



Council of the
European Union

077632/EU XXVI. GP
Eingelangt am 10/10/19

Brussels, 10 October 2019
(OR. en)

Interinstitutional File:
2017/0136(COD)

12944/19
ADD 1

CODEC 1466
EF 289
ECOFIN 863
SURE 49

'A' ITEM NOTE

From:	General Secretariat of the Council
To:	Council
Subject:	Draft Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs (first reading) - Adoption of the legislative act = Statements

Statement by the Council

The establishment of the CCP Supervisory Committee, and the definition of its composition, tasks and voting modalities in the proposed Regulation instead of following the procedure laid down in Article 41 of the ESMA Regulation, is a unique solution and does not create any precedent for any financial services-related legislative act in the future.

Statement by Czech Republic and Luxembourg

We are concerned that the Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs will entail additional complexity for the decision-making procedures in the context of the authorization, recognition and supervision of EU and Third Country CCPs. The proposed set-up foreseeing the involvement of colleges and internal ESMA Committees, including, in certain cases, ex ante discussion of decisions, will entail complex interactions between different fora for discussion. We see a risk that this may lead to delays and inconsistencies which will be detrimental to the overall efficiency of the supervisory decision-making process.

We furthermore want to underline that in many instances, decisions to be made with regard to the supervision of CCPs can have an important impact for clearing members and clients, and thus on markets, as well as financial stability implications, in Member States other than those where these CCPs are established. We therefore believe it is important that the experience and insight of the competent authorities of these Member States is adequately taken into account in the decision-making process. In this regard, we are concerned that the setting up of internal ESMA Committees and supervisory colleges with restricted composition may not contribute to well-informed and balanced decision-making.

We are strong proponents of a simpler, more open and more inclusive approach to supervision. Excluding authorities with relevant insight from participation in bodies entrusted with carrying out supervisory decisions does not seem to contribute to a more efficient supervisory architecture. To the contrary, an inclusive process for the discussion and drafting of decisions would allow for better sharing of information and experiences and as such would be essential to identifying best practices and fostering convergence.

As regards the recognition of third country CCPs, we note that the regulatory framework laid down by the amending Regulation will be significantly more complex than the current one. We underline our commitment to a regulatory framework for financial services that allows for the European markets to remain open and globally integrated and that is based on supervisory cooperation with third-country partners. Any disruption in access to third country CCPs would have significant negative consequences for clearing members, clients and markets in the EU, including potential implications on financial stability and should therefore be avoided.
