at **achieving the objectives of the ESCB** and the performance of its basic tasks;
- that those powers are to be exercised in a manner which is **consistent with any acts adopted by the European Parliament and the Council** on the basis of provisions relating to the establishment or functioning of the internal market provided for in Part III TFEU, and with delegated acts adopted by the Commission and implementing acts adopted by the Council or the Commission pursuant to the powers conferred upon them.

Statute of the European System of Central Banks and of the European Central Bank: clearing and payment systems

2017/0810(COD) - 04/07/2018 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 423 votes to 144, with 113 abstentions, amendments to the draft decision of the European Parliament and of the Council amending Article 22 of the Statute of the European System of Central Banks and of the European Central Bank.

The matter has been **referred back to the committee responsible** for interinstitutional negotiations.

The main amendments adopted in plenary concern the following points:

Given that the new powers of the ECB under the amended Article 22 of its Statute shall interact with those of other institutions, Parliament proposed laying down a clear principle that the **ECB may make regulations concerning clearing systems for financial instruments within the Union and with third countries**, with due regard to the legal acts of the European Parliament and the Council and with measures adopted under such acts, and in a manner which is fully consistent with those acts and measures.

Members also proposed including in the recitals of the amending act a **list of the regulatory powers** that may be exercised over central counterparties by the ECB under Article 22 of its Statute. This should include all requirements allowing monetary policy concerns to be addressed.

With regard to clearing systems for financial instruments, requirements that may be applied on the basis of that Article shall:

- include reporting requirements and requirements imposed on the clearing system to cooperate with the ECB and national central banks in their assessment of the resilience of the system to adverse market developments;
- include the opening by the system of an overnight deposit account with the ESCB in accordance with relevant access criteria and requirements of the ESCB;
- include requirements necessary to address situations in which a clearing system for financial instruments poses an imminent risk of substantial harm to Union financial institutions or markets or to the financial system of the Union or one of its Member States, such as requirements relating to liquidity risk controls, settlement arrangements, margins, collateral or interoperability arrangements.

Lastly, the ECB shall ensure full **transparency** and accountability towards the European Parliament and the Council regarding the exercise of its powers and tasks under Article 22 of its Statute. In particular, it shall keep the European Parliament and the Council regularly informed of all decisions taken and regulations adopted on the basis of that Article.

Statute of the European System of Central Banks and of the European Central Bank: clearing and payment systems

2017/0810(COD) - 25/06/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs and the Committee on Constitutional Affairs adopted the report prepared jointly by Danuta Maria HÜBNER (EPP, PL) and Gabriel MATO (EPP, ES) on the draft decision of the European Parliament and of the Council amending Article 22 of the Statute of the European System of Central Banks and of the European Central Bank (ECB).

As a reminder, the amendment proposed last 22 June 2017 by the ECB aims to modify the Statute in order to bring 'clearing systems for financial instruments', in other words, central counterparties, within the scope of the regulatory powers conferred by Article 22 of the Statute.

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

Given that the new powers of the ECB under the amended Article 22 of its Statute shall interact with those of other institutions, Members proposed to lay down a clear principle that the ECB may make regulations concerning clearing systems for financial instruments within the Union and with third countries, **with due regard to the legal acts of the European Parliament and the Council** and with measures adopted under such acts, and in a manner which is fully consistent with those acts and measures.

Members also proposed to include in the recitals of the amending act a **list of the regulatory powers** that may be exercised over central counterparties by the ECB under Article 22 of its Statute. This should include all requirements allowing monetary policy concerns to be addressed.

This list should also include any powers necessary for the ECB to address any potential significant emergency situation.

Lastly, the ECB should ensure full **transparency and accountability** towards the European Parliament and the Council regarding the exercise of its powers and tasks under Article 22 of its Statute. In particular, it should keep the European Parliament and the Council regularly informed of all decisions taken and regulations adopted on the basis of that Article.

Statute of the European System of Central Banks and of the European Central Bank: clearing and payment systems

2017/0810(COD) - 07/07/2017 - Legislative proposal

PURPOSE: to amend Article 22 of the Statute of the European System of Central Banks (ESCB) and of the European Central Bank (ECB) with a view to granting the ECB regulatory competence over clearing systems, in particular CCPs.

PROPOSED ACT: Decision of the European Parliament and of the Council (on a recommendation from the European Central Bank).

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Article 129(3) of the Treaty on the Functioning of the European Union enables the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and on a **recommendation from the ECB** or a proposal from the Commission, to amend Article 22 of the Statute of the ESCB.

The General Court considered it would be for the ECB to request the European Union legislature to amend Article 22, should the ECB consider that having the power to regulate CCPs is necessary for the proper performance of the task referred to in the fourth indent of Article 127(2) of the Treaty, namely to promote the proper functioning of payment systems.

The ECB notes that **developments at both global and European level are expected to increase the risks posed by clearing systems, in particular central counterparties**, for the proper functioning of payment systems and the implementation of the single monetary policy, which would ultimately affect the Eurosystem's primary objective of maintaining price stability:

- firstly, **the withdrawal of the United Kingdom** from the European Union will have a major impact on the Eurosystem's ability to carry out its tasks as central bank of issue for the euro. At present, CCPs established in the United Kingdom clear significant volumes of euro-denominated transactions. Thus, a significant disturbance affecting a major UK CCP could lead to a severe decrease in liquidity within the euro area;
- secondly, at the September 2009 summit in Pittsburgh, G20 leaders agreed that all standardised OTC derivative contracts should be cleared through a CCP. These developments have led to a **dramatic increase in the scale and importance of CCPs in the Union and globally**;
- thirdly, the European Commission presented its legislative proposal to ensure financial stability and the safety and soundness of CCPs that are of systemic relevance for financial markets across the Union. In order to ensure that the Eurosystem as central bank of issue for the euro can carry out the role envisaged by the legislative proposal, it should have the power to monitor and assess risks posed by CCPs clearing significant amounts of euro-denominated transactions.

In the light of these considerations, **the ECB considers that it should have the power to regulate clearing systems**, in particular central counterparties, in order to fulfil its fundamental tasks. It therefore submits a recommendation for a Decision of the European Parliament and of the Council with a view to amending Article 22 of the Statute of the ESCB in this respect.

CONTENT: the ECB recommends that Parliament and the Council adopt a decision **amending Article 22 of the ESCB Statute on clearing and payments systems** in order to allow the ECB and the national central banks to provide facilities, and to enable the ECB to make regulations, and ensure efficient and sound clearing and payment systems, and clearing systems for financial instruments, within the Union and with other countries.