

Basic information	
<p>2022/0404(COD)</p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p>	Procedure completed
<p>Treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions</p> <p>Amending Directive 2009/65 2008/0153(COD) Amending Directive 2013/36 2011/0203(COD) Amending Directive 2019/2034 2017/0358(COD)</p> <p>Subject</p> <p>2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.05 Insurance, pension funds 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision</p> <p>Legislative priorities</p> <p>Joint Declaration 2022 Joint Declaration 2023-24</p>	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	ECON	Economic and Monetary Affairs	HÜBNER Danuta Maria (EPP)	25/01/2023
			Shadow rapporteur	
			LALUCQ Aurore (S&D) POULSEN Erik (Renew) GRUFFAT Claude (Greens /EFA) ROOKMAKER Dorien (ECR) GUSMÃO José (The Left)	
Committee for opinion		Rapporteur for opinion	Appointed	
JURI	Legal Affairs	The committee decided not to give an opinion.		
Council of the European Union	Council configuration		Meetings	Date
	General Affairs		4059	2024-11-19

European Commission	Commission DG	Commissioner
	Financial Stability, Financial Services and Capital Markets Union	MCGUINNESS Mairead

Key events			
Date	Event	Reference	Summary
07/12/2022	Legislative proposal published	COM(2022)0698 	Summary
01/02/2023	Committee referral announced in Parliament, 1st reading		
28/11/2023	Vote in committee, 1st reading		
28/11/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
05/12/2023	Committee report tabled for plenary, 1st reading	A9-0399/2023	Summary
11/12/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
13/12/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
04/03/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE759.079 GEDA/A/(2024)001022 PE759.089	
24/04/2024	Decision by Parliament, 1st reading	T9-0349/2024	Summary
24/04/2024	Results of vote in Parliament		
19/11/2024	Act adopted by Council after Parliament's 1st reading		
27/11/2024	Final act signed		
04/12/2024	Final act published in Official Journal		

Technical information	
Procedure reference	2022/0404(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2009/65 2008/0153(COD) Amending Directive 2013/36 2011/0203(COD) Amending Directive 2019/2034 2017/0358(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 053-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/10899

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE749.905	09/06/2023	
Amendments tabled in committee		PE751.572	05/07/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0399/2023	05/12/2023	Summary
Text agreed during interinstitutional negotiations		PE759.079	14/02/2024	
Committee letter confirming interinstitutional agreement		PE759.089	20/02/2024	
Text adopted by Parliament, 1st reading/single reading		T9-0349/2024	24/04/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)001022	15/02/2024	
Draft final act	00042/2024/LEX	27/11/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2022)0698 	07/12/2022	Summary
Document attached to the procedure	SWD(2022)0697 	08/12/2022	
Document attached to the procedure	SWD(2022)0698 	08/12/2022	
Commission response to text adopted in plenary	SP(2024)394	08/08/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	ES_PARLIAMENT	COM(2022)0698	21/03/2023	
Contribution	PT_PARLIAMENT	COM(2022)0698	15/09/2023	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2023/0011 OJ C 204 12.06.2023, p. 0003	26/04/2023	

Additional information

Source	Document	Date
EP Research Service	Briefing	05/03/2024
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	Role	Committee	Date	Interest representatives
YON-COURTIN Stéphanie	Shadow rapporteur	ECON	15/11/2024	FIA European Principal Traders Association, part of FIA, Inc.
LALUCQ Aurore	Shadow rapporteur	ECON	06/11/2023	Deutsche Börse AG
LALUCQ Aurore	Shadow rapporteur	ECON	29/06/2023	Banque de France
LALUCQ Aurore	Shadow rapporteur	ECON	28/06/2023	EACH
LALUCQ Aurore	Shadow rapporteur	ECON	26/06/2023	Deutsche Börse AG
LALUCQ Aurore	Shadow rapporteur	ECON	15/06/2023	Eurelectric
HÜBNER Danuta Maria	Rapporteur	ECON	25/05/2023	KDPW_CCP Spółka Akcyjna
HÜBNER Danuta Maria	Rapporteur	ECON	23/05/2023	FIA European Principal Traders Association, part of FIA, Inc.
HÜBNER Danuta Maria	Rapporteur	ECON	17/05/2023	European Association of Central Counterparty Clearing Houses
LALUCQ Aurore	Shadow rapporteur	ECON	04/05/2023	Afore Consulting The Bank of New York Mellon
LALUCQ Aurore	Shadow rapporteur	ECON	03/05/2023	European Banking Federation Fédération bancaire française
LALUCQ Aurore	Shadow rapporteur	ECON	03/05/2023	Bundesverband deutscher Banken
LALUCQ Aurore	Shadow rapporteur	ECON	24/04/2023	ECB
LALUCQ Aurore	Shadow rapporteur	ECON	14/04/2023	Représentation permanente de la France auprès de l'Union européenne
LALUCQ Aurore	Shadow rapporteur	ECON	13/04/2023	ESRB
LALUCQ Aurore	Shadow rapporteur	ECON	13/04/2023	Euronext
LALUCQ Aurore	Shadow rapporteur	ECON	11/04/2023	London Stock Exchange Group
LALUCQ Aurore	Shadow rapporteur	ECON	11/04/2023	ESMA
LALUCQ Aurore	Shadow rapporteur	ECON	05/04/2023	Depository Trust & Clearing Corporation
LALUCQ Aurore	Shadow rapporteur	ECON	05/04/2023	European Association of CCP Clearing Houses (EACH)
LALUCQ Aurore	Shadow rapporteur	ECON	05/04/2023	ISDA
LALUCQ Aurore	Shadow rapporteur	ECON	30/03/2023	FIA European Principal Traders Association, part of FIA, Inc. (Meeting with APA)

GRUFFAT Claude	Shadow rapporteur	ECON	27/03/2023	Société Générale
LALUCQ Aurore	Shadow rapporteur	ECON	24/03/2023	Euronext
LALUCQ Aurore	Shadow rapporteur	ECON	23/03/2023	Citi (Meeting with APA)

Other Members

Transparency		
Name	Date	Interest representatives
FERBER Markus	23/01/2024	Deutsche Unternehmensverband Vermögensberatung

Final act	
Directive 2024/2994 OJ OJ L 04.12.2024	Summary

Treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions

2022/0404(COD) - 24/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 448 votes to 120, with 21 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions.

The European Parliament adopted its position at first reading under the ordinary legislative procedure.

The Directive aims to ensure that credit institutions, investment firms and their competent authorities adequately monitor and mitigate the concentration risk arising from exposures towards Tier 2 CCPs which offer services of substantial systemic importance and eliminating counterparty risk limits for derivative transactions that are centrally cleared by a CCP authorised or recognised in accordance with Regulation (EU) No 648/2012.

The amended text stresses that while competent authorities already have a comprehensive set of supervisory measures and powers to address deficiencies in the risk management practices of institutions and investment firms, including the requirement to have additional own funds for risks that are not, or not adequately, covered by the existing capital requirements, that set of supervisory measures and powers should be enhanced with additional, more specific tools and powers in the context of prudential supervision of excessive concentration risk arising from exposures towards central counterparties.

Member States should transpose the Directive no later than 18 months from the date of entry into force of the [Regulation](#) of the European Parliament and of the Council amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 with measures to mitigate excessive exposures to third country CCPs and improve the efficiency of EU clearing markets.

Treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions

2022/0404(COD) - 04/12/2024 - Final act

PURPOSE: to amend Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties (CCPs) and the counterparty risk on centrally cleared derivative transactions.

LEGISLATIVE ACT: Directive (EU) 2024/2994 of the European Parliament and of the Council amending Directives 2009/65/EC, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk arising from exposures towards central counterparties and of counterparty risk in centrally cleared derivative transactions.

CONTENT: the new rules on clearing services that revise the European Market Infrastructure [Regulation](#) and Directive (EMIR) aim to make the European clearing arrangements more attractive and resilient, strengthen the EU's open strategic autonomy and safeguard the EU's financial stability.

They improve EU clearing services by streamlining and shortening procedures, improving consistency between rules and strengthening the supervision of central counterparties. The amending directive aims to ensure that credit institutions, investment firms and their competent authorities adequately monitor and mitigate the concentration risk arising from exposures towards Tier 2 CCPs which offer services of substantial systemic importance and eliminating counterparty risk limits for derivative transactions that are centrally cleared by a CCP authorised or recognised in accordance with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories.

The Directive underlines that while competent authorities already have a comprehensive set of supervisory measures and powers to address deficiencies in the risk management practices of institutions and investment firms, including the requirement to have additional own funds for risks that are not, or not adequately, covered by the existing capital requirements, that set of supervisory measures and powers should be enhanced with additional, more specific tools and powers under Pillar 2 in the context of excessive concentration risk arising from exposures towards CCPs.

ENTRY INTO FORCE: 24.12.2024.

TRANSPOSITION: no later than 25.6.2026.

Treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions

2022/0404(COD) - 05/12/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Danuta Maria HÜBNER (EPP, PL) on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions.

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

The report stressed that Directives 2013/36/EU and (EU) 2019/2034 should be amended to further **clarify the role of competent authorities** in addressing any excessive concentration risk that may arise from exposures of credit institutions and investment firms under their supervision towards CCPs, in particular third-country CCPs that are of substantial systemic importance to the Union or one or more of its Member States and offer services identified by the European Securities and Markets Authority (ESMA) as being of substantial systemic importance.

Furthermore, competent authorities should be better equipped with additional, more granular, tools and powers under the Pillar 2 to enable them to take suitable and decisive actions based on the conclusions of their supervisory assessments.

Members also considered that competent authorities should be empowered to **review the plans** which credit institutions and investment firms are required to develop, taking into account the methodology for the calibration of the active account requirement. To appropriately review such plans, competent authorities should have at their disposal the details of the level of clearing services identified as being of substantial systemic importance to be maintained in the **active accounts** in Union CCPs by financial and non-financial counterparties subject to the clearing obligation specified in Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories.

Treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions

2022/0404(COD) - 07/12/2022 - Legislative proposal

PURPOSE: to amend Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties (CCPs) and the counterparty risk on centrally cleared derivative transactions.

PROPOSED ACT: Directive of the European Parliament and of the Council.

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: to ensure consistency with Regulation (EU) No 648/2012 and to ensure the proper functioning of the internal market, it is necessary to lay down in Directive 2009/65/EU a uniform set of rules to address counterparty risk in derivative transactions performed by undertakings for collective investment in transferable securities (UCITS), where the transactions have been cleared by a CCP that is authorised or recognised under that Regulation. Directive 2009/65/EU imposes regulatory limits on counterparty risk only to OTC derivative transactions, irrespective of whether the derivatives have been centrally cleared.

As central clearing arrangements mitigate counterparty risk that is inherent in derivative contracts, it is necessary to take into consideration whether a derivative has been centrally cleared by a CCP that is authorised or recognised under that Regulation and to establish a level playing-field between exchange traded and OTC derivatives, when determining the applicable counterparty risk limits. It is also necessary for regulatory and harmonisation purposes, to **lift counterparty risk limits** only when the counterparties use CCPs that are authorised in a Member State or recognised, in accordance with Regulation (EU) No 648/2012, to provide clearing services to clearing members and their clients.

To contribute to the objectives of the Capital Markets Union it is necessary, for the efficient use of CCPs, to address certain impediments to the use of central clearing in Directive 2009/65/EU and to provide clarifications in Directives 2013/36/EU, and (EU) 2019/2034. The excessive reliance of the Union financial system on systemically important third-country CCPs (Tier 2 CCPs) could pose financial stability concerns that needs to be addressed appropriately.

To ensure the financial stability in the Union and adequately **mitigate potential risks of contagion across the Union financial system**, appropriate measures should therefore be introduced to foster the identification, management and monitoring of concentration risk arising from exposures towards CCPs.

In that context, Directives 2013/36/EU and (EU) 2019/2034 should be amended to encourage institutions and investment firms to take the necessary steps to adapt their business model to ensure the consistency with the new requirements for clearing introduced by the revision of Regulation (EU) No 648/2012 and to overall enhance their risk management practices, also considering the nature, scope and complexity of their market activities.

CONTENT: this proposal aims to amend Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 accordingly. Overall, it aims to encourage institutions and investment firms, respectively, as well as their competent authorities, to **systematically address any excessive concentration risk** that may arise from their exposures towards CCPs and reflect the broader policy objective of a safer, more robust, efficient and competitive market for EU central clearing services.

The amendments aims to:

- align the proposal with Regulation (EU) No 648/2012 in order to establish a level playing-field between exchange traded and OTC derivatives and to better reflect the risk reducing nature of CCPs in derivative transactions;
- eliminate counterparty risk limits for all derivative transactions that are centrally cleared by a CCP that is authorised or recognised under Regulation (EU) No 648/2012;
- introduce the notion of CCP in the UCITS Directive.
- improve the management of exposures towards CCPs, thus supporting the transition to a safer, more robust, efficient and competitive market for EU central clearing services;
- review the alignment of credit institutions and investment firms with the relevant Union policy objectives or broader transition trends relating to the use of active account structure under EMIR over the short, medium and long term, thereby enabling competent authorities to address financial stability concerns that could arise from the excessive reliance on certain systemically important third-country CCPs (Tier 2 CCPs);
- require institutions to include concentration risk arising from exposures towards CCPs, in particular those offering services of substantial systemic importance for the Union or one or more of its Member States, in institutions' strategies and processes for evaluating internal capital needs as well as adequate internal governance;
- introduce a requirement for competent authorities to specifically assess and **monitor institutions' practices** concerning the management of their concentration risk arising from exposures towards central counterparties as well as the progress made by institutions in adapting to the relevant policy objectives of the Union;
- mandate the EBA to issue **guidelines** on the uniform inclusion of concentration risk arising from exposures towards central counterparties in the supervisory stress testing;
- facilitate the possibility for competent authorities to address specifically the concentration risk arising from institutions' exposures towards CCPs, by adding a concrete supervisory power to address such risk.