



FOCUS

# EMIR 2.2

Updated in February 2021

### MAIN REGULATORY EVOLUTION

**Creation of a permanent internal ESMA's committee** (the CCP Supervisory Committee) for all CCPs (European and non-European)

**CCP's colleges:** improvement of their governance; creation of colleges for non-EU CCPs (third country CCPs)

**Classification of non-EU CCPs (Third Country CCPs):** in Tier 1 or Tier 2

**Withdrawal / limitation of activities for non-EU CCPs**

**Equivalence** between EMIR and the legal and supervisory framework of third countries

### CRITICAL POINTS

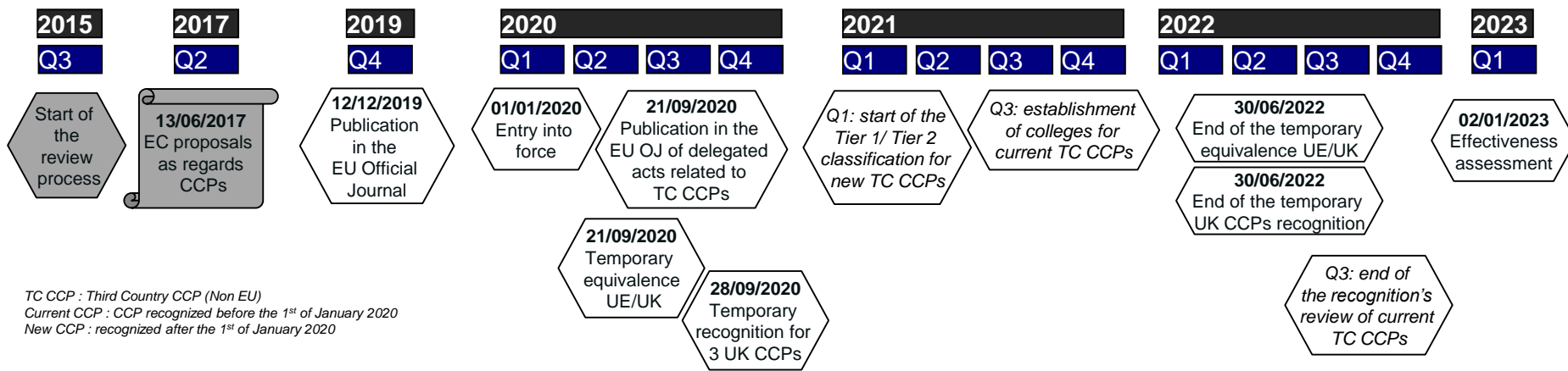
The aim of this new committee is to address inconsistencies in the supervision of CCPs (Eu and non-EU). It will also be able to propose to the ESMA Board of Supervisors the issuance of ESMA's guidelines, opinions, ..

The scope of members is broader; members will be authorized to contribute to set up of the meetings' agenda; colleges will be able to provide opinions. The principle of CCPs colleges is extended to non-EU CCPs.

New classification of third country CCPs into Tier 1 / Tier 2, depending on the systemic risk they may pose for the Union. The conditions for a "Tier 2" CCP to be recognized by ESMA will be more stringent.

As a last resort measure, the European Commission may impose a non-EU CCP to relocate part / all its clearing activity in a Member State.

Introduction of a regular monitoring of regulatory and supervisory developments in third countries to be conducted by ESMA



Updated on the 5<sup>th</sup> of February 2021

- Central Counterparties (CCPs)
- ESMA's role
- Equivalence
- Third countries CCPs
- Supervision
- Financial Stability

### STATEMENT

- ❑ The regulation has entered into force on the 2<sup>nd</sup> of January 2020. However, measures related to non-EU CCPs will not apply before the publication of the delegated acts (level 2 texts)
- ❑ Delegated acts on the criteria for tiering, comparable compliance and fees for third country CCPs have been published in the EU OJ (21/09/2020)
- ❑ Level 3: ESMA is expected to issue Guidelines by the 2<sup>nd</sup> January 2021 specifying the common procedures and methodologies for the supervisory review and evaluation process (for EU CCPs)
- ❑ EC has issued a temporary equivalence decision for the UK on the 21<sup>st</sup> of September 2020 and ESMA on the 28<sup>th</sup> of September 2020 has temporarily recognised 3 UK CCPs (LME Clear Limited as Tier 1 CCP, ICE Clear Limited as Tier 2 CCP, LCH Limited as Tier 2 CCP)
- ❑ Both the temporary equivalence and the temporary recognition will apply from the 01/01/2021 to the 30/06/2022

### FOR YOUR CONSIDERATION

- ❑ The main point of attention should be on these future Tier 2 CCPs and the likelihood for one of them to be under a relocation requirement
- ❑ The EC temporary decision is based on the current state of regulation in the UK; the equivalence could be revoked by the EC at any time
- ❑ On the 8<sup>th</sup> of July ESMA wrote a letter to the EC detailing its concerns re the final drafts compared to ESMA's technical advices

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To know more please refer to:  
FicheEMIR2.2-ToKnowMore

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