



FOCUS

EMIR 2.2

Updated in October 2022

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

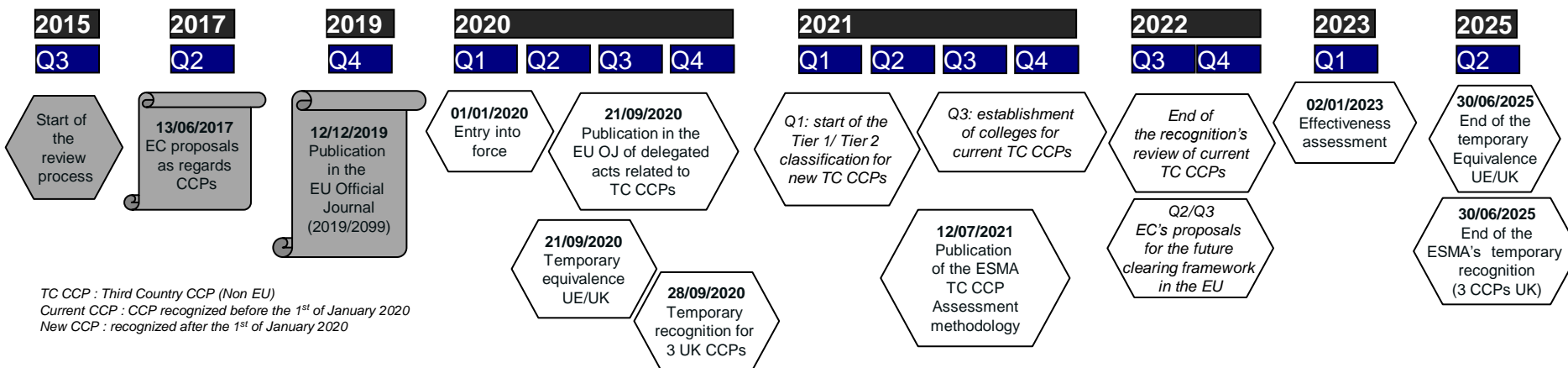
The aim of this new committee is to address inconsistencies in the supervision of CCPs (Eu and non-EU). It will also be able to propose to the ESMA Board of Supervisors the issuance of ESMA's guidelines, opinions, ...

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 5th of October 2022

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

STATEMENT

- ❑ The regulation has entered into force on the 2nd 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 has issued a methodology for assessing a third country CCP (12/07/2021)
- ❑ EC has issued a temporary equivalence decision for the UK on the 21st of September 2020 and ESMA on the 28th 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
- ❑ Mid July 2021, ESMA issued its methodology for assessing TC CCP
- ❑ January 2022, ESMA has updated its Methodology for Mandatory Peer Reviews in relation to CCPs' authorisation and supervision under EMIR
- ❑ Equivalence adopted by the EC: South Africa, India, Chile, Indonesia, Malaysia (published), China and Israel (to be published)

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
- ❑ Trade associations have sent in September 2021 a letter to the EC requesting an extension of the equivalence for UK CCPs
- ❑ The temporary period has been extended until June 2025 both for the equivalence and for the recognition of the 3 UK CCPs)
- ❑ The EC has consulted on the future clearing framework in the UE

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

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