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Amending EMIR on CCP's supervision will bring important changes for the industry, changes that will require adaptation. They are necessary in view of the evolving role of CCPs in our financial ecosystems as well as of the cumulated effect of Brexit and of an already weak system for the supervision of third country CCPs by ESMA. CCPs have become key players on our financial markets and have to be treated as such.

This is why we need to expand the role of ESMA and give it more powers over third country CCPs, in a proportionate way as not all third country CCPs will be systemically significant for the Union. We also need to move towards a more European approach in the supervision of EU CCPs as we seem to have reached the stage in which it will be possible to reap economies of scale in the supervision of our CCPs.

My draft report proposes targeted changes to the proposal. Some of them aim to make the supervision system more effective and less cumbersome. For instance, I propose to change the status of the ESMA formation dealing with the supervision of CCPs, from a new configuration to an internal committee.

Other changes aim to clarify or correct some points of the original proposal. For instance, I make the procedure for denying recognition to a third country CCPs more fact-based and less discretionary.

I also clarify the article introducing the possibility for a third country Tier 2 CCP to request that ESMA assesses the comparable compliance of the third country requirements applicable to the Tier 2 CCP with EMIR requirements. The idea there is to make comparable compliance a real tool for ESMA and for the CCP applying for recognition, a tool that can be used intelligently in order to prevent the requirement for Tier 2 CCP to apply EMIR in full from being unnecessarily burdensome and inflexible.

Here tonight, I would like to focus on two points.

The first is the well-known option for the Commission to adopt an implementing act denying recognition to a third country CCP that would be seeking to provide clearing services in the Union. The decision would be taken due to the systemic importance of the CCP concerned for the economy of the Union.

I know that this possibility, and the discretion that the proposal left to ESMA, the central bank of issue and the Commission, has been a big concern for the industry. There were concerns that decisions that could prove to have disruptive effects could be taken in a not proportionate and not evidence-based way.

I am not against the principle of relocation. It should remain there as a possibility, in case things go wrong. And to this end, it should be a credible decision, based on a rational, fact and evidence-based analysis.

None of us wants a decision to deny recognition to a third country CCP, which aims to protect the financial system of the Union, to end up harming EU members and clients more than benefitting them.

This is why I would not like to delete the possibility to deny recognition in the text. However I will not accept either a policy of automatic relocation based on inflexible criteria, or a complete discretion left to the Commission in deciding how and to what CCP to deny recognition.

So, my work has focused on finding criteria to ensure that any decision to deny recognition would be taken following a reasoned analysis and that it would be evidence-based.

This is why I have introduced elements to be considered by the central bank and ESMA in their analysis. Those elements would be for instance the substitutability of the clearing services concerned by the denial of recognition and the characteristics of the transactions cleared by the CCP, that is, whether the transactions cleared by the CCP are repos, which are liquidity-intensive and linked to monetary policy transmission, or whether they are other types of transactions.

More generally, I introduced a requirement for a cost-benefit analysis of denying recognition.

Then, even when taken on a rational basis, decisions to deny recognition to a third country CCP might be disruptive in a way and to an extent we do not exactly know yet.

It seems clear in any case that the most problematic will not be the prohibition for clients and members to conclude new transactions with the CCP concerned but the way of dealing with outstanding contracts.

Outstanding contracts of EU members and clients in a CCP that has been denied recognition will have to be transferred to a new CCP. This means that technically and concretely, members will need to enter into hedging transactions, close positions, re - open positions, and all this for a huge amount of contracts

on comparatively small markets. Also, outstanding contracts of EU members and clients will need, as long as they remain within the third country CCP, to be risk-managed.

Considering these aspects, I propose to leave to the Commission, when adopting its implementing act, a possibility to insert some elements designed to mitigate the impact of the decision to deny recognition. Those mitigating elements could be an adaptation period for clients and members, with measures to be taken during the adaptation period in order to limit the impact of the denial of recognition.

Also, the Commission when adopting the implementing act will need to reflect on the way of treating existing contracts.

I finally propose that recognition could be denied only for a clearing service of the third country CCP and not for the whole CCP.

This would be a way of making the decision to deny recognition more proportionate, focused on the services that are systemic or problematic, and it would be in line with the procedure for granting or withdrawing authorisation because, under EMIR, authorisation is granted or withdrawn per clearing service.

The second issue I wanted to insist on is, broadly speaking, this of collaboration and of information-sharing between supervisors.

We know cooperation and information sharing are crucial for the supervision of entities as significant and as interconnected as CCPs.

This being agreed, we need to find the best way to concretely facilitate those interactions between supervisors. We also need to find the right balance between the need to involve as many actors as can be affected by what is going on at the CCP and the need to keep the system simple and to allow for swift decision making in difficult times, let us call them “emergency situations”.

In the text, I see two cases. One, of course, is, regarding third country CCPs, the case of the relationship between the third country home authority and the host EU authority. There, we will probably not be able to enshrine everything in the legislation and good memoranda of understanding between supervisors and good day-to-day working relationships will matter strongly. I already tried in my draft report to frame the elements that could be present in a memorandum of understanding between the EU authority and the third country authority, and will continue to welcome any suggestions on how to create the best possible conditions for cooperation to be built. However, of course, we have to keep in mind that what works in peace times does not necessarily work in emergency situations and that a division of labour that works well in peaceful times might not be suited for an emergency where swift action is needed.

The second, very similar, case is this of the role of the central bank of issue, in particular within the Union. The more I reflect on it, the more I see that the scope of intervention of the central bank of issue has been defined rather well, except for the right to impose any additional requirements it wishes on third country CCPs.

The real problem arises in the supervision of EU CCPs and relates to the way a disagreement between ESMA and the central bank of issue concerning a decision proposed by a national authority would be handled. The Commission proposal is at best ambiguous on what would happen in such a situation and this creates very unwelcome uncertainty, for supervisors and supervisees. I guess in good times we could do with ex ante consultations and discussions between ESMA and the central bank of issue, and I proposed a recital making this obligation of coordination explicit in order to be sure that it is what will happen. However, there is still a big question mark over what would happen in emergency situations: it is likely that there, we would need one entity to have the last word. Therefore, I would see the discussion as still open.

I know there is some discussion at the Council about a comply or explain ESMA mechanism in which decisions of the central bank should be complied with unless justified, and the Commission was asked to work on its design.

I am looking forward to continuing the reflection on this matter as well as on other issues related to the proposal.