

ESMA advises on draft legislation for CCP recovery and resolution

The Proposal gives CCPs' National Competent Authorities (NCAs) supervision and early intervention powers in relation to CCP recovery. For CCP resolution, the Proposal asks Member States to designate National Resolution Authorities (NRAs) to develop CCP resolution plans. In both cases, ESMA will have a mediator role to ensure consistency.

ESMA, in its opinion, expresses its views on arrangements for CCP recovery and resolution and, in particular, the impact of the proposal on ESMA as an organisation, including for its resources.

Steven Maijoor, ESMA Chair said:

"ESMA welcomes the proposal for a CCP Recovery and Resolution Regulation. CCPs are critical infrastructures reducing market risks. However, as they are systemically relevant and operate globally, we also need to have rules and procedures in place to be prepared in case of their failure.

"We appreciate the key role that the Regulation assigns to ESMA and we are prepared to perform the tasks assigned under the proposal."

The ESMA opinion proposes:

- to introduce additional requirements regarding NRAs' recovery plans in order to ensure a higher level of convergence, while providing the necessary flexibility to CCPs to select those recovery tools which best fit their business situation;
- to consider a more effective mediation mechanism; and
- to consider the implications ESMA's role has on its budget – e.g. to include a provision in the CCP Recovery and Resolution Regulation for ESMA to provide a budgetary impact assessment.

Background

The Proposal envisages that the supervisory colleges, which are currently responsible for the supervision of CCPs under the European Market Infrastructure Regulation (EMIR), will also have to reach joint decisions on recovery issues. In addition, specific resolution colleges made up of NRAs will have to be established.

ESMA will have a mediation role within both supervisory and resolution colleges or decide when no joint opinion is reached. Moreover, the Proposal also amends EMIR to allow for the suspension of the clearing obligation in case a CCP enters into resolution.

The proposed regulation has been submitted to the European Parliament and Council for approval and adoption.