



FOCUS

# CCP R&R

Updated in April 2021

### REGULATORY EVOLUTION

**Safeguarding of the Financial Stability:** Central Counterparties (CCPs) play an essential role in the global economy so that their default could severely impact the financial stability; thus they require a dedicated regime other than the insolvency / bankruptcy process which rather focuses on the creditors

**Continuity of critical functions:** the protection of the financial stability as well as the protection of public funds may imply to focus the intervention the CCP's critical functions to the detriment of others

**Protection of Taxpayers:** they shall not be exposed to the losses incurred by a CCP due to its default

**Early intervention** in order to remedy the deterioration of a CCP before the resolution remains the only way available

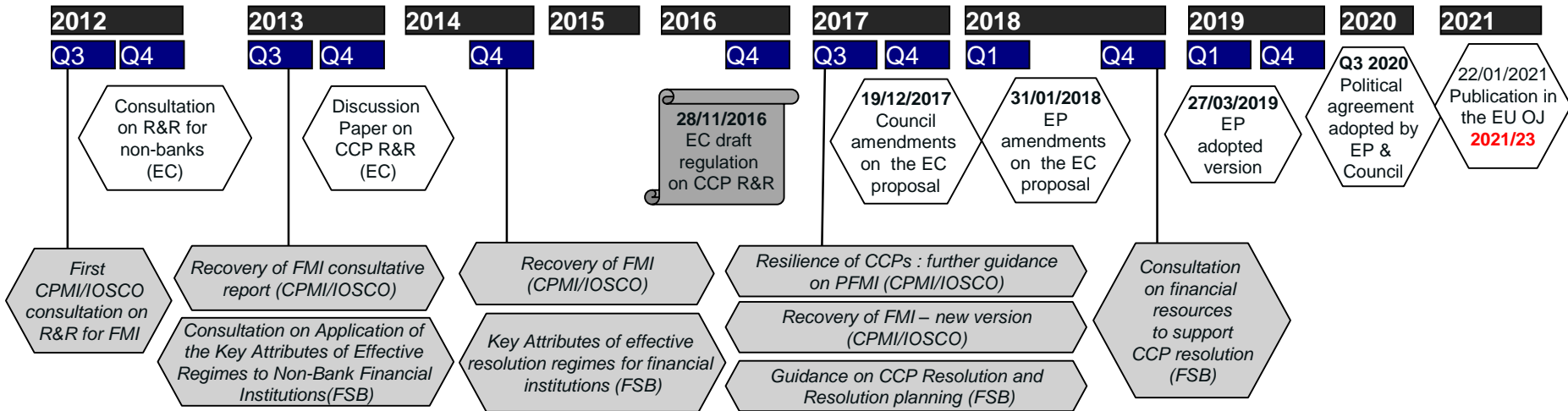
### FOCAL POINTS

The process is two folds : recovery where the CCP will use dedicated tools to restore its financial situation and resolution should the recovery failed (in the latter the resolution authority will take over the CCP). Recovery and resolution plans shall be established ex ante. In addition, for each CCP a resolution authority is designated, a resolution college is created and provided with extra powers.

Critical functions can be maintained while winding down the remaining activities through normal insolvency proceedings.

The use of public financial support should be avoided; an effective resolution regime should be able to minimize the costs borne by the taxpayers; however the text includes a "No Creditor Worse Off" principle and other safeguards,

CCP's competent authorities (instituted by EMIR) are granted early intervention powers



CPMI: Committee on Payments and Market Infrastructures within the Bank for International Settlements (BIS). IOSCO: International Organization of Securities Commissions bringing together the world's securities regulators. FSB : Financial Stability Board

Updated on the 8<sup>th</sup> of March 2021

- Safeguarding of the financial stability
- Continuity of the critical functions
- Protection of the taxpayers
- Anticipation

## STATEMENT

❑ **At the EU level:**

- The EC's proposal (issued on the 28 November 2016) has been submitted to the European Parliament (EP) and the European Council.
- On the 23rd of June 2020, the Parliament and the Council of the EU have reached a political agreement on the proposed Regulation
- On the 18th of November 2020, the EC has written to the EP stating that it will support the results of the interinstitutional negotiations and can therefore accept the Council's position at first reading,
- On the 14<sup>th</sup> of December 2020, the EP has adopted the Council's position; for example: requirement for CCPs to draw up plans for addressing "default events" and "non-default events", prohibition or restriction of dividends and bonuses where a default event has been caused by mismanagement, additional pre-funded "second skin in the game" to be used by the CCP prior to the application of any cash call or variation margins gains haircutting in recovery, participation of clients in auctions under certain circumstances and conditions, resolution cash calls to be used also in case of non-default events, compensation of non-defaulting clearing members and clients ...
- The text has been published in the EU Official Journal on the 22 January 2021
- ESMA prepared to develop delegated acts (level 2) as well as guidelines (level 3)

❑ **At the international level :** both FSB and CPMI/IOSCO pursue their work on recovery and resolution

## FOR YOUR CONSIDERATION

❑ **At the EU level:**

- Identification of each CCP's critical functions, content of the recovery plan and identification of the recovery tools, the link between EMIR (the waterfall process) and the recovery phase, the full allocation of losses, the haircut of margins ... are some of the main topics that will need to be followed and scrutinized
- Now the regulation is expected to be officially adopted and published in the EU OJ.

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