



FOCUS

EMIR 2.2

Updated in February 2023

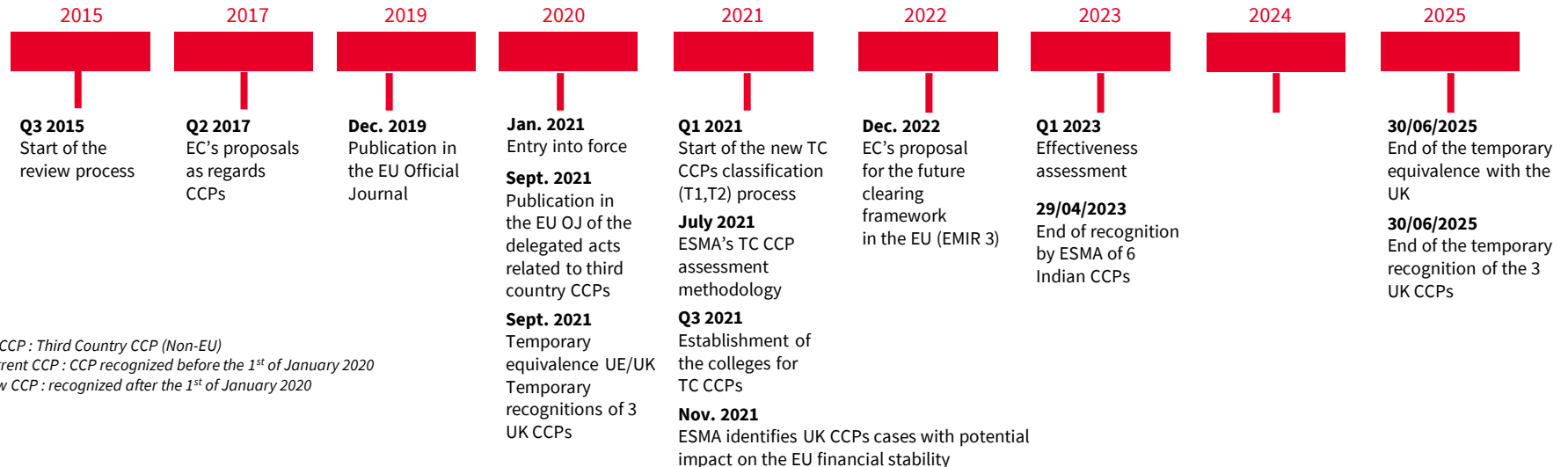
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REGULATORY EVOLUTION

- **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

FOCAL 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



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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 are now extended until the 30th of June 2025
- January 2022, ESMA has updated its Methodology for Mandatory Peer Reviews in relation to CCPs' authorisation and supervision under EMIR
- EC continues to adopt equivalences with third countries
- Next step: December 2022, the EC has issued a draft text reviewing EMIR (both EMIR Refit and EMIR 2.2 sections)

FOR YOUR CONSIDERATION

- The main point of attention should be on these 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
- The EC has started its work on the future clearing framework in the UE
- ESMA to withdraw the recognition decisions of 6 Indian CCPs (to apply on the 30th of April 2023)

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