Basic information

2017/2860(DEA) DEA - Delegated acts procedure	Procedure completed - delegated act enters into force
Indirect clearing arrangements Supplementing 2011/0296(COD) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing	

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		

Key events

Date	Event	Reference	Summary
22/09/2017	Non-legislative basic document published	C(2017)06268	
22/09/2017	Initial period for examining delegated act 3 month(s)		
04/10/2017	Committee referral announced in Parliament		
17/10/2017	Delegated act not objected by Council		
25/10/2017	Decision by Parliament	T8-0406/2017	Summary

Technical information

Procedure reference	2017/2860(DEA)
Procedure type	DEA - Delegated acts procedure
Procedure subtype	Examination of delegated act
Amendments and repeals	Supplementing 2011/0296(COD)
Legal basis	Rules of Procedure EP 0114-p6
Stage reached in procedure	Procedure completed - delegated act enters into force
Committee dossier	ECON/8/11082

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Recommendation for early non-objection of delegated act		B8-0574/2017	20/10/2017	
Text adopted by Parliament, single reading		T8-0406/2017	25/10/2017	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	C(2017)06268	22/09/2017	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Indirect clearing arrangements

2017/2860(DEA) - 25/10/2017 - Text adopted by Parliament, single reading

The European Parliament **decided to raise no objections** to the Commission delegated regulation of 22 September 2017 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements

As a reminder, Regulation (EU) No 600/2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (MiFIR) requires the operators of regulated markets to ensure that all transactions in derivatives that are concluded on the regulated markets operated by them are cleared by a central counterparty (CCP), i.e. a clearing obligation for exchange traded derivatives (ETDs).

EMIR mandates the European Securities and Markets Authority (ESMA) to develop draft regulatory technical standards (RTS) that specify the types of indirect clearing arrangements that can be used to fulfil the clearing obligation set out in Article 4 of EMIR for over-the counter (OTC) derivatives pertaining to a class that has been declared subject to that obligation, i.e. a clearing obligation for OTC derivatives.

The current delegated act **specifies the types of indirect clearing arrangements which can be used for ETDs.**

Parliament recalled that the **Commission only endorsed the draft regulatory technical standard (RTS) 16 months after having received it from the European Securities and Markets Authority** (ESMA) on 26 May 2016.

Over this period, the Commission did not formally consult ESMA over this period concerning its amendments to this draft RTS, nor did it inform the co-legislators or industry of the reasons for delay.

Members considered it unacceptable that the Commission overran the deadline for adopting the draft RTS by more than a year without informing the co-legislators.

Since the RTS adopted is not ‘the same’ as the draft RTS submitted by ESMA, **Parliament considered that it has three months to object to the RTS due to the amendments made by the Commission.**

The delegated regulation should apply from 3 January 2018, the application date of Directive 2014/65/EU (‘MiFID II’) and Regulation (EU) No 600/2014 (‘MiFIR’). However, the full use of the three-month scrutiny period available to Parliament **would no longer allow sufficient time for industry to implement the changes.**

Accordingly, Members stated that **swift publication of the delegated regulation in the Official Journal** would allow timely implementation and legal certainty concerning the provisions applicable to indirect clearing.