



FOCUS

CCP R&R

Updated in July 2024

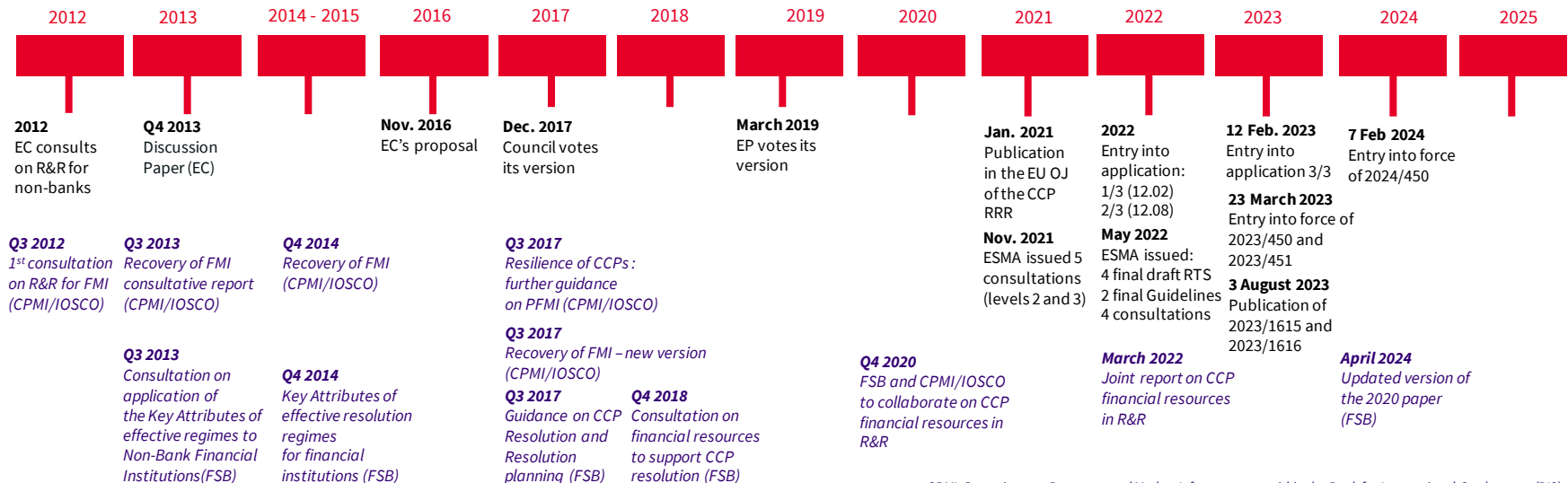
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REGULATORY EVOLUTION

- **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 on 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

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STATEMENT

- At EU level:
 - The EC's proposal has been issued on the 28 November 2016 but the political agreement between the 3 bodies (EC, EP and Council) has been reached only in June 2020
 - On the 14th 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 22nd of January 2021 and entered into force 20 days after but applies mostly from 12 August 2022
 - May 2022: ESMA issued 4 RTS and 2 guidelines and started 4 new consultations during the summer 2022
 - 2023: publication of level 2 texts: 2023/450, 2023/451, 2023/1615, 2023/1616
 - 2024: publication of level 2 text: 2024/450
- At international level:
 - FSB and CPMI/IOSCO issued a study on existing financial resources and tools for CCP recovery and resolution (March 2022)
 - Next steps: review of existing toolkit for CCP resolution in particular for non default losses (FSB), works on potential alternative financial resources (FSB and CPMI/IOSCO), CCP non default losses in resilience and recovery (CPMI/IOSCO)
 - April 2024: the FSB issued a new version of the Nov 2020 paper.

FOR YOUR CONSIDERATION

- At 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 need to be followed and scrutinized

sylvie.bonduelle@sgss.socgen.com

 If you want to know more, refer to
Fiche To Know More

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