



FOCUS

# EMIR 2.2

Updated in February 2020

### 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

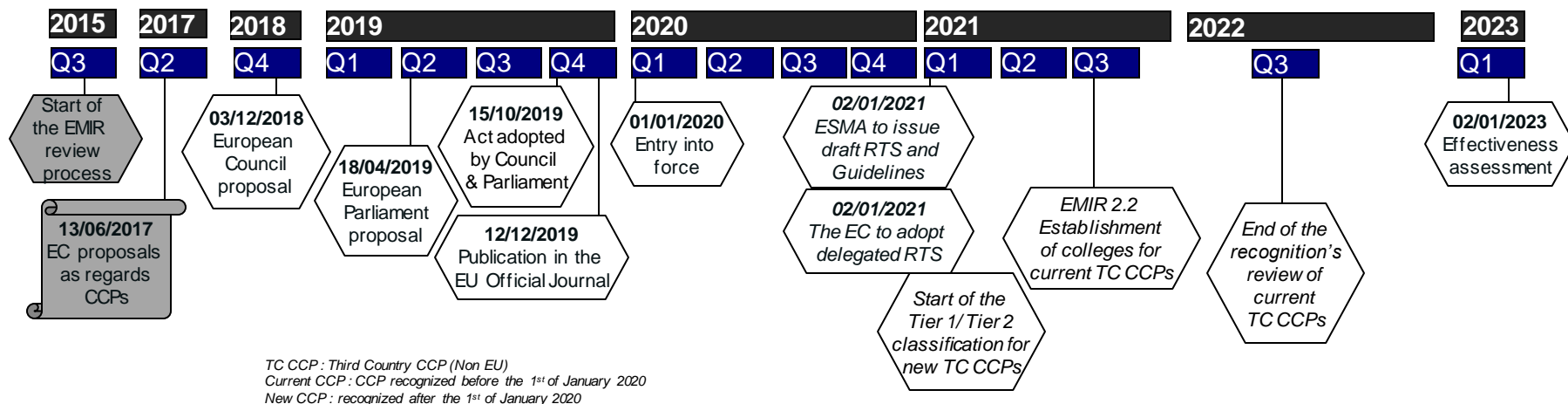
The aim of this new committee is to address inconsistencies in the supervision of CCPs (Eu and non EU). It will also be able to propose to the ESMA Board of Supervisors the issuance of ESMA's guidelines, opinions, ..

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 of 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 19<sup>th</sup> of February 2020

- 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 :
  - ESMA is expected to provide the European Commission with several Draft RTS by the 2<sup>nd</sup> January 2021
  - The Commission shall adopt, after consultation of ESMA and other experts, delegated acts related to the criteria to be used for the classification of TC CCPs
- ❑ 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)

### 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 interaction with the Brexit. 3 CCPs are concerned (LCH Ltd, ICE Clear Europe Ltd and LME Clear Ltd). The European Commission has stated that there will be an equivalence during one year as of the UK becomes a third country and ESMA has extended the recognition for the 3 CCPs accordingly.

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

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