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From:	General Secretariat of the Council
To:	Delegations
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Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365 - Three-column table comparing the institutions' positions

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**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on a framework for the recovery and resolution of central counterparties**  
**and**  
**amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365**  
**(Text with EEA relevance)**  
**2016/0365 (COD)**

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
1.		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
2.		Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,
3.		Having regard to the proposal from the European Commission, <sup>1</sup>	Having regard to the proposal from the European Commission, <sup>2</sup>	Having regard to the proposal from the European Commission, <sup>3</sup>

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

Nr.	Ref.	COM	Council	EP
4.		After transmission of the draft legislative act to the national Parliaments,	After transmission of the draft legislative act to the national Parliaments,	After transmission of the draft legislative act to the national Parliaments,
5.		Having regard to the opinion of the European Economic and Social Committee, <sup>4</sup>	Having regard to the opinion of the European Economic and Social Committee, <sup>5</sup>	Having regard to the opinion of the European Economic and Social Committee, <sup>6</sup>
6.		Having regard to the opinion of the European Central Bank, <sup>7</sup>	Having regard to the opinion of the European Central Bank, <sup>8</sup>	Having regard to the opinion of the European Central Bank, <sup>9</sup>
7.		Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,
8.		Whereas:	Whereas:	Whereas:
9.	Rec. 1	(1) Financial markets are pivotal for the functioning of modern economies.	(1) Financial markets are pivotal for the functioning of modern economies. The	(1) Financial markets are pivotal for the functioning of modern economies. The

<sup>4</sup> OJ C , , p. .  
<sup>5</sup> OJ C , , p. .  
<sup>6</sup> OJ C 209, 30.6.2017, p. 28.  
<sup>7</sup> OJ C , , p. .  
<sup>8</sup> OJ C , , p. .  
<sup>9</sup> OJ C 372, 1.11.2017, p. 6.

Nr.	Ref.	COM	Council	EP
		The more integrated they are, the more efficient the allocation of economic resources will be, benefitting economic performance. However, in order to improve the functioning of the single market in financial services, it is important to have procedures in place to ensure that if a financial institution or a financial market infrastructure that is active in this market faces financial distress or is at the point of failure, such an event does not destabilise the entire financial market and damage growth across the wider economy.	more integrated they are, the more efficient the allocation of economic resources will be, benefitting economic performance. However, in order to improve the functioning of the single market in financial services, it is important to have procedures in place to ensure that if a financial institution or a financial market infrastructure that is active in this market faces financial distress or is at the point of failure, such an event does not destabilise the entire financial market and damage growth across the wider economy.	more integrated they are, the <i>greater the potential for</i> efficient allocation of economic resources will be, <i>potentially</i> benefitting economic performance. However, in order to improve the functioning of the single market in financial services, it is important to have procedures in place <i>to deal with market failures and</i> to ensure that if a financial institution or a financial market infrastructure that is active in this market faces financial distress or is at the point of failure, such an event does not destabilise the entire financial market and damage growth across the wider economy.
10.	Rec. 2	(2) Central counterparties (CCPs) are key components of financial markets, stepping in between participants to act	(2) Central counterparties (CCPs) are key components of financial markets, stepping in between participants to act	(2) Central counterparties (CCPs) are key components of <i>global</i> financial markets, stepping in between participants

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		as the buyer to every seller and the seller to every buyer, and playing a central role in processing financial transactions and managing exposures to diverse risks inherent in those transactions. CCPs centralise the handling of counterparties' transactions and positions, and honour the obligations created by the transactions and receive adequate collateral from their members as margin and as contributions to default funds.	as the buyer to every seller and the seller to every buyer, and playing a central role in processing financial transactions and managing exposures to diverse risks inherent in those transactions. CCPs centralise the handling of counterparties' transactions and positions, and honour the obligations created by the transactions and receive adequate collateral from their members as margin and as contributions to default funds.	to act as the buyer to every seller and the seller to every buyer, and playing a central role in processing financial transactions and managing exposures to diverse risks inherent in those transactions. CCPs centralise the handling of counterparties' transactions and positions, and honour the obligations created by the transactions and <b>require</b> adequate collateral from their members as margin and as contributions to default funds.
11.	Rec. 3	(3) The integration of Union financial markets has meant that CCPs have evolved from primarily serving domestic needs and markets to constituting critical nodes in Union financial markets more widely. CCPs	(3) The integration of Union financial markets has meant that CCPs have evolved from primarily serving domestic needs and markets to constituting critical nodes in Union financial markets more widely. CCPs	(3) The integration of Union financial markets has meant that CCPs have evolved from primarily serving domestic needs and markets to constituting critical nodes in Union financial markets more widely. CCPs authorised in the Union

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		authorised in the Union today clear several product classes, from listed and over-the-counter (OTC) financial and commodity derivatives to cash equities, bonds and other products such as repos. They provide their services across national borders to a broad range of financial and other institutions across the Union. While some CCPs authorised in the Union remain focussed on domestic markets, they are all systemically important in at least their home markets.	authorised in the Union today clear several product classes, from listed and over-the-counter (OTC) financial and commodity derivatives to cash equities, bonds and other products such as repos. They provide their services across national borders to a broad range of financial and other institutions across the Union. While some CCPs authorised in the Union remain focussed on domestic markets, they are all systemically important in at least their home markets.	today clear several product classes, from listed and over-the-counter (OTC) financial and commodity derivatives to cash equities, bonds and other products such as repos. They provide their services across national borders to a broad range of financial and other institutions across the Union. While some CCPs authorised in the Union remain focussed on domestic markets, they are all systemically important in at least their home markets.
12.	Rec. 4	(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust	(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is	(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is essential.

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		supervision of CCPs is essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council <sup>10</sup> requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full oversight of their activities, working together within colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC	essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council <sup>11</sup> requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full oversight of their activities, working together within colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a	In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council <sup>12</sup> requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full oversight of their activities, working together within <i>supervisory</i> colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a CCP. As the

<sup>10</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

<sup>11</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

<sup>12</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

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		derivatives to be centrally cleared by a CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.	CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.	obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.
13.	Rec. 5	(5) Regulation (EU) No 648/2012 has contributed to the increased resilience of CCPs and of wider financial markets against the broad range of risks processed and concentrated in CCPs. However, no system of rules and practices can prevent existing resources from being inadequate in managing the risks incurred by the CCP, including one or more defaults by clearing members. Faced with a	(5) Regulation (EU) No 648/2012 has contributed to the increased resilience of CCPs and of wider financial markets against the broad range of risks processed and concentrated in CCPs. However, no system of rules and practices can prevent existing resources from being inadequate in managing the risks incurred by the CCP, including one or more defaults by clearing members. Faced with a scenario of	(5) Regulation (EU) No 648/2012 has contributed to the increased resilience of CCPs and of wider financial markets against the broad range of risks processed and concentrated in CCPs. However, no system of rules and practices can prevent existing resources from being inadequate in managing the risks incurred by the CCP, including one or more defaults by clearing members. Faced with a scenario of severe distress



Nr.	Ref.	COM	Council	EP
		<p>scenario of severe distress or impending failure, financial institutions should in principle remain subject to normal insolvency proceedings. However, as the financial crisis has shown, in particular during a period of prolonged economic instability and uncertainty, such proceedings can disrupt functions critical to the economy, jeopardising financial stability. Normal corporate insolvency procedures may not always ensure sufficient speed of intervention or adequately prioritise the continuation of the critical functions of financial institutions for the sake of preserving financial stability. In order to prevent these negative consequences of normal insolvency proceedings, it is necessary to create a</p>	<p>severe distress or impending failure, financial institutions should in principle remain subject to normal insolvency proceedings. However, as the financial crisis has shown, in particular during a period of prolonged economic instability and uncertainty, such proceedings can disrupt functions critical to the economy, jeopardising financial stability. Normal corporate insolvency procedures may not always ensure sufficient speed of intervention or adequately prioritise the continuation of the critical functions of financial institutions for the sake of preserving financial stability. In order to prevent these negative consequences of normal insolvency proceedings, it is necessary to create a special <i>recovery and</i> resolution framework for CCPs.</p>	<p>or impending failure, financial institutions should in principle remain subject to normal insolvency proceedings. However, as the financial crisis has shown, in particular during a period of prolonged economic instability and uncertainty, such proceedings can disrupt functions critical to the economy, jeopardising financial stability. Normal corporate insolvency procedures may not always ensure sufficient speed of intervention or adequately prioritise the continuation of the critical functions of financial institutions for the sake of preserving financial stability. In order to prevent these negative consequences of normal insolvency proceedings, it is necessary to create a special resolution framework for CCPs.</p>

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		special resolution framework for CCPs.		
14.	Rec. 6	(6) The crisis also highlighted the lack of adequate tools to preserve the critical functions provided by failing financial institutions. It further demonstrated the lack of frameworks to enable cooperation and coordination amongst authorities, in particular those located in different Member States or jurisdictions, to ensure the implementation of swift and decisive action. Without such tools and lack of cooperation and coordination frameworks, Member States were compelled to save financial institutions using taxpayers' money in order to stem contagion and reduce panic. While CCPs were not direct	(6) The crisis also highlighted the lack of adequate tools to preserve the critical functions provided by failing financial institutions. It further demonstrated the lack of frameworks to enable cooperation and coordination amongst authorities, in particular those located in different Member States or jurisdictions, to ensure the implementation of swift and decisive action. Without such tools and lack of cooperation and coordination frameworks, Member States were compelled to save financial institutions using taxpayers' money in order to stem contagion and reduce panic. While CCPs were not direct recipients of	(6) The crisis also highlighted the lack of adequate tools to preserve the critical functions provided by failing financial institutions. It further demonstrated the lack of frameworks to enable cooperation and coordination amongst authorities, in particular those located in different Member States or jurisdictions, to ensure the implementation of swift and decisive action. Without such tools and lack of cooperation and coordination frameworks, Member States were compelled to save financial institutions using taxpayers' money in order to stem contagion and reduce panic. While CCPs were not direct recipients of public financial support in the crisis, they were

Nr.	Ref.	COM	Council	EP
		recipients of extraordinary public financial support in the crisis, they were indirect beneficiaries of the rescue measures undertaken in relation to banks and were protected from the effects which banks failing on their obligations would otherwise have had on them. A recovery and resolution framework for CCPs is therefore necessary to prevent reliance on taxpayers' money in the event of their disorderly failure.	extraordinary public financial support in the crisis, they were ■ protected from the effects which banks failing on their obligations would otherwise have had on them. A recovery and resolution framework for CCPs <i>complements the bank resolution framework adopted under Directive 2014/15/EU, and</i> is therefore necessary to prevent reliance on taxpayers' money in the event of their disorderly failure.	indirect beneficiaries of the rescue measures undertaken in relation to banks and were protected from the effects which banks failing on their obligations would otherwise have had on them. A recovery and resolution framework for CCPs is therefore necessary to prevent reliance on taxpayers' money in the event of their disorderly failure. <i>Such a framework should also address the possibility of CCPs entering into resolution for reasons other than the default of one or several of their clearing members.</i>
15.	Rec. 7	(7) The objective of a credible recovery and resolution framework is to ensure, to the greatest extent possible, that CCPs set out measures to recover from financial distress, to	(7) The objective of a credible recovery and resolution framework is to ensure, to the greatest extent possible, that CCPs set out measures to recover from financial distress, to maintain the	(7) The objective of a credible recovery and resolution framework is to ensure, to the greatest extent possible, that CCPs set out measures to recover from financial distress, to maintain the critical functions

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		maintain the critical functions of a CCP which is failing or likely to fail while winding down the remaining activities through normal insolvency proceedings, and to preserve financial stability while minimising the cost of a CCP failure on taxpayers. The recovery and resolution framework further bolsters CCPs' and authorities' preparedness to mitigate financial stress and provide authorities with further insight into CCPs' preparations for stress scenarios. It also provides authorities with powers to prepare for the potential resolution of a CCP and deal with the declining health of a CCP in a coordinated manner, thus contributing to the smooth functioning of financial markets.	critical functions of a CCP which is failing or likely to fail while winding down the remaining activities through normal insolvency proceedings, and to preserve financial stability while minimising the cost of a CCP failure on taxpayers. The recovery and resolution framework further bolsters CCPs' and authorities' preparedness to mitigate financial stress and provide authorities with further insight into CCPs' preparations for stress scenarios. It also provides authorities with powers to prepare for the potential resolution of a CCP and deal with the declining health of a CCP in a coordinated manner, thus contributing to the smooth functioning of financial markets.	of a CCP which is failing or likely to fail while winding down the remaining activities through normal insolvency proceedings, and to preserve financial stability while minimising the cost of a CCP failure on <i>end clients and</i> taxpayers. The recovery and resolution framework further bolsters CCPs' and authorities' preparedness to mitigate financial stress and provide authorities with further insight into CCPs' preparations for stress scenarios. It also provides authorities with powers to prepare for the potential resolution of a CCP and deal with the declining health of a CCP in a coordinated manner, thus contributing to the smooth functioning of financial markets.

Nr.	Ref.	COM	Council	EP
16.	Rec. 8	(8) Currently, there are no harmonised provisions for the recovery and resolution of CCPs across the Union. Some Member States have already enacted legislative changes that require CCPs to draw up recovery plans and that introduce mechanisms to resolve failing CCPs. Furthermore, there are considerable substantive and procedural differences between Member States on the laws, regulations and administrative provisions which govern the insolvency of CCPs. The absence of common conditions, powers and processes for recovery and resolution of CCPs is likely to constitute a barrier to the smooth operation of the internal market and hinder cooperation between national authorities when	(8) Currently, there are no harmonised provisions for the recovery and resolution of CCPs across the Union. Some Member States have already enacted legislative changes that require CCPs to draw up recovery plans and that introduce mechanisms to resolve failing CCPs. Furthermore, there are considerable substantive and procedural differences between Member States on the laws, regulations and administrative provisions which govern the insolvency of CCPs. The absence of common conditions, powers and processes for recovery and resolution of CCPs is likely to constitute a barrier to the smooth operation of the internal market and hinder cooperation between national authorities when dealing with the failure of a CCP and applying	(8) Currently, there are no harmonised provisions for the recovery and resolution of CCPs across the Union. Some Member States have already enacted legislative changes that require CCPs to draw up recovery plans and that introduce mechanisms to resolve failing CCPs. Furthermore, there are considerable substantive and procedural differences between Member States on the laws, regulations and administrative provisions which govern the insolvency of CCPs. The absence of common conditions, powers and processes for recovery and resolution of CCPs is likely to constitute a barrier to the smooth operation of the internal market and hinder cooperation between national authorities when dealing with the failure of a CCP and applying appropriate loss allocation

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		dealing with the failure of a CCP and applying appropriate loss allocation mechanisms on its members, both in the Union and globally. This is particularly true where different approaches mean that national authorities do not have the same level of control or the same ability to resolve CCPs. Those differences in recovery and resolution regimes may affect CCPs and their members differently across Member States, potentially creating competitive distortions across the internal market. The absence of common rules and tools for how distress or failure in a CCP would be handled can affect participants' choice to clear and CCPs' choice of their place of establishment, thereby preventing CCPs from fully	appropriate loss allocation mechanisms on its <i>clearing</i> members, both in the Union and globally. This is particularly true where different approaches mean that national authorities do not have the same level of control or the same ability to resolve CCPs. Those differences in recovery and resolution regimes may affect CCPs, <i>clearing members</i> and their <i>clients</i> differently across Member States, potentially creating competitive distortions across the internal market. The absence of common rules and tools for how distress or failure in a CCP would be handled can affect <i>clearing members' and their clients'</i> choice to clear and CCPs' choice of their place of establishment, thereby preventing CCPs from fully benefiting from their fundamental freedoms within the single	mechanisms on its members, both in the Union and globally. This is particularly true where different approaches mean that national authorities do not have the same level of control or the same ability to resolve CCPs. Those differences in recovery and resolution regimes may affect CCPs and their members differently across Member States, potentially creating competitive distortions across the internal market. The absence of common rules and tools for how distress or failure in a CCP would be handled can affect participants' choice to clear and CCPs' choice of their place of establishment, thereby preventing CCPs from fully benefiting from their fundamental freedoms within the single market. In turn, this could discourage participants from accessing

Nr.	Ref.	COM	Council	EP
		benefiting from their fundamental freedoms within the single market. In turn, this could discourage participants from accessing CCPs across borders in the internal market and hinder further integration in Europe's capital markets. Common recovery and resolution rules in all Member States are therefore necessary to ensure that CCPs are not limited in exercising their internal market freedoms by the financial capacity of Member States and their authorities to manage their failure.	market. In turn, this could discourage <i>clearing members and their clients</i> from accessing CCPs across borders in the internal market and hinder further integration in Europe's capital markets. Common recovery and resolution rules in all Member States are therefore necessary to ensure that CCPs are not limited in exercising their internal market freedoms by the financial capacity of Member States and their authorities to manage their failure.	CCPs across borders in the internal market and hinder further integration in Europe's capital markets. Common recovery and resolution rules in all Member States are therefore necessary to ensure that CCPs are not limited in exercising their internal market freedoms by the financial capacity of Member States and their authorities to manage their failure.
17.	Rec. 9	(9) The review of the regulatory framework applicable to banks and other financial institutions which has taken place in the wake of the crisis, and in particular the strengthening of	(9) The review of the regulatory framework applicable to banks and other financial institutions which has taken place in the wake of the crisis, and in particular the strengthening of	(9) The review of the regulatory framework applicable to banks and other financial institutions which has taken place in the wake of the crisis, and in particular the strengthening of banks'

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
		banks' capital and liquidity buffers, better tools for macro-prudential policies and comprehensive rules on the recovery and resolution of banks, have reduced the likelihood of future crises and enhanced the resilience of all financial institutions and market infrastructures, including CCPs, to economic stress, whether caused by systemic disturbances or by events specific to individual institutions. Since 1 January 2015, a recovery and resolution regime for banks has applied in all Member States pursuant to Directive 2014/59/EU of the European Parliament and of the Council <sup>13</sup> .	banks' capital and liquidity buffers, better tools for macro-prudential policies and comprehensive rules on the recovery and resolution of banks, have reduced the likelihood of future crises and enhanced the resilience of all financial institutions and market infrastructures, including CCPs, to economic stress, whether caused by systemic disturbances or by events specific to individual institutions. Since 1 January 2015, a recovery and resolution regime for banks has applied in all Member States pursuant to Directive 2014/59/EU of the European Parliament and of the Council <sup>14</sup> .	capital and liquidity buffers, better tools for macro-prudential policies and comprehensive rules on the recovery and resolution of banks, have reduced the likelihood of future crises and enhanced the resilience of all financial institutions and market infrastructures, including CCPs, to economic stress, whether caused by systemic disturbances or by events specific to individual institutions. Since 1 January 2015, a recovery and resolution regime for banks has applied in all Member States pursuant to Directive 2014/59/EU of the European Parliament and of the Council <sup>15</sup> .

<sup>13</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).



Nr.	Ref.	COM	Council	EP
18.	Rec. 10	(10) Building on the approach for bank recovery and resolution, Member States' authorities should be prepared and have adequate recovery and resolution tools at their disposal to handle situations involving CCP failures. However, due to their different functions and business models, the risks inherent in banks and CCPs are different. Specific tools and powers are therefore needed for CCP failure scenarios caused both by the failure of the CCP's clearing members or as a result of non-default events.	(10) Building on the approach for bank recovery and resolution, Member States' authorities should be prepared and have adequate ■ resolution tools at their disposal to handle situations involving CCP failures. However, due to their different functions and business models, the risks inherent in banks and CCPs are different. Specific tools and powers are therefore needed for CCP failure scenarios caused both by the failure of the CCP's clearing members or as a result of -non-default events.	(10) Building on the approach for bank recovery and resolution, <b>competent authorities and resolution</b> authorities should be prepared and have adequate recovery and resolution tools at their disposal to handle situations involving CCP failures. However, due to their different functions and business models, the risks inherent in banks and CCPs are different. Specific tools and powers are therefore needed for CCP failure scenarios caused both by the failure of the CCP's clearing members or as a result of non-default events.
19.	Rec. 11	(11) The use of a Regulation is	(11) The use of a Regulation is	(11) The use of a Regulation is

<sup>14</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

<sup>15</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

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		necessary in order to complement and build on the approach established by Regulation (EU) No 648/2012, which provides for uniform prudential requirements applicable to CCPs. Setting recovery and resolution requirements in a Directive could create inconsistencies by the adoption of potentially different national laws in respect of an area otherwise governed by directly applicable Union law and increasingly characterised by the cross-border provision of CCPs' services. It is therefore appropriate to also adopt uniform and directly applicable rules on recovery and resolution of CCPs.	necessary in order to complement and build on the approach established by Regulation (EU) No 648/2012, which provides for uniform prudential requirements applicable to CCPs. Setting recovery and resolution requirements in a Directive could create inconsistencies by the adoption of potentially different national laws in respect of an area otherwise governed by directly applicable Union law and increasingly characterised by the cross-border provision of CCPs' services. It is therefore appropriate to also adopt uniform and directly applicable rules on recovery and resolution of CCPs.	necessary in order to complement and build on the approach established by Regulation (EU) No 648/2012, which provides for uniform prudential requirements applicable to CCPs. Setting recovery and resolution requirements in a Directive could create inconsistencies by the adoption of potentially different national laws in respect of an area otherwise governed by directly applicable Union law and increasingly characterised by the cross-border provision of CCPs' services. It is therefore appropriate to also adopt uniform and directly applicable rules on recovery and resolution of CCPs.
20.	Rec. 12	(12) In order to ensure consistency with existing Union legislation in the	(12) In order to ensure consistency with existing Union legislation in the	(12) In order to ensure consistency with existing Union legislation in the area of

Nr.	Ref.	COM	Council	EP
		<p>area of financial services, as well as the greatest possible level of financial stability across the Union, the recovery and resolution regime should apply to all CCPs subject to the prudential requirements laid down in Regulation (EU) No 648/2012, regardless of whether they have a bank licence. The insolvency of a CCP affiliated to a group could rapidly impact the solvency of the whole group and cause further financial instability. While the groups of which a CCP may form part do not need to be subject to the full regime, certain provisions should also apply to parent undertakings, where application of those provisions at that level would be conducive to more effective recovery and resolution. Authorities should</p>	<p>area of financial services, as well as the greatest possible level of financial stability across the Union, the recovery and resolution regime should apply to all CCPs subject to the prudential requirements laid down in Regulation (EU) No 648/2012, regardless of whether they have a bank licence. <i>As CCPs are stand alone entities that must fulfil all requirements under this Regulation and under Regulation (EU) No 648/2012 independently from their parent undertaking or other group entities, the group of which a CCP may form part do not need to be subject to this Regulation. The group dimension, including, inter alia, the operational, personal and financial relations of the CCP with group entities, should, however, be taken into account in the</i></p>	<p>financial services, as well as the greatest possible level of financial stability across the Union, the recovery and resolution regime should apply to all CCPs subject to the prudential requirements laid down in Regulation (EU) No 648/2012, regardless of whether they have a bank licence. <i>While there may be differences in the risk profile associated with alternative corporate structures, this Regulation treats CCPs as independent entities under any group or market structure and ensures that a CCP's recovery and resolution plan is free-standing, irrespective of the structure of the CCP's group. This relates in particular to the requirements to hold sufficient financial resources at an entity level to manage a default or non-default situation.</i></p>

Nr.	Ref.	COM	Council	EP
		therefore possess targeted means of action with respect to parent undertakings in order to ensure effective recovery and resolution of the CCP and reduce the possibility of contagion to other group entities.	<i>CCP's</i> recovery and resolution <b><i>planning insofar it could affect the recovery or resolution</i></b> of the CCP <b><i>or insofar recovery and resolution actions could have an impact on other</i></b> entities <b><i>of the group.</i></b>	
21.	Rec. 13	(13) In order to ensure that resolution actions are taken efficiently and effectively, and in line with resolution objectives, Member States should appoint public administrative authorities or authorities entrusted with public administrative powers to perform functions and tasks in relation to resolution. Member States should also ensure that appropriate resources are allocated to those resolution authorities. Where a Member State designates the authority responsible	(13) In order to ensure that resolution actions are taken efficiently and effectively, and in line with resolution objectives, Member States should appoint public administrative authorities or authorities entrusted with public administrative powers to perform functions and tasks in relation to resolution, <b><i>including any resolution authorities.</i></b> Member-States should also ensure that appropriate resources are allocated to those resolution authorities. <b><i>In Member States where a CCP is</i></b>	(13) In order to ensure that resolution actions are taken efficiently and effectively, and in line with resolution objectives, Member States should appoint public administrative authorities or authorities entrusted with public administrative powers to perform functions and tasks in relation to resolution. Member States should also ensure that appropriate resources are allocated to those resolution authorities. Where a Member State designates the authority responsible for the prudential

Nr.	Ref.	COM	Council	EP
		for the prudential supervision of CCPs as a resolution authority, adequate structural arrangements should be put in place to separate the supervisory and resolution functions to avoid any conflicts of interest and risk of regulatory forbearance.	<i>established, ___adequate structural arrangements should be put in place to separate the CCP resolution functions from other functions, in particular where the authority responsible for the prudential supervision of CCPs is designated as the resolution authority,</i> to avoid any conflicts of interest and risk of regulatory forbearance.	supervision of CCPs as a resolution authority, <i>the independence of the decision-making process should be ensured and all necessary</i> arrangements should be put in place to separate the supervisory and resolution functions to avoid any conflicts of interest and risk of regulatory forbearance.
22.	Rec. 14	(14) In light of the consequences that the failure of a CCP and the subsequent actions may have on the financial system and the economy of a Member State, as well as the possible ultimate need to use public funds to resolve a crisis, the Ministries of Finance or other relevant ministries in the Member States should be closely involved, at an early stage, in the	(14) In light of the consequences that the failure of a CCP and the subsequent actions may have on the financial system and the economy of a Member State, as well as the possible ultimate need to use public funds to resolve a crisis, the Ministries of Finance or other relevant ministries in the Member States should <i>have the final say in line with national democratic procedures on any</i>	(14) In light of the consequences that the failure of a CCP and the subsequent actions may have on the financial system and the economy of a Member State, as well as the possible ultimate need to use public funds <i>as a last resort</i> to resolve a crisis, the Ministries of Finance or other relevant ministries in the Member States should be closely involved, at an early stage, in the process of recovery and

Nr.	Ref.	COM	Council	EP
		process of recovery and resolution.	<i>use of public funds as a last resort and consequently should</i> be closely involved, at an early stage, in the process of recovery and resolution. <i>This Regulation should be without prejudice to the distribution of competences between the relevant ministries or the Government and the Resolution Authority as set in the legal systems of the Member States.</i>	resolution.
23.	Rec. 15	(15) As CCPs often provide services across the Union, effective recovery and resolution requires cooperation among competent authorities and resolution authorities within supervisory and resolution colleges, notably at the preparatory stages of recovery and resolution. That includes the assessment of recovery plans	(15) As CCPs often provide services across the Union, effective recovery and resolution requires cooperation among competent authorities and resolution authorities within supervisory and resolution colleges, notably at the preparatory stages of recovery and resolution. That includes <i>assessing</i> recovery plans <i>drawing up</i> and	(15) As CCPs often provide services across the Union, effective recovery and resolution requires cooperation among competent authorities and resolution authorities within supervisory and resolution colleges, notably at the preparatory stages of recovery and resolution. That includes the assessment of recovery plans developed by the CCP,

Nr.	Ref.	COM	Council	EP
		developed by the CCP, the preparation and maintenance of resolution plans and addressing any impediments to resolvability.	<i><b>maintaining</b></i> resolution plans and addressing any impediments to resolvability <i><b>of a CCP.</b></i>	the <i><b>assessment</b></i> of resolution plans <i><b>prepared by the resolution authority of the CCP,</b></i> and addressing any impediments to resolvability.
24.	Rec. 16	(16) Resolution of CCPs should strike the balance between the need, on the one hand, for procedures that take into account the urgency of the situation and allow for efficient, fair and timely solutions and, on the other, the necessity to protect financial stability in all the Member States where the CCP provides services. The authorities whose areas of competence would be affected by the failure of a CCP should share their views in the resolution college to achieve these objectives. Similarly, in order to ensure a regular exchange of views	(16) Resolution of CCPs should strike the balance between the need, on the one hand, for procedures that take into account the urgency of the situation and allow for efficient, fair and timely solutions and, on the other, the necessity to protect financial stability in all the Member States where the CCP provides services. The authorities whose areas of competence would be affected by the failure of a CCP should share their views in the resolution college to achieve these objectives. <i><b>This should include in particular sharing information on the preparation of</b></i>	(16) Resolution of CCPs should strike the balance between the need, on the one hand, for procedures that take into account the urgency of the situation and allow for efficient, fair and timely solutions and, on the other, the necessity to protect financial stability in all the Member States where the CCP provides services. The authorities whose areas of competence would be affected by the failure of a CCP should share their views in the resolution college to achieve these objectives. Similarly, in order to ensure a regular exchange of views and coordination with relevant third countries

Nr.	Ref.	COM	Council	EP
		and coordination with relevant third countries authorities, these should be invited to participate in resolution colleges as observers where necessary. Authorities should always take into account the impact of their decisions on the financial stability in the Member States where the CCP's operations are critical or important for local financial markets, including where clearing members are located and where linked trading venues and financial market infrastructures are established.	<i>clearing members and, where relevant, clients with regard to potential default management, recovery and resolution measures and the supervisory treatment of the related exposures towards the CCP. The authorities of Member States whose financial stability could be impacted by the failure of the CCP should be able to participate in the resolution college based on their assessment of the impact that the CCP's resolution could have on the financial stability of their respective Member State. Member States should have the possibility to be represented in the resolution college by the competent and resolution authorities of clearing members. Member States which are not represented by clearing members'</i>	authorities, these should be invited to participate in resolution colleges as observers where necessary. Authorities should always take into account the impact of their decisions on the financial stability in the Member States where the CCP's operations are critical or important for local financial markets, including where clearing members are located and where linked trading venues and financial market infrastructures are established.



Nr.	Ref.	COM	Council	EP
			<p><i>authorities should be able to participate by choosing between the participation in the college of the competent authority and the resolution authority of clearing members' clients. The authorities should provide appropriate justification for their participation, based on their analysis of the negative impact that the CCP's resolution could have on their Member States, to the resolution authority of the CCP.</i> Similarly, in order to ensure a regular exchange of views and coordination with relevant third countries authorities, these should be invited to participate in resolution colleges as observers where necessary. Authorities should always take into account the impact of their decisions on the financial stability in the Member</p>	

Nr.	Ref.	COM	Council	EP
			States where the CCP's operations are critical or important for local financial markets, including where clearing members <i>and, where relevant information is available, their clients</i> are located and where linked trading venues and financial market infrastructures, <i>including interoperable CCPs</i> , are established.	
25.	Rec. 16 a (new)			<i>(16a) In light of the cross-border global nature of certain CCP operations, decisions of resolution authorities can have economic and fiscal effects in other jurisdictions. To the extent reasonably possible, such cross-border implications should be borne in mind in recovery and resolution situations, whilst also taking into account the sovereignty of fiscal authorities in other</i>

Nr.	Ref.	COM	Council	EP
				<i>jurisdictions.</i>
26.	Rec. 17	(17) In order to prepare the decisions of ESMA in relation to the tasks allocated to it and to ensure the comprehensive involvement of EBA and its members in the preparation of these decisions, ESMA should create an internal Resolution Committee and should invite relevant EBA competent authorities to participate as observers.		(17) In order to prepare the decisions of ESMA in relation to the tasks allocated to it and to ensure the comprehensive involvement of EBA and its members in the preparation of these decisions, ESMA should create an internal Resolution Committee and should invite relevant EBA competent authorities to participate as observers.
27.	Rec. 18	(18) In order to address the potential failure of a CCP in an effective and proportionate manner, authorities should take into account a number of factors when exercising their recovery and resolution powers such as the nature of the CCP's business, shareholding structure, legal form, risk profile, size, legal status and	(18) In order to address the potential failure of a CCP in an effective and proportionate manner, authorities should take into account a number of factors when exercising their recovery and resolution powers such as the nature of the CCP's business, <b>ownership</b> structure, legal form, risk profile, size, legal status, <u>substitutability</u> and	(18) In order to address the potential failure of a CCP in an effective and proportionate manner, authorities should take into account a number of factors when exercising their recovery and resolution powers such as the nature of the CCP's business, <b>legal and organisational</b> structure, risk profile, size, legal status and interconnectedness

Nr.	Ref.	COM	Council	EP
		interconnectedness to the financial system. The authorities should also take account of whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other financial institutions, or on the wider economy.	interconnectedness to the financial system. The authorities should also take account of whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other financial institutions, or on the wider economy.	to the financial system. The authorities should also take account of whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other financial institutions, or on the wider economy.
28.	Rec. 19	(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial	(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial	(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial distress. Such

Nr.	Ref.	COM	Council	EP
		<p>distress. Such plans should be based on realistic assumptions applicable in a range of robust and severe scenarios, including deteriorations arising from a default event or from a non-default event. The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to extraordinary public financial support or expose taxpayers to the risk of loss.</p>	<p>distress. Such plans should be based on realistic assumptions applicable in a range of robust and severe scenarios, including deteriorations arising from a default event or from a non-default event. The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to extraordinary public financial support or expose taxpayers to the risk of loss.</p>	<p>plans should <i>contemplate an appropriate range of scenarios envisaging both systemic stress and stress specific to the CCP. The scenarios should contemplate situations of stress that would be more extreme than those used for the purposes of regular stress testing under Chapter XII of Commission Delegated Regulation (EU) No 153/2013, while remaining plausible, such as the failure of more than two clearing members to which the CCP has the largest exposures and one or several other CCPs.</i> The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios.</p>

Nr.	Ref.	COM	Council	EP
				Recovery plans should not assume access to public financial support or expose taxpayers to the risk of loss.
29.	Rec. 19 a (new)			<i>(19a) Recovery plans should ensure proper incentives for CCPs, clearing members and clients not to let the situation deteriorate further and to incentivise cooperative behaviour. In order for that incentive structure to be credible, deviations from the recovery plan should be subject to approval by the competent authority.</i>
30.	Rec. 20	(20) CCPs should prepare and regularly update their recovery plans. The requirement to prepare a recovery plan should be applied proportionately, reflecting the systemic importance of the CCP and its interconnectedness with the	(20) CCPs should <b><i>be required to draw up</i></b> and regularly <b><i>review and</i></b> update their recovery plans. ■ The recovery phase in this context should start when there is a significant deterioration of the CCP's financial situation or risk of breach of its <b><i>capital and</i></b> prudential	(20) CCPs should prepare and regularly update their recovery plans. ■ The recovery phase in this context should start when there is a significant deterioration of the CCP's financial situation or risk of breach of its prudential requirements under Regulation

Nr.	Ref.	COM	Council	EP
		financial system. The recovery phase in this context should start when there is a significant deterioration of the CCP's financial situation or risk of breach of its prudential requirements under Regulation (EU) 648/2012. This should be indicated with relation to a framework of qualitative or quantitative indicators included in the recovery plan.	requirements under Regulation (EU) 648/2012 <i>that could lead to the infringement of its authorisation requirements that would justify the withdrawal of its authorisation pursuant to Regulation (EU) No 648/2012.</i> This should be indicated with relation to a framework of qualitative or quantitative indicators included in the recovery plan. <i>The plans should cover a broad range of scenarios including scenarios resulting from default events, non-default events and a combination of both; and should include comprehensive arrangements for the re-establishment of a matched book, for the full allocation of losses arising from clearing member default, and adequate absorbency for all other types of losses. Recovery plans should</i>	(EU) 648/2012. This should be indicated with relation to a framework of qualitative or quantitative indicators included in the recovery plan.

Nr.	Ref.	COM	Council	EP
			<i>distinguish between different types of non-default events.</i>	
31.	Rec. 20 a (new)			<i>(20a) Recovery plans should ensure that the sequencing of the use of recovery tools properly balances the allocation of losses between CCPs, clearing members and their clients. As a general principle, losses should be distributed between CCPs, clearing members, and their clients as a function of their ability to control the risks. This is in order to create sound incentives ex-ante and to ensure a fair allocation of losses and on that basis loss allocation also for non-default losses should be proportional to the level of responsibility of each stakeholder involved. Recovery plans should ensure that the CCP's capital is relied upon to bear first losses in default</i>



Nr.	Ref.	COM	Council	EP
				<i>cases and even more so in non-default cases. Substantial loss absorption by clearing members should be foreseen before any tools are used that allocate losses to clients.</i>
32.	Rec. 21	(21) The CCP should submit its recovery plan to competent authorities and the supervisory college, established under Regulation (EU) No 648/2012, for a complete assessment, to be reached by joint decision of the college. The assessment should include whether the plan is comprehensive and whether it could feasibly restore the viability of the CCP, in a timely manner, including in periods of severe financial stress.	(21) The CCP should submit its recovery plan to <i>the</i> competent <i>authority which should promptly transmit the plan to</i> the supervisory college, established under Regulation (EU) No 648/2012, for a complete assessment, to be reached by joint decision of the college. The assessment should include whether the plan is comprehensive and whether it could feasibly restore the viability of the CCP, in a timely manner, including in periods of severe financial stress.	(21) The CCP should submit its recovery plan to competent authorities and the supervisory college, established under Regulation (EU) No 648/2012, for a complete assessment, to be reached by joint decision of the college. The assessment should include whether the plan is comprehensive and whether it could feasibly restore the viability of the CCP, in a timely manner, including in periods of severe financial stress.
33.	Rec. 22	(22) Recovery plans should	(22) Recovery plans should	(22) Recovery plans should

Nr.	Ref.	COM	Council	EP
		comprehensively set out the actions that the CCP would take to address any unmatched outstanding obligations, uncovered loss, liquidity shortfall, or capital inadequacy, as well as the actions to replenish any depleted pre-funded financial resources and liquidity arrangements in order to restore the CCP's viability and its continuing ability to meet its requirements for authorisation.	comprehensively set out the actions that the CCP would take to address any unmatched outstanding obligations, uncovered loss, liquidity shortfall, or capital inadequacy, as well as the actions to replenish any depleted pre-funded financial resources and liquidity arrangements in order to restore the CCP's viability and its continuing ability to meet its requirements for authorisation. <i>As an incentive for a proper risk management, the CCP should use a proportion of the CCP's own resources, held by the CCP to comply with Article 16 of Regulation (EU) No 648/2012, as a recovery measure before resorting to other recovery measures requiring financial contributions from clearing members. This requirement should not constitute</i>	comprehensively set out the actions that the CCP would take to address any unmatched outstanding obligations, uncovered loss, liquidity shortfall, or capital inadequacy, as well as the actions to replenish any depleted pre-funded financial resources and liquidity arrangements in order to restore the CCP's viability and its continuing ability to meet its requirements for authorisation <i>and must include sufficient loss absorption capacity to this end. The tools envisaged should be comprehensive. Each tool should be reliable, timely, and underpinned by a sound legal basis. They should create appropriate incentives for the CCP's shareholders, members and their clients to control the risk they bring to or incur in the system, monitor the risk-taking</i>

Nr.	Ref.	COM	Council	EP
			<p><i>an increase in the capital requirements in excess of Article 16 of Regulation (EU) No 648/2012 and could be met by the existing capital and own resources of the CCP that are not dedicated to the compliance with Article 45(4) of Regulation (EU) No 648/2012. In line with article 45(4) of Regulation (EU) No 648/2012, CCPs should not use the margins posted by non-defaulting clearing members to cover losses resulting from the default of another clearing member. The presence of a resolution cash call that is reserved for the resolution authority in resolution should affect neither the right of the CCP to introduce recovery cash calls in its rules nor the risk management of the CCP.</i></p>	<p><i>and risk-management activities of the CCP, and participate in the default management process.</i></p>

Nr.	Ref.	COM	Council	EP
34.	Rec. 22 a (new)			<i>(22a) Recovery plans should explicitly set out actions to be taken by the CCP in case of cyber-attacks where there is a potential effect of leading to a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.</i>
35.	Rec. 23	(23) CCPs should ensure that the plans are non-discriminatory and balanced in terms of their impacts and the incentives they create. They should not disadvantage clearing members or clients in a disproportionate way. In particular, in accordance with Regulation (EU) No 648/2012 CCPs should ensure that their clearing members have limited exposures toward the CCP. CCPs should ensure	(23) CCPs should ensure that <b><i>their recovery plan is</i></b> non-discriminatory and balanced in terms of <b><i>its impact</i></b> and the incentives <b><i>it creates. The effects of the recovery measures on</i></b> clearing members <b><i>and their</i></b> clients <b><i>and on the financial system of the Union or one of its Member States more broadly should be proportionate.</i></b> In particular, in accordance with Regulation (EU) No 648/2012 CCPs should ensure that their	(23) CCPs should ensure that the plans are non-discriminatory and balanced in terms of their impacts and the incentives they create. They should not disadvantage clearing members or clients in a disproportionate way. In particular, in accordance with Regulation (EU) No 648/2012 CCPs should ensure that their clearing members have limited exposures toward the CCP. CCPs should ensure that all relevant stakeholders are <b><i>involved in</i></b>

Nr.	Ref.	COM	Council	EP
		that all relevant stakeholders are consulted on the recovery plan through their involvement in the CCP's risk committee, and by being involved in the development of the recovery plan.	clearing members have limited exposures toward the CCP. CCPs should ensure that all relevant stakeholders are consulted on the recovery plan through their involvement in the CCP's risk committee, and by being involved in <i>drawing up</i> of the recovery plan.	<i>the drawing-up of</i> the recovery plan through their involvement in the CCP's risk committee, <i>as the case may be</i> , and by being <i>appropriately consulted</i> . <i>Since opinions may be expected to differ among stakeholders, CCPs should establish clear processes to manage the diversity of stakeholders' views as well as any conflict of interest between those stakeholders and the CCP.</i>
36.	Rec. 23 a (new)			<i>(23a) CCPs should ensure that clients of non-defaulting clearing members are appropriately recompensed should their assets be used during the recovery process.</i>
37.	Rec. 24	(24) To ensure the ability of a CCP to apply the recovery options where necessary to contracts or assets governed by the law of a third country	(24) To ensure the ability of a CCP to apply the recovery options where necessary to contracts or assets governed by the law of a third country	(24) <i>In view of the global nature of the markets served by CCPs, it is necessary</i> to ensure the ability of a CCP to apply the recovery options, where necessary, to

Nr.	Ref.	COM	Council	EP
		or to entities based in third countries, the CCP's operating rules should include contractual provisions for that purpose.	or to entities based in third countries, the CCP's operating rules should include contractual provisions for that purpose.	contracts or assets governed by the law of a third country or to entities based in third countries. The CCP's operating rules should <i>therefore</i> include contractual provisions <i>ensuring this ability</i> .
38.	Rec. 25	(25) Where a CCP does not present an adequate recovery plan, competent authorities should be able to require the CCP to take measures necessary to redress the material deficiencies of the plan in order to strengthen the business of the CCP and ensure that the CCP can restore its capital or match its book in case of failure. That power should allow competent authorities to take preventive action to the extent that it is necessary to address any deficiencies and therefore to meet the objectives of financial	(25) Where a CCP does not present an adequate recovery plan, competent authorities should be able to require the CCP to take measures necessary to redress the material deficiencies of the plan in order to strengthen the business of the CCP and ensure that the CCP can <i>allocate losses</i> , restore its capital <i>and, where relevant, re-match</i> its book in case of failure. That power should allow competent authorities to take preventive action to the extent that it is necessary to address any deficiencies and therefore to meet the objectives of	(25) Where a CCP does not present an adequate recovery plan, competent authorities should be able to require the CCP to take measures necessary to redress the material deficiencies of the plan in order to strengthen the business of the CCP and ensure that the CCP can restore its capital or match its book in case of failure. That power should allow competent authorities to take preventive action to the extent that it is necessary to address any deficiencies and therefore to meet the objectives of financial stability.

Nr.	Ref.	COM	Council	EP
		stability.	financial stability.	
39.	Rec. 25 a (new)			<i>(25a) Where a CCP in recovery has applied position and loss allocation tools, which go beyond the waterfall in Regulation (EU) No 648/2012, on non-defaulting clearing members and their clients and has not entered into resolution as a result, the competent authority should be able, once a matched book has been restored, either to require the CCP to recompense the participants for their loss through cash payments or, where appropriate, to require the CCP to issue instruments of ownership in future profits of the CCP.</i>
40.	Rec. 26	(26) Resolution planning is an essential component of effective resolution. The plans should be drawn up by the resolution authority of the	(26) Resolution planning is an essential component of effective resolution. The plans should be drawn up by the resolution authority of the	(26) Resolution planning is an essential component of effective resolution. The plans should be drawn up by the resolution authority of the CCP and

Nr.	Ref.	COM	Council	EP
		CCP and jointly agreed by the relevant authorities of the resolution college. Authorities should have all the information necessary to identify and ensure the continuance of critical functions. The content of a resolution plan should, however, be proportionate to the systemic importance of the CCP and based, inter alia, on the information provided by it.	CCP and jointly agreed by the relevant authorities of the resolution college. <b><i>The plans should cover a broad range of scenarios, distinguishing scenarios resulting from default events, non-default events and a combination of both, as well as different types of non-default events.</i></b> Authorities should have all the information necessary to identify and ensure the continuance of critical functions. The content of a resolution plan should, however, be <b><i>appropriate</i></b> to the <b><i>activities</i></b> of the CCP and <b><i>the types of products it clears and</i></b> based, inter alia, on the information provided by it.	jointly agreed by the relevant authorities of the resolution college. Authorities should have all the information necessary to identify and ensure the continuance of critical functions. The <b><i>operating rules of the CCP that are agreed contractually with clearing members should contain provisions to ensure the enforceability of resolution measures by resolution authorities, including a resolution cash call.</i></b>
41.	Rec. 27	(27) Resolution authorities, on the basis of the assessment of resolvability, should have the power to require changes to the structure and	(27) Resolution authorities, on the basis of the assessment of resolvability, should have the power to require changes to the structure and	(27) Resolution authorities, on the basis of the assessment of resolvability, should have the power to require changes to the <b><i>legal</i></b> structure and organisation of CCPs



Nr.	Ref.	COM	Council	EP
		organisation of CCPs directly or indirectly through the competent authority, to take measures which are necessary and proportionate to reduce or remove material impediments to the use of resolution tools and ensure the resolvability of the entities concerned.	organisation of CCPs directly or indirectly through the competent authority, to take measures which are necessary and proportionate to reduce or remove material impediments to the use of resolution tools and ensure the resolvability of the entities concerned.	directly or indirectly through the competent authority, to take measures which are necessary and proportionate to reduce or remove material impediments to the use of resolution tools and ensure the resolvability of the entities concerned.
42.	Rec. 28	(28) Resolution plans and resolvability assessments constitute areas where day-to-day supervisory considerations are taken over by the need to expedite and ensure swift restructuring actions in order to secure a CCP's critical functions and safeguard financial stability. In the event of disagreement between the different members of the resolution college on decisions to be taken with regard to the CCP's resolution plan,	(28) Resolution plans and resolvability assessments constitute areas where day-to-day supervisory considerations are taken over by the need to expedite and ensure swift restructuring actions in order to secure a CCP's critical functions and safeguard financial stability. In the event of disagreement between the different members of the resolution college on decisions to be taken with regard to the CCP's resolution plan, the assessment of the	(28) Resolution plans and resolvability assessments constitute areas where day-to-day supervisory considerations are <i>outweighed</i> by the need to expedite and ensure swift restructuring actions in order to secure a CCP's critical functions and safeguard financial stability. In the event of disagreement between the different members of the resolution college on decisions to be taken with regard to the CCP's resolution plan, the assessment of the CCP's resolvability and the decision

Nr.	Ref.	COM	Council	EP
		the assessment of the CCP's resolvability and the decision to remove any impediments thereto, ESMA should play a mediation role in accordance with Article 19 of Regulation (EU) No 1095/2010. Such binding mediation by ESMA should nonetheless be prepared for its consideration by an ESMA internal committee, in view of the competences of ESMA members to ensure financial stability and to oversee clearing members in several Member States. Certain competent authorities under the EBA Regulation should be invited to participate as observers to that ESMA internal committee in view of the fact that such authorities carry out similar tasks under Directive 2014/59/EU. Such	CCP's resolvability and the decision to remove any impediments thereto, ESMA should play a mediation role in accordance with Article 19 of Regulation (EU) No 1095/2010. Such binding mediation by ESMA should nonetheless be prepared for its consideration by an ESMA internal committee, in view of the competences of ESMA members to ensure financial stability and to oversee clearing members in several Member States. Certain competent authorities under the EBA Regulation should be invited to participate as observers to that ESMA internal committee in view of the fact that such authorities carry out similar tasks under Directive 2014/59/EU. Such binding mediation should not prevent non-binding mediation in accordance	to remove any impediments thereto, ESMA should play a mediation role in accordance with Article 19 of Regulation (EU) No 1095/2010. Such binding mediation by ESMA should nonetheless be prepared for its consideration by an ESMA internal committee, in view of the competences of ESMA members to ensure financial stability and to oversee clearing members in several Member States. Certain competent authorities under the EBA Regulation should be invited to participate as observers to that ESMA internal committee in view of the fact that such authorities carry out similar tasks under Directive 2014/59/EU. Such binding mediation should not prevent non-binding mediation in accordance with Article 31 of Regulation (EU) No 1095/2010 in other cases.

Nr.	Ref.	COM	Council	EP
		binding mediation should not prevent non-binding mediation in accordance with Article 31 of Regulation (EU) No 1095/2010 in other cases.	with Article 31 of Regulation (EU) No 1095/2010 in other cases. <b><i>In accordance with Article 38 of that Regulation, such binding mediation may not impinge on the fiscal responsibilities of Member States.</i></b>	
43.	Rec. 29	(29) Where expedient to achieve the objective of orderly recovery and resolution, competent and resolution authorities should identify specific measures in relation to a parent undertaking. Depending on the structure of the group to which the CCP belongs, it can be necessary that the recovery plan of the CCP sets out the conditions under which the provision of possible financial support, guarantees or other forms of operational support from a parent	(29) <b><i>It</i></b> can be necessary that the recovery plan of the CCP sets out the conditions under which the provision of possible financial support, guarantees or other forms of operational support from a parent undertaking or another group-entity to a CCP within the same group would be triggered. Transparency on such arrangements would mitigate risks to the liquidity and solvency of the group entity providing support to a CCP facing financial distress. <b><i>Therefore, any</i></b> change to such arrangements <b><i>affecting</i></b>	(29) ■ Depending on the structure of the group to which the CCP belongs, it can be necessary that the recovery plan of the CCP sets out the conditions under which the provision of <b><i>voluntarily agreed contractual or other binding relations such as parental guarantees or control and profit and loss transfer agreements</i></b> or other forms of operational support from a parent undertaking or another group-entity to a CCP within the same group would be triggered. Transparency on such arrangements would mitigate

Nr.	Ref.	COM	Council	EP
		undertaking or another group-entity to a CCP within the same group would be triggered. Transparency on such arrangements would mitigate risks to the liquidity and solvency of the group entity providing support to a CCP facing financial distress. Any change to such arrangements should be considered to be a material change for the purpose of reviewing the recovery plan.	<i>the quality and nature of such group support</i> should be considered to be a material change for the purpose of reviewing the recovery plan.	risks to the liquidity and solvency of the group entity providing support to a CCP facing financial distress. Any change to such arrangements should be considered to be a material change for the purpose of reviewing the recovery plan.
44.	Rec. 30	(30) Given the sensitivity of the information contained in the recovery and resolution plans, those plans should be subject to appropriate confidentiality provisions.	(30) Given the sensitivity of the information contained in the recovery and resolution plans, those plans should be subject to appropriate confidentiality provisions.	(30) Given the sensitivity of the information contained in the recovery and resolution plans, those plans should be subject to appropriate confidentiality provisions.
45.	Rec. 31	(31) Competent authorities should transmit the recovery plans and any changes thereto to the relevant	(31) Competent authorities should transmit the recovery plans and any changes thereto to the relevant	(31) Competent authorities should transmit the recovery plans and any changes thereto to the relevant resolution

Nr.	Ref.	COM	Council	EP
		resolution authorities, and the latter should transmit the resolution plans and any changes thereto to competent authorities, thus permanently keeping every relevant authority fully informed.	resolution authorities, and the latter should transmit the resolution plans and any changes thereto to competent authorities, thus permanently keeping every relevant authority fully informed.	authorities, and the latter should transmit the resolution plans and any changes thereto to competent authorities, thus permanently keeping every relevant authority fully informed.
46.	Rec. 32	(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or	(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial	(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial stability or in

Nr.	Ref.	COM	Council	EP
		<p>minimise adverse effects on financial stability that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention.</p>	<p>stability that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention.</p>	<p>the interests of clients that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention. <i>Early intervention rights shall include the power to restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP and it may restrict, prohibit or freeze any payments of variable remuneration as per Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22,</i></p>

Nr.	Ref.	COM	Council	EP
				<i>discretionary pension benefits or severance packages to management.</i>
47.	Rec. 33	(33) During the recovery and early intervention phases, shareholders should retain their rights in full. They should no longer fully retain such rights once the CCP has been put under resolution.	(33) During the recovery and early intervention phases, shareholders should retain their rights in full. They should no longer fully retain such rights once the CCP has been put under resolution. <i>Equity holders of a CCP should absorb losses first in resolution in a way that minimises the risk of legal challenge by them where such losses are greater than the losses that they would have incurred under normal insolvency proceedings (the no-creditor-worse-off principle). A resolution authority should be able to deviate from the no-creditor-worse-off principle when applying a write down and conversion tool. However, a shareholder or a</i>	(33) During the recovery and early intervention phases, shareholders should retain their rights in full. They <i>lose</i> such rights once the CCP has been put under resolution. <i>Any remuneration of equity and instruments treated as equity, including dividend payments and buybacks by the CCP, should be restricted or prohibited, to the extent possible, in recovery.</i>

Nr.	Ref.	COM	Council	EP
			<i>creditor incurring greater loss than it would have incurred under normal insolvency proceedings would be entitled to the payment of the difference.</i>	
48.	Rec. 34	(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due,	(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the <b><i>CCP is unable or is likely to be unable to provide a critical function, when the</i></b> assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near	(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due, or when the CCP requires public financial support.



Nr.	Ref.	COM	Council	EP
		or when the CCP requires extraordinary public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution.	future to be unable to pay its debts as they fall due, or when the CCP requires extraordinary public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution.	However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution. <b><i>In order to allow for timely entry into resolution, a decision taken by a resolution authority to accelerate transition from recovery to resolution may only be challenged on substantive grounds on the basis that this decision was arbitrary and unreasonable at the time of the decision, based on the information then readily available.</i></b>
49.	Rec. 35	(35) The provision for emergency liquidity assistance from a central bank – where such a facility is available – should not be a condition that demonstrates that a CCP is or will be, in the near future, unable to pay its	(35) The provision for emergency liquidity assistance from a central bank – where such a facility is available – should not be a condition that demonstrates that a CCP is or will be, in the near future, unable to pay its	(35) The provision for emergency liquidity assistance from a central bank – where such a facility is available – should not be a condition that demonstrates that a CCP is or will be, in the near future, unable to pay its liabilities as they fall

Nr.	Ref.	COM	Council	EP
		liabilities as they fall due. In order to preserve financial stability, in particular in the case of a systemic liquidity shortage, State guarantees on liquidity facilities provided by central banks or State guarantees of newly issued liabilities to remedy a serious disturbance in the economy of a Member State should not trigger the resolution framework provided that a number of conditions are met.	liabilities as they fall due. In order to preserve financial stability, in particular in the case of a systemic liquidity shortage, State guarantees on liquidity facilities provided by central banks or State guarantees of newly issued liabilities to remedy a serious disturbance in the economy of a Member State should not trigger the resolution framework provided that a number of conditions are met.	due. In order to preserve financial stability, in particular in the case of a systemic liquidity shortage, State guarantees on liquidity facilities provided by central banks or State guarantees of newly issued liabilities to remedy a serious disturbance in the economy of a Member State should not trigger the resolution framework provided that a number of conditions are met.
50.	Rec. 35 a (new)		<i>(35a) Members of the ESCB, other Member States' bodies performing similar functions, other Union public bodies charged with or intervening in the management of the public debt, and the Bank for International Settlements as well as other entities listed in Article 1(4) and 1(5) of</i>	

Nr.	Ref.	COM	Council	EP
			<i>Regulation (EU) No 648/2012 may act in the capacity of a clearing member in connection with their operations. The resolution authorities should not use loss allocation tools with regard to these entities in order to avoid the exposure of public money.</i>	
51.	Rec. 36	(36) Where a CCP meets the conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution tools and powers. Their exercise should be subject to common conditions, objectives, and general principles. The use of additional tools and powers by resolution authorities should be consistent with the resolution principles and objectives. In particular, the use of such tools or	(36) Where a CCP meets the conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution tools and powers. <b><i>They should enable the resolution authority to address scenarios caused both by default and non-default events, or a combination of both.</i></b> Their exercise should be subject to common conditions, objectives, and general principles. ■ In particular, the use of such tools or	(36) Where a CCP meets the conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution tools and powers. Their exercise should be subject to common conditions, objectives, and general principles. The use of additional tools and powers by resolution authorities should be consistent with the resolution principles and objectives. In particular, the use of such tools or powers should not impinge on the effective resolution of

Nr.	Ref.	COM	Council	EP
		powers should not impinge on the effective resolution of cross-border groups.	powers should not impinge on the effective resolution of cross-border groups.	cross-border groups. <i>In view of the objective to prevent as far as possible the use of public funds and considering the difficulty in predicting the exact nature of a severe crisis in which the resolution authority would have to take action, no resolution tools should be excluded ex-ante. To address moral hazard and protect taxpayers more effectively, competent authorities should lay down clear and comprehensive measures in advance for recovering those funds from clearing participants to the extent possible.</i>
52.	Rec. 37	(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds	(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds by minimising	(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds ■ .

Nr.	Ref.	COM	Council	EP
		by minimising reliance on extraordinary public financial support to failing CCPs.	reliance on extraordinary public financial support to failing CCPs.	
53.	Rec. 38	(38) The critical functions of a failing CCP should be maintained, albeit re-structured with changes to the management where appropriate, through the use of resolution tools as a going concern with the use, to the extent possible, of private funds. That could be achieved either through sale to or merger with a solvent third party, or after having restructured or written down the contracts and liabilities of the CCP via the allocation of losses and positions, or after having written down shares or written down and converted its debt to equity, in order to effect a recapitalisation. In line with	(38) The critical functions of a failing CCP should be maintained, albeit re-structured with changes to the management where appropriate, through the use of resolution tools <i>and</i> use, to the <i>greatest</i> extent possible <i>without reliance on extraordinary public financial support</i> . That could be achieved <i>by allocating outstanding losses and restoring the CCP to a matched book through use of the position and loss allocation tools in the case of default losses, or, in the case of non-default losses, through write down and conversion to equity of unsecured liabilities to absorb losses and</i>	(38) The critical functions of a failing CCP should be maintained, albeit re-structured with changes to the management where appropriate, through the use of resolution tools as a going concern with the use, to the <i>largest</i> extent possible, of private funds. <i>This objective</i> could be achieved either through <i>the sale of the CCP</i> to or <i>its</i> merger with a solvent third party, or <i>by restructuring or writing down the contracts and liabilities of the CCP via the allocation of losses and the transfer of positions from the defaulting member to non-defaulting members, or by effecting</i> a recapitalisation <i>of the CCP through writing down its shares or</i>

Nr.	Ref.	COM	Council	EP
		<p>this objective, prior to these actions, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the CCP in line with how they would be called in under normal insolvency proceedings.</p>	<p><i>recapitalise the CCP. To prevent the need for the use of government stabilisation tools, the resolution authority should be able to use the resolution cash call also following a non-default event. A CCP or specific clearing service may also be sold to or merged with a solvent third party CCP that is able to conduct and manage the transferred clearing activities.</i> In line with this objective, prior to these actions, the resolution authority should <i>generally enforce</i> any existing and outstanding contractual obligations to the CCP in line with how they would be called <i>its operating rules as well as any outstanding obligations of financial commitments of the parent undertaking towards its CCP.</i></p>	<p><i>writing down and converting its debt to equity.</i> In line with <i>the objective of maintaining the critical functions of the CCP and</i> prior to <i>taking the actions described above</i>, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the CCP, <i>including in particular any contractual obligations by clearing members to meet cash calls or to take on positions of defaulting clearing members, whether through an auction or other agreed means in the CCP's operating rules, as well as any existing and outstanding contractual obligation committing parties other than clearing members to any forms of financial support. Contractual obligations should be enforced by the resolution authority in line with the way in which</i> they would</p>

Nr.	Ref.	COM	Council	EP
				be called in under normal insolvency proceedings.
54.	Rec. 39	(39) Rapid and decisive action is necessary to sustain market confidence and minimise contagion. Once the conditions for resolution have been met, the resolution authority of the CCP should not delay in taking appropriate and coordinated resolution action in the public interest. The failure of a CCP can occur under circumstances requiring an immediate reaction by the relevant resolution authority. That authority should therefore be allowed to take resolution action notwithstanding the exercise of recovery measures by the CCP or without imposing an obligation to first use the early intervention powers.	(39) Rapid and decisive action is necessary to sustain market confidence and minimise contagion. Once the conditions for resolution have been met, the resolution authority of the CCP should not delay in taking appropriate and coordinated resolution action in the public interest. The failure of a CCP can occur under circumstances requiring an immediate reaction by the relevant resolution authority. That authority should therefore be allowed to take resolution action notwithstanding the exercise of recovery measures by the CCP or without imposing an obligation to first use the early intervention powers.	(39) Rapid and decisive action is necessary to sustain market confidence and minimise contagion. Once the conditions for resolution have been met, the resolution authority of the CCP should not delay in taking appropriate and coordinated resolution action in the public interest. The failure of a CCP can occur under circumstances requiring an immediate reaction by the relevant resolution authority. That authority should therefore be allowed to take resolution action notwithstanding the exercise of recovery measures by the CCP or without imposing an obligation to first use the early intervention powers.

Nr.	Ref.	COM	Council	EP
55.	Rec. 40	(40) When taking resolution actions, the resolution authority of the CCP should take into account and follow the measures provided for in the resolution plans developed within the resolution college, unless the resolution authority considers, taking into account circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans. The resolution authority should promptly inform the resolution college of the resolution actions they plan to undertake, in particular where such action deviates from the plan.	(40) When taking resolution actions, the resolution authority of the CCP should take into account and follow the measures provided for in the resolution plans <i>drawn up</i> within the resolution college, unless the resolution authority considers, taking into account circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans. The resolution authority should <i>take into account the general principles of decision-making, including the need to balance the interests of different stakeholders of the CCP and to ensure the transparency towards and involvement of the authorities of the Member States where the proposed decision or action</i>	(40) When taking resolution actions, the resolution authority of the CCP should take into account and follow the measures provided for in the resolution plans developed within the resolution college, unless the resolution authority considers, taking into account circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans. The resolution authority should promptly inform the resolution college of the resolution actions they plan to undertake, in particular where such action deviates from the plan.



Nr.	Ref.	COM	Council	EP
			<i>could have implications on the financial stability or fiscal resources. In particular, the resolution authority should</i> inform the resolution college of the <i>planned</i> resolution actions, <i>including</i> where such <i>actions deviate</i> from the <i>resolution</i> plan.	
56.	Rec. 41	(41) Interference with property rights should be proportionate to the financial stability risk. Resolution tools should therefore be applied only to those CCPs that meet the conditions for resolution, specifically where it is necessary to pursue the objective of financial stability in the public interest. Given that resolution tools and powers may disrupt the rights of shareholders, clearing participants and creditors, resolution action should be	(41) Interference with property rights should be proportionate to the financial stability risk. Resolution tools should therefore be applied only to those CCPs that meet the conditions for resolution, specifically where it is necessary to pursue the objective of financial stability in the public interest. Given that resolution tools and powers may disrupt the rights of shareholders, clearing <i>members and their clients</i> and creditors, resolution action should be	(41) Interference with property rights should be proportionate to the financial stability risk. Resolution tools should therefore be applied only to those CCPs that meet the conditions for resolution, specifically where it is necessary to pursue the objective of financial stability in the public interest. Given that resolution tools and powers may disrupt the rights of shareholders, clearing <i>members, their clients and wider</i> creditors, resolution action should be

Nr.	Ref.	COM	Council	EP
		taken only where necessary in the public interest and any interference with those rights should be compatible with the Charter. In particular, where creditors within the same class are treated differently in the context of resolution action, such distinctions should be justified in the public interest and proportionate to the risks being addressed and should be neither directly nor indirectly discriminatory on the grounds of nationality.	taken only where necessary in the public interest and any interference with those rights should be compatible with the Charter <i>of Fundamental Rights of the European Union (the Charter)</i> .	taken only where necessary in the public interest and any interference with those rights should be compatible with the Charter. In particular, where creditors within the same class are treated differently in the context of resolution action, such distinctions should be justified in the public interest and proportionate to the risks being addressed and should be neither directly nor indirectly discriminatory on the grounds of nationality.
57.	Rec. 42	(42) Affected shareholders, clearing participants and creditors should not incur losses greater than those which they would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have	(42) Affected shareholders, clearing <i>members</i> and <i>other_creditors of the CCP</i> should not incur losses greater than those which they would have incurred if the resolution authority <i>had</i> not <b>■</b> taken resolution action in relation to the CCP and they <i>had</i> instead <b>■</b> been	(42) Affected shareholders, clearing <i>members</i> and creditors should not incur losses greater than those which they would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to

Nr.	Ref.	COM	Council	EP
		been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up in normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.	subject to <i>all applicable</i> outstanding obligations pursuant to the CCP's <i>default rules</i> or other <i>contractual</i> arrangements in its operating rules <i>and</i> the CCP had been wound up in normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.	possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up in normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.
58.	Rec. 43	(43) For the purpose of protecting the right of shareholders, counterparties and creditors, clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that shareholders and creditors would have	(43) For the purpose of protecting the <i>rights</i> of shareholders, <i>clearing members</i> and <i>other</i> creditors, clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that	(43) For the purpose of protecting the right of shareholders, creditors, <i>clearing members and their clients</i> , clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that <i>those parties</i> would

Nr.	Ref.	COM	Council	EP
		received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP should be carried out. Such a valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders and creditors have actually been afforded and the treatment they would have received if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible	shareholders, <i>clearing members</i> and <i>other</i> creditors would have received if the resolution authority would not have taken resolution action. <i>This</i> should <i>compare</i> the treatment that shareholders, <i>clearing members</i> and <i>other</i> creditors have actually been afforded <i>in resolution</i> and the treatment they would have received if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules and <i>the CCP had been wound up in normal insolvency proceedings. As the use of the resolution cash call, which should be included in the CCP's rulebook, is</i>	have received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP should be carried out <i>including the price at which any termination of contracts in the CCP would be undertaken which should take into account market volatility and liquidity at the time of the resolution.</i> Such a valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders creditors, <i>clearing members and their clients</i> , have actually been afforded and the treatment they would have received if the

Nr.	Ref.	COM	Council	EP
		outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, should be carried out after resolution tools have been used. Where shareholders and creditors have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, they should in certain cases be entitled to the payment of the difference. As	<i>reserved for the resolution authority in resolution and cannot be used by the CCP, or an administrator or liquidator in insolvency, it should not be part of the treatment that shareholders, clearing members and other creditors would have received if the resolution authority would not have taken resolution action. Where shareholders, clearing members and other</i> creditors have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority <i>had</i> not taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's <i>default rules</i> or other <i>contractual</i> arrangements in its operating rules <i>and</i>	resolution authority had not taken resolution action in relation to the CCP and if they had instead been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, <i>properly taking into account any plausible adverse effects of systemic instability and market turmoil</i> , should be carried out after resolution tools have been used. Where shareholders creditors, <i>clearing members and their clients</i> , have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority had not taken resolution action in relation to the CCP and if they had instead been possible outstanding obligations pursuant to the

Nr.	Ref.	COM	Council	EP
		opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders and creditors.	<i>the CCP had been wound up in normal insolvency proceedings, they should be entitled to the payment of the difference. Clients should only be included in that comparison and should only be entitled to the payment of any difference in treatment when they have direct claims against the CCP making them creditors of the CCP, in particular when those claims stem from holding an individually segregated account as referred to in Regulation (EU) No 648/2012. Only in such cases, the resolution authority can control the direct impact of its actions. It should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any</i>	CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, <i>properly taking into account any plausible adverse effects of systemic instability and market turmoil</i> , they should in certain cases be entitled to the payment of the difference. <i>The calculation of the amount that they would have received should not assume provision of public financial support.</i> As opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders, creditors, <i>clearing members and their clients.</i>

Nr.	Ref.	COM	Council	EP
			difference of treatment that has been determined to shareholders, <i>clearing members</i> and <i>other</i> creditors.	
59.	Rec. 44	(44) To ensure an effective resolution, the valuation process should determine as accurately as possible any losses that need to be allocated for the CCP to re-establish a matched book of outstanding positions and to meet ongoing payment obligations. The valuation of assets and liabilities of failing CCP should be based on fair, prudent and realistic assumptions at the moment when the resolution tools are used. The value of liabilities should not, however, be affected in the valuation by the financial state of the CCP. It should be possible, for reasons of urgency, that	(44) To ensure an effective resolution, the valuation process should determine as accurately as possible any losses that need to be allocated for the CCP to re-establish a matched book of outstanding positions and to meet ongoing payment obligations. The valuation of assets and liabilities of failing CCP should be based on fair, prudent and realistic assumptions at the moment when the resolution tools are used. The value of liabilities should not, however, be affected in the valuation by the financial state of the CCP. It should be possible, for reasons of urgency, that resolution authorities make a rapid valuation of the	(44) To ensure an effective resolution, the valuation process should determine as accurately as possible any losses that need to be allocated for the CCP to re-establish a matched book of outstanding positions and to meet ongoing payment obligations. The valuation of assets and liabilities of failing CCP should be based on fair, prudent and realistic assumptions at the moment when the resolution tools are used. The value of liabilities should not, however, be affected in the valuation by the financial state of the CCP. It should be possible, for reasons of urgency, that resolution authorities make a rapid valuation of the assets or the

Nr.	Ref.	COM	Council	EP
		resolution authorities make a rapid valuation of the assets or the liabilities of a failing CCP. That valuation should be provisional and should apply until an independent valuation is carried out.	assets or the liabilities of a failing CCP. That valuation should be provisional and should apply until an independent valuation is carried out.	liabilities of a failing CCP. That valuation should be provisional and should apply until an independent valuation is carried out.
60.	Rec. 45	(45) Upon entry into resolution, any outstanding contractual obligations set out in the operating rules of the CCP, including outstanding recovery measures, should be honoured except where the exercise of another resolution power or tool is more appropriate to avoid adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. Losses should then be absorbed by regulatory capital instruments and should be allocated to	(45) Upon entry <i>of the CCP into resolution, the resolution authority should enforce</i> any outstanding contractual obligations set out in the operating rules of the CCP, including outstanding recovery measures, <b>■</b> except where the exercise of another resolution power or tool is more appropriate to <i>mitigate</i> adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. <i>The resolution authority should have the right, but not the</i>	(45) Upon entry into resolution, <i>the resolution authority should ensure that</i> any outstanding contractual obligations <i>of the CCP, of clearing members and of other counterparties</i> set out in the operating rules of the CCP, including outstanding recovery measures, <i>are</i> honoured except where the exercise of another resolution power or tool is more appropriate to <i>mitigate</i> adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. Losses should be absorbed by regulatory



Nr.	Ref.	COM	Council	EP
		shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution. Where those instruments are not sufficient, resolution authorities should have the power to write down subordinated unsecured debt and senior unsecured liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.	<i>obligation, to enforce those contractual obligations still after resolution if the reasons for refraining from their enforcement no longer exist. In order to allow for the clearing members and other relevant parties to prepare for the enforcement, the resolution authority should notify the relevant clearing members and other parties in advance of its decision to enforce remaining obligations. This pre-notification period should be from three to six months. The resolution authority should determine, in consultation with the competent authorities and resolution authorities of the affected clearing members and any other parties committed by existing and outstanding obligations, whether the reasons for refraining from enforcing</i>	capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution, <b>taking into account any losses that are to be absorbed by the enforcement of any outstanding obligation towards the CCP.</b> Where those instruments are not sufficient, resolution authorities should have the power to write down unsecured debt and unsecured liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.

Nr.	Ref.	COM	Council	EP
			<p><i>the contractual obligations have ceased to exist and whether to enforce the remaining obligations. If the reasons continue to exist, the resolution authority should refrain from enforcing these obligations. The proceeds from the delayed enforcement of the outstanding contractual obligations should be used to recover any public funds used for the payment of no creditor worse off claims resulting from the resolutions authority's decision to refrain from enforcing these obligations or the application of any government stabilisation tool. The resolution authority should use this power of delayed enforcement only to the extent that the no creditor worse off safeguard with respect to the</i></p>	

Nr.	Ref.	COM	Council	EP
			<p><i>stakeholder that will be subject to the delayed enforcement is not breached. In the case of default losses, the resolution authority should restore the CCP to a matched book and allocate outstanding losses through use of position and loss allocation tools. In the case of non-default losses, losses should be absorbed by regulatory capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution. Where those instruments are not sufficient, resolution authorities should have the power to write down ■ unsecured debt and ■ liabilities, ■ in accordance with their ranking under applicable national insolvency law, and use loss allocation</i></p>	

Nr.	Ref.	COM	Council	EP
			<i>tool, to the extent necessary without jeopardising broader financial stability.</i>	
61.	Rec. 46	(46) In case the exercise by the CCP of its recovery measures has not succeeded in stemming losses, restoring it to a balanced position in terms of having a matched book of outstanding positions or replenishing pre-funded resources comprehensively, or where the resolution authority has determined that the exercise of these actions by the CCP would be detrimental for financial stability, the exercise of loss and position allocation powers by the authority should be aimed at allocating the outstanding losses, ensuring the return of the CCP to a balanced	<i>(46) If, after losses have been absorbed and, where applicable, the CCP has been restored to a matched book and the pre-funded resources of the CCP remain depleted, the resolution authority should ensure that those resources are restored to the levels necessary to meet regulatory requirements, either through the continued exercise of the tools in the CCP's operating rules or through other actions. In particular, resolution authorities should have the possibility to compensate non-defaulting clearing members for the use of loss allocation tools that would result in losses in</i>	(46) In case the exercise by the CCP of its recovery measures has not succeeded in stemming losses, restoring it to a balanced position in terms of having a matched book of outstanding positions or replenishing pre-funded resources comprehensively, or where the resolution authority has determined that the exercise of these actions by the CCP would be detrimental for financial stability, the exercise of loss and position allocation powers by the authority should be aimed at allocating the outstanding losses, ensuring the return of the CCP to a balanced position and replenishing the required pre-funded resources either

Nr.	Ref.	COM	Council	EP
		position and replenishing the required pre-funded resources either through the continued exercise of the tools in the CCP's operating rules or through other actions.	<i>excess of those that the clearing members would have borne under their obligations under the CCP's operating rules with instruments of ownership, debt instruments or instruments recognising a claim on the CCP's future profits. The resolution authority can consider e.g. the financial soundness of the CCP, the qualities of instruments available for compensation and no creditor worse off -safeguard when assessing the amount and the form of compensation. To maintain an adequate incentive structure, such compensation should consider the extent to which a clearing member has supported the recovery of the CCP and therefore take into account the remaining outstanding contractual obligations of the clearing</i>	through the continued exercise of the tools in the CCP's operating rules or through other actions.

Nr.	Ref.	COM	Council	EP
			<i>members towards that CCP. Such compensation should be deducted from any entitlement to no creditor worse off -payment.</i>	
62.	Rec. 47	(47) Resolution authorities should also ensure that the costs of the resolution of the CCP are minimised and that creditors of the same class are treated in an equitable manner. Where creditors within the same class are treated differently in the context of resolution action, those distinctions should be justified in the public interest and should be neither directly nor indirectly discriminatory on the basis of nationality or any other ground.	(47) Resolution authorities should also ensure that the costs of the resolution of the CCP are minimised and that creditors of the same class are treated in an equitable manner. <i>The resolution authority may take a resolution action which deviates from the principle of equal treatment of creditors if it is justified in the public interest to achieve the resolution objectives and is proportionate to the risk addressed. If the resolution authority uses such measure it should not discriminate anybody on the basis of nationality</i> .	(47) Resolution authorities should also ensure that the costs of the resolution of the CCP are minimised and that creditors of the same class are treated in an equitable manner. Where creditors within the same class are treated differently in the context of resolution action, those distinctions should be justified in the public interest and should be neither directly nor indirectly discriminatory on the basis of nationality or any other ground.
63.	Rec. 48	(48) The resolution tools should be	(48) The resolution <i>of a CCP should</i>	(48) The <i>recovery and</i> resolution tools

Nr.	Ref.	COM	Council	EP
		used to the fullest extent possible before any public sector injection of capital or equivalent extraordinary public financial support to a CCP. The use of public financial support to assist in the resolution of failing institutions should comply with the relevant State aid provisions.	<i>not entail calling on extraordinary public financial support. The resolution tools, in particular the write down tool,</i> should be used to the fullest extent possible before <i>or together with</i> any public sector injection of capital or equivalent extraordinary public financial support <i>is given</i> to a CCP. The use of <i>extraordinary</i> public financial support to assist in the resolution of failing institutions <i>must be a last resort, be limited in time and</i> comply with the relevant State aid provisions.	should be used to the fullest extent possible before any public sector injection of capital or equivalent public financial support to a CCP. The use of public financial support to assist in the resolution of failing institutions should comply with the relevant State aid provisions <i>and should be treated as a tool of absolute last resort.</i>
64.	Rec. 49	(49) An effective resolution regime should minimise the costs of the resolution of a failing CCP borne by the taxpayers. It should ensure that CCPs can be resolved without jeopardising financial stability. The	(49) An effective resolution regime should minimise the costs of the resolution of a failing CCP borne by the taxpayers. It should ensure that CCPs can be resolved without jeopardising financial stability. <i>The write down tool</i>	(49) An effective resolution regime should minimise the costs of the resolution of a failing CCP borne by the taxpayers. It should ensure that CCPs can be resolved without jeopardising financial stability. The loss and position

Nr.	Ref.	COM	Council	EP
		loss and position allocation tools achieve that objective by ensuring that shareholders and counterparties who are among the creditors of the failing CCP suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the CCP. The loss and position allocation tools therefore give shareholders and counterparties of CCPs a stronger incentive to monitor the health of a CCP during normal circumstances in accordance with the recommendations of the Financial Stability Board <sup>16</sup> .	<i>and the</i> loss and position allocation tools achieve that objective by ensuring that shareholders and counterparties who are among the creditors of the failing CCP suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the CCP. The <i>write down and the</i> loss and position allocation tools therefore give shareholders and counterparties of CCPs a stronger incentive to monitor the health of a CCP during normal circumstances in accordance with the recommendations of the Financial Stability Board <sup>17</sup> .	allocation tools <i>should</i> achieve that objective by ensuring that shareholders and counterparties who are among the creditors of the failing CCP suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the CCP. The loss and position allocation tools <i>should</i> therefore give shareholders and counterparties of CCPs a stronger incentive to monitor the health of a CCP during normal circumstances in accordance with the recommendations of the Financial Stability Board <sup>18</sup> .
65.	Rec. 50	(50) In order to ensure that resolution authorities have the necessary	(50) In order to ensure that resolution authorities have the necessary flexibility	(50) In order to ensure that resolution authorities have the necessary flexibility

<sup>16</sup> [http://www.fsb.org/wp-content/uploads/r\\_141015.pdf](http://www.fsb.org/wp-content/uploads/r_141015.pdf)

<sup>17</sup> [http://www.fsb.org/wp-content/uploads/r\\_141015.pdf](http://www.fsb.org/wp-content/uploads/r_141015.pdf)

<sup>18</sup> [http://www.fsb.org/wp-content/uploads/r\\_141015.pdf](http://www.fsb.org/wp-content/uploads/r_141015.pdf)



Nr.	Ref.	COM	Council	EP
		flexibility to allocate losses and positions to counterparties in a range of circumstances, it is appropriate that those authorities are able to apply the loss and position allocation tools both where the objective is to maintain the operations of the failing CCP and where critical services are transferred to a bridge CCP or a third party and the residual part of the CCP ceases to operate and is wound up.	to allocate losses and positions to counterparties in a range of circumstances, it is appropriate that those authorities are able to apply the <b>loss and position</b> allocation tools both where the objective is to maintain <b>critical clearing</b> services <i>within the CCP under resolution and in conjunction with the transfer of critical services</i> to a bridge CCP or a third party <i>after which</i> the residual part of the CCP ceases to operate and is wound up.	to allocate losses and positions to counterparties in a range of circumstances, it is appropriate that those authorities are able to <i>firstly</i> apply the loss and position allocation tools both where the objective is to maintain the <i>critical clearing services within CCP under resolution and subsequently, should this be necessary, transfer such</i> critical services to a bridge CCP or a third party <i>leaving</i> the residual part of the CCP <i>to cease operation and be</i> wound up.
66.	Rec. 51	(51) Where the loss and position allocation tools are applied with the objective of restoring the viability of the failing CCP to enable it to continue to operate as a going concern, the resolution should be accompanied by	(51) Where the loss and position allocation tools are applied with the objective of restoring the viability of the failing CCP to enable it to continue to operate as a going concern, the resolution should be accompanied by	(51) Where the loss and position allocation tools are applied with the objective of restoring the viability of the failing CCP to enable it to continue to operate as a going concern, the resolution should be accompanied by replacement

Nr.	Ref.	COM	Council	EP
		replacement of management, except where retention of management is appropriate and necessary for the achievement of the resolution objectives, and a subsequent restructuring of the CCP and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan, which should be compatible with the restructuring plan that the CCP might be required to submit pursuant to the State aid framework.	replacement of management, except where retention of management is appropriate and necessary for the achievement of the resolution objectives, and a subsequent restructuring of the CCP and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan, which should be compatible with the restructuring plan that the CCP might be required to submit pursuant to the State aid framework.	of management, and a subsequent restructuring of the CCP and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan .
67.	Rec. 52	(52) The loss and position allocation tools should be exercised with a view to re-matching the CCP's book, stemming any further losses and	(52) The loss and position allocation tools should be exercised with a view to re-matching the CCP's book, stemming any further losses and obtaining	(52) The loss and position allocation tools should be exercised with a view to re-matching the CCP's book, stemming any further losses and obtaining

Nr.	Ref.	COM	Council	EP
		obtaining additional resources to help recapitalise the CCP and replenish its prefunded resources. In order to ensure that they are effective and achieve their objective, they should be able to apply to as wide a range of contracts giving rise to unsecured liabilities or creating an unmatched book for the failing CCP as possible. They should provide for the possibility to auction defaulters' positions among remaining clearing members, forcibly allocate them to the extent that voluntary arrangements established as part of recovery plan are not exhausted upon entry into resolution, partially or fully tear-up the contracts of defaulted clearing members, product lines and of the CCP, further haircut outgoing variation margin payments, exercise	additional resources to help recapitalise the CCP and replenish its prefunded resources. In order to ensure that they are effective and achieve their objective, they should be able to apply to as wide a range of contracts giving rise to unsecured liabilities or creating an unmatched book for the failing CCP as possible. They should provide for the possibility to auction defaulters' positions among remaining clearing members, forcibly allocate them to the extent that voluntary arrangements established as part of recovery plan are not exhausted upon entry into resolution, partially or fully tear-up the contracts of defaulted clearing members, product lines and of the CCP, further haircut outgoing variation margin payments___ <b>taking the</b>	additional resources to help recapitalise the CCP and replenish its prefunded resources. In order to ensure that they are effective and achieve their objective, they should be able to apply to as wide a range <b>as possible</b> of contracts giving rise to unsecured liabilities or creating an unmatched book for the failing CCP. They should provide for the possibility to auction defaulters' positions among remaining clearing members, haircut outgoing variation margin payments <b>to such members and their clients</b> , exercise any outstanding cash calls set out in recovery plans, exercise additional <b>resolution</b> cash calls specifically earmarked for the resolution authority <b>in the CCP operating rules</b> and write-down of capital and debt instruments issued by the CCP or other unsecured liabilities and

Nr.	Ref.	COM	Council	EP
		any outstanding cash calls set out in recovery plans, exercise additional cash calls specifically earmarked for the resolution authority and write-down of capital and debt instruments issued by the CCP or other unsecured liabilities and a conversion of any debt instruments into shares.	<i>segregation of accounts into account where relevant</i> , exercise any outstanding cash calls set out in recovery plans, exercise additional cash calls <i>reserved</i> for the resolution authority and write-down of capital and debt instruments issued by the CCP or other unsecured liabilities and a conversion of any debt instruments into shares.	a conversion of any debt instruments into shares. <i>If deemed necessary to achieve the resolution objectives in a timely manner, whilst minimising risks to financial stability and avoiding the use of public funds, the resolution authorities should be able to partially or fully tear up the contracts of defaulted clearing members, of product lines and of the CCP.</i>
68.	Rec. 53	(53) Resolution authorities should be able to exclude or partially exclude some contracts from loss and position allocation in a number of circumstances. Where those exclusions are applied, the level of loss or exposure applied to other contracts may be increased to take account of such exclusions subject to	(53) Resolution authorities should be able to exclude or partially exclude some contracts from loss and position allocation in a number of circumstances. Where those exclusions are applied, the level of loss or exposure applied to other contracts may be increased to take account of such exclusions subject to the "no creditor worse off principle"	(53) <i>With due respect for the impact on financial stability and as a last resort</i> , resolution authorities should <i>consider only</i> partially <i>including</i> some contracts <i>in</i> loss allocation in a number of circumstances. Where those <i>tools are exercised only partially</i> , the level of loss or exposure applied to other contracts may be <i>modified</i> subject to the "no

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
		the "no creditor worse off principle" being respected.	being respected.	creditor worse off principle" being respected.
69.	Rec. 54	(54) Where the resolution tools have been used to transfer the critical functions or viable business of a CCP to a sound entity such as a private sector purchaser or bridge CCP, the residual part of the CCP should be liquidated within an appropriate time frame having regard to any need for the failing CCP to provide services or support to enable the purchaser or bridge CCP to carry out the activities or provide the services acquired by virtue of that transfer.	(54) Where the resolution tools have been used to transfer the critical functions or viable business of a CCP to a sound entity such as a private sector purchaser or bridge CCP, the residual part of the CCP should be liquidated within an appropriate time frame having regard to any need for the failing CCP to provide services or support to enable the purchaser or bridge CCP to carry out the activities or provide the services acquired by virtue of that transfer.	(54) Where the resolution tools have been used to transfer the critical functions or viable business of a CCP to a sound entity such as a private sector purchaser or bridge CCP, the residual part of the CCP should be liquidated within an appropriate time frame having regard to any need for the failing CCP to provide services or support to enable the purchaser or bridge CCP to carry out the activities or provide the services acquired by virtue of that transfer.
70.	Rec. 55	(55) The sale of business tool should enable authorities to sell the CCP or parts of its business to one or more purchasers without the consent of	(55) The sale of business tool should enable authorities to sell the CCP or parts of its business to one or more purchasers without the consent of	(55) The sale of business tool should enable authorities to sell the CCP or parts of its business to one or more purchasers without the consent of shareholders.

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
		shareholders. When applying the sale of business tool, authorities should make arrangements for the marketing of that CCP or part of its business in an open, transparent and non-discriminatory process, while aiming to maximise, as far as possible, the sale price.	shareholders. When applying the sale of business tool, authorities should make arrangements for the marketing of that CCP or part of its business in an open, transparent and non-discriminatory process, while aiming to maximise, as far as possible, the sale price.	When applying the sale of business tool, authorities should make arrangements for the marketing of that CCP or part of its business in an open, transparent and non-discriminatory process, while aiming to maximise, as far as possible, the sale price.
71.	Rec. 56	(56) Any net proceeds from the transfer of assets or liabilities of the CCP under resolution when applying the sale of business tool should benefit the entity left in the winding up proceedings. Any net proceeds from the transfer of instruments of ownership issued by the CCP under resolution when applying the sale of business tool should benefit the shareholders. Proceeds should be	(56) Any net proceeds from the transfer of assets or liabilities of the CCP under resolution when applying the sale of business tool should benefit the entity left in the winding up proceedings. Any net proceeds from the transfer of instruments of ownership issued by the CCP under resolution when applying the sale of business tool should benefit the shareholders. Proceeds should be calculated net of the	(56) Any net proceeds from the transfer of assets or liabilities of the CCP under resolution when applying the sale of business tool should benefit the entity left in the winding up proceedings. Any net proceeds from the transfer of instruments of ownership issued by the CCP under resolution when applying the sale of business tool should benefit the shareholders. Proceeds should be calculated net of the costs arisen from the

Nr.	Ref.	COM	Council	EP
		calculated net of the costs arisen from the failure of the CCP and from the resolution process.	costs arisen from the failure of the CCP and from the resolution process.	failure of the CCP and from the resolution process.
72.	Rec. 57	(57) In order to perform the sale of business in a timely manner and protect financial stability, the assessment of the buyer of a qualifying holding should be carried out in a timely manner that does not delay the application of the sale of business tool.	(57) In order to perform the sale of business in a timely manner and protect financial stability, the assessment of the buyer of a qualifying holding should be carried out in a timely manner that does not delay the application of the sale of business tool. <i>The CCP, the purchaser or both, depending on the effects of the sale of business tool and the form of acquisition, should be able to exercise or maintain existing rights of membership and accessing payment and settlement systems and other linked financial market infrastructures and trading venues. Such rights should not be denied neither on the basis of</i>	(57) In order to perform the sale of business in a timely manner and protect financial stability, the assessment of the buyer of a qualifying holding should be carried out in a timely manner that does not delay the application of the sale of business tool.

Nr.	Ref.	COM	Council	EP
			<i>non-compliance with the relevant criteria for membership or participation, nor on the basis of insufficient credit rating.</i>	
73.	Rec. 58	(58) Information concerning the marketing of a failing CCP and the negotiations with potential acquirers prior to the application of the sale-of-business tool is likely to be of systemic importance. In order to ensure financial stability, it is important that the disclosure to the public of such information required by Regulation (EU) No 596/2014 of the European Parliament and of the Council <sup>19</sup> may be delayed for the time	(58) Information concerning the marketing of a failing CCP and the negotiations with potential acquirers prior to the application of the sale-of-business tool is likely to be of systemic importance. In order to ensure financial stability, it is important that the disclosure to the public of such information required by Regulation (EU) No 596/2014 of the European Parliament and of the Council <sup>20</sup> may be delayed for the time	(58) Information concerning the marketing of a failing CCP and the negotiations with potential acquirers prior to the application of the sale-of-business tool is likely to be of systemic importance. In order to ensure financial stability, it is important that the disclosure to the public of such information required by Regulation (EU) No 596/2014 of the European Parliament and of the Council <sup>21</sup> may be delayed for the time necessary to plan and structure

<sup>19</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

<sup>20</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).



Nr.	Ref.	COM	Council	EP
		necessary to plan and structure the resolution of the CCP in accordance with delays permitted under the market abuse regime.	necessary to plan and structure the resolution of the CCP in accordance with delays permitted under the market abuse regime.	the resolution of the CCP in accordance with delays permitted under the market abuse regime.
74.	Rec. 59	(59) As a CCP which is wholly or partially owned by one or more public authorities or controlled by the resolution authority, a bridge CCP should have as its main purpose ensuring that essential financial services continue to be provided to the clearing members and clients of the CCP that had been placed under resolution and that essential financial activities continue to be performed. The bridge CCP should be operated as a viable going concern entity and be put back on the market when	(59) As a CCP which is wholly or partially owned by one or more public authorities or controlled by the resolution authority, a bridge CCP should have as its main purpose ensuring that essential financial services continue to be provided to the clearing members and clients of the CCP that had been placed under resolution and that essential financial activities continue to be performed. The bridge CCP should be operated as a viable going concern entity and be put back on the market when conditions are	(59) As a CCP which is wholly or partially owned by one or more public authorities or controlled by the resolution authority, a bridge CCP should have as its main purpose ensuring that essential financial services continue to be provided to the clearing members and clients of the CCP that had been placed under resolution and that essential financial activities continue to be performed. The bridge CCP should be operated as a viable going concern entity and be put back on the market when conditions are appropriate or wound up if not longer

<sup>21</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

Nr.	Ref.	COM	Council	EP
		conditions are appropriate or wound up if not longer viable.	appropriate or wound up if not longer viable.	viable.
75.	Rec. 60	(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped from the CCP over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.	(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP. <i><b>In order to avoid moral hazard, the extraordinary public financial support should be provided only as a last resort, and funds provided should always be recovered over an appropriate period of time. The requirement for the recoupment of funds should not, however, be an</b></i>	(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped <i><b>over time</b></i> from the <i><b>clearing participants, which benefit from the financial support.</b></i> The use of government stabilisation tools is notwithstanding the role of <i><b>any</b></i> central banks in providing liquidity to the financial system even in times of stress,

Nr.	Ref.	COM	Council	EP
			<p><i>obstacle in using the government stabilisation tools in case the established criteria for their use is met.</i></p> <p>The use of government stabilisation tools is notwithstanding the role of <i>any</i> central <i>bank</i> in <i>potentially</i> providing liquidity to the financial system even in times of stress <i>that is subject to its ultimate discretion.</i></p>	<p><i>that is subject to their discretion, and should not be assumed likely to occur. It should be temporary in nature. Therefore, comprehensive and credible arrangements enabling the recoupment over an appropriate period of time of the public funds provided should be established.</i></p>
76.	Rec. 61	(61) To ensure the ability of a Union authority to apply the loss and position allocation tools to contracts with entities based in third countries, recognition of that possibility should be included in the operating rules of the CCP.	(61) To ensure the ability of a <b>resolution</b> authority to apply the loss and position allocation tools to contracts with entities based in third countries, recognition of that possibility should be included in the operating rules of the CCP.	(61) To ensure the ability of a <b>resolution</b> authority to apply the loss and position allocation tools to contracts with entities based in third countries, recognition of that possibility should be included in the operating rules of the CCP.
77.	Rec. 62	(62) Resolution authorities should have all the necessary legal powers that, in different combinations, could	(62) Resolution authorities should have all the necessary legal powers that, in different combinations, could be	(62) Resolution authorities should have all the necessary legal powers that, in different combinations, could be

Nr.	Ref.	COM	Council	EP
		be exercised when using the resolution tools. They should include the power to transfer instruments of ownership, assets, rights, obligations or liabilities of a failing CCP to another entity such as another CCP or a bridge CCP, the power to write down or cancel instruments of ownership, or write down or convert liabilities of a failing CCP, the power to write down variation margin, the power to enforce any outstanding obligations of third parties in relation to the CCP including cash calls and position allocations, the power to tear up contracts of the CCP partially and fully, the power to replace the management and the power to impose a temporary moratorium on the payment of claims. The CCP and the	exercised when using the resolution tools. They should include the power to transfer instruments of ownership, assets, rights, obligations or liabilities of a failing CCP to another entity such as another CCP or a bridge CCP, the power to write down or cancel instruments of ownership, or write down or convert liabilities of a failing CCP, the power to write down variation margin, the power to enforce any outstanding obligations of third parties in relation to the CCP including cash calls and position allocations, the power to tear up contracts of the CCP partially and fully, the power to replace the management and the power to impose a temporary moratorium on the payment of claims. The CCP and the members of its board and senior management should	exercised when using the resolution tools. They should include the power to transfer instruments of ownership, assets, rights, obligations or liabilities of a failing CCP to another entity such as another CCP or a bridge CCP, the power to write down or cancel instruments of ownership, or write down or convert liabilities of a failing CCP, the power to write down variation margin, the power to enforce any outstanding obligations of third parties in relation to the CCP including <i>recovery and resolution</i> cash calls <i>including those set out in the CCP's operating rules</i> and position allocations, the power to tear up contracts of the CCP partially and fully, the power to replace the management and the power to impose a temporary moratorium on the payment of claims. The CCP and the members of its board

Nr.	Ref.	COM	Council	EP
		members of its board and senior management should remain liable, subject to Member State law, under civil or criminal law for their responsibility for the failure of the CCP.	remain liable, subject to Member State law, under civil or criminal law for their responsibility for the failure of the CCP.	and senior management should remain liable, subject to Member State law, under civil or criminal law for their responsibility for the failure of the CCP.
78.	Rec. 63	(63) The resolution framework should include procedural requirements to ensure that resolution actions are properly notified and made public. However, as information obtained by resolution authorities and their professional advisers during the resolution process is likely to be sensitive, before the resolution decision is made public, it should be subject to an effective confidentiality regime. The fact that information on the contents and details of recovery	(63) The resolution framework should include procedural requirements to ensure that resolution actions are properly notified and made public. However, as information obtained by resolution authorities and their professional advisers during the resolution process is likely to be sensitive, before the resolution decision is made public, it should be subject to an effective confidentiality regime. The fact that information on the contents and details of recovery and resolution plans	(63) The resolution framework should include procedural requirements to ensure that resolution actions are properly notified and made public. However, as information obtained by resolution authorities and their professional advisers during the resolution process is likely to be sensitive, before the resolution decision is made public, it should be subject to an effective confidentiality regime. The fact that information on the contents and details of recovery and resolution plans and the result of any

Nr.	Ref.	COM	Council	EP
		<p>and resolution plans and the result of any assessment of those plans may have far-reaching effects, in particular on the undertakings concerned, must be taken into account. Any information provided in respect of a decision before it is taken, be it on whether the conditions for resolution are satisfied, on the use of a specific tool or of any action during the proceedings, must be presumed to have effects on the public and private interests concerned by the action. However, information that the resolution authority is examining a specific CCP could be enough for there to be negative effects on that CCP. It is therefore necessary to ensure that there are appropriate mechanisms for maintaining the</p>	<p>and the result of any assessment of those plans may have far-reaching effects, in particular on the undertakings concerned, must be taken into account. Any information provided in respect of a decision before it is taken, be it on whether the conditions for resolution are satisfied, on the use of a specific tool or of any action during the proceedings, must be presumed to have effects on the public and private interests concerned by the action. However, information that the resolution authority is examining a specific CCP could be enough for there to be negative effects on that CCP. It is therefore necessary to ensure that there are appropriate mechanisms for maintaining the confidentiality of such information, such as the content and</p>	<p>assessment of those plans may have far-reaching effects, in particular on the undertakings concerned, must be taken into account. Any information provided in respect of a decision before it is taken, be it on whether the conditions for resolution are satisfied, on the use of a specific tool or of any action during the proceedings, must be presumed to have effects on the public and private interests concerned by the action. However, information that the resolution authority is examining a specific CCP could be enough for there to be negative effects on that CCP. It is therefore necessary to ensure that there are appropriate mechanisms for maintaining the confidentiality of such information, such as the content and details of recovery and resolution plans and the result of any</p>

Nr.	Ref.	COM	Council	EP
		confidentiality of such information, such as the content and details of recovery and resolution plans and the result of any assessment carried out in that context.	details of recovery and resolution plans and the result of any assessment carried out in that context.	assessment carried out in that context.
79.	Rec. 64	(64) Resolution authorities should have ancillary powers to ensure the effectiveness of the transfer of instruments of ownership or debt instruments and assets, rights and liabilities. Subject to the safeguards, those powers should include the power to remove third parties rights from the transferred instruments or assets and the power to enforce contracts and to provide for the continuity of arrangements vis-à-vis the recipient of the transferred assets and instruments of ownership. However, the rights of	(64) Resolution authorities should have ancillary powers to ensure the effectiveness of the transfer of instruments of ownership or debt instruments and assets, <i>liabilities</i> , rights and <i>obligations, including positions and related margin</i> . Subject to the safeguards, those powers should include the power to remove third parties rights from the transferred instruments or assets and the power to enforce contracts and to provide for the continuity of arrangements vis-à-vis the recipient of the transferred assets and	(64) Resolution authorities should have ancillary powers to ensure the effectiveness of the transfer of instruments of ownership or debt instruments and assets, rights and liabilities. Subject to the safeguards, those powers should include the power to remove third parties rights from the transferred instruments or assets and the power to enforce contracts and to provide for the continuity of arrangements vis-à-vis the recipient of the transferred assets and instruments of ownership. However, the rights of employees to terminate a

Nr.	Ref.	COM	Council	EP
		<p>employees to terminate a contract of employment should not be affected. The right of a party to terminate a contract with a CCP under resolution, or a group entity thereof, for reasons other than the resolution of the failing CCP should not be affected either. Resolution authorities should have the ancillary power to require the residual CCP that is being wound up under normal insolvency proceedings to provide services that are necessary to enable the CCP to which assets, contracts or instruments of ownership have been transferred by virtue of the application of the sale of business tool or the bridge CCP tool to operate its business.</p>	<p>instruments of ownership. However, the rights of employees to terminate a contract of employment should not be affected. The right of a party to terminate a contract with a CCP under resolution, or a group entity thereof, for reasons other than the resolution of the failing CCP should not be affected either. Resolution authorities should have the ancillary power to require the residual CCP that is being wound up under normal insolvency proceedings to provide services that are necessary to enable the CCP to which assets, contracts or instruments of ownership have been transferred by virtue of the application of the sale of business tool or the bridge CCP tool to operate its business.</p>	<p>contract of employment should not be affected. The right of a party to terminate a contract with a CCP under resolution, or a group entity thereof, for reasons other than the resolution of the failing CCP should not be affected either. Resolution authorities should have the ancillary power to require the residual CCP that is being wound up under normal insolvency proceedings to provide services that are necessary to enable the CCP to which assets, contracts or instruments of ownership have been transferred by virtue of the application of the sale of business tool or the bridge CCP tool to operate its business.</p>



Nr.	Ref.	COM	Council	EP
80.	Rec. 65	(65) In accordance with Article 47 of the Charter, the parties concerned have a right to due process and to an effective remedy against the measures affecting them. Therefore, the decisions taken by the resolution authorities should be subject to a right of appeal.	(65) In accordance with Article 47 of the Charter, the parties concerned have a right to due process and to an effective remedy against the measures affecting them. Therefore, the decisions taken by the resolution authorities should be subject to a right of appeal.	(65) In accordance with Article 47 of the Charter, the parties concerned have a right to due process and to an effective remedy against the measures affecting them. Therefore, the decisions taken by the resolution authorities should be subject to a right of appeal <i>on substantive grounds if the decision was arbitrary and unreasonable at the time it was taken, given the information then readily available.</i>
81.	Rec. 66	(66) Resolution action taken by national resolution authorities may require economic assessments and a large margin of discretion. The national resolution authorities are specifically equipped with the expertise needed for making those assessments and for determining the	(66) Resolution action taken by national resolution authorities may require economic assessments and a large margin of discretion. The national resolution authorities are specifically equipped with the expertise needed for making those assessments and for determining the appropriate use of the	(66) Resolution action taken by national resolution authorities may require economic assessments and a large margin of discretion. The national resolution authorities are specifically equipped with the expertise needed for making those assessments and for determining the appropriate use of the margin of

Nr.	Ref.	COM	Council	EP
		appropriate use of the margin of discretion. Therefore, it is important to ensure that the economic assessments made by national resolution authorities in that context are used as a basis by national courts when reviewing the crisis management measures concerned.	margin of discretion. █	discretion. Therefore, it is important to ensure that the economic assessments made by national resolution authorities in that context are used as a basis by national courts when reviewing the crisis management measures concerned.
82.	Rec. 67	(67) In order to cover situations of extreme urgency, and since the suspension of any decision of the resolution authorities might impede the continuity of critical functions, it is necessary to provide that the lodging of any appeal should not result in automatic suspension of the effects of the challenged decision and that the decision of the resolution authority should be immediately enforceable.	(67) In order to cover situations of extreme urgency, and since the suspension of any decision of the resolution authorities might impede the continuity of critical functions, it is necessary to provide that the lodging of any appeal should not result in automatic suspension of the effects of the challenged decision and that the decision of the resolution authority should be immediately enforceable.	(67) In order to cover situations of extreme urgency, and since the suspension of any decision of the resolution authorities might impede the continuity of critical functions, it is necessary to provide that the lodging of any appeal should not result in automatic suspension of the effects of the challenged decision and that the decision of the resolution authority should be immediately enforceable.

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
83.	Rec. 68	(68) In addition, where necessary in order to protect third parties who have acquired assets, contracts, rights and liabilities of the CCP under resolution in good faith by virtue of the exercise of the resolution powers by the authorities and to ensure the stability of the financial markets, a right of appeal should not affect any subsequent administrative act or transaction concluded on the basis of an annulled decision. In such cases, remedies for a wrongful decision should therefore be limited to the award of compensation for the damages suffered by the affected persons.	(68) In addition, where necessary in order to protect third parties who have acquired assets, contracts, rights and liabilities of the CCP under resolution in good faith by virtue of the exercise of the resolution powers by the authorities and to ensure the stability of the financial markets, a right of appeal should not affect any subsequent administrative act or transaction concluded on the basis of an annulled decision. In such cases, remedies for a wrongful decision should therefore be limited to the award of compensation for the damages suffered by the affected persons.	(68) In addition, where necessary in order to protect third parties who have acquired assets, contracts, rights and liabilities of the CCP under resolution in good faith by virtue of the exercise of the resolution powers by the authorities and to ensure the stability of the financial markets, a right of appeal should not affect any subsequent administrative act or transaction concluded on the basis of an annulled decision. In such cases, remedies for a wrongful decision should therefore be limited to the award of compensation for the damages suffered by the affected persons.
84.	Rec. 69	(69) Given that resolution action may be required to be taken urgently due to	(69) Given that resolution action may be required to be taken urgently due to	(69) Given that resolution action may be required to be taken urgently due to

Nr.	Ref.	COM	Council	EP
		serious financial stability risks in the Member State and the Union, any procedure under national law relating to the application for ex-ante judicial approval of a crisis management measure and the court's consideration of such an application should be swift. This is without prejudice to the right that interested parties might have in making an application to the court to set aside the decision for a limited period after the resolution authority has taken the crisis management measure.	serious financial stability risks in the Member State and the Union, any procedure under national law relating to the application for ex-ante judicial approval of a crisis management measure and the court's consideration of such an application should be swift. This is without prejudice to the right that interested parties might have in making an application to the court to set aside the decision for a limited period after the resolution authority has taken the crisis management measure.	serious financial stability risks in the Member State and the Union, any procedure under national law relating to the application for ex-ante judicial approval of a crisis management measure and the court's consideration of such an application should be swift. This is without prejudice to the right that interested parties might have in making an application to the court to set aside the decision for a limited period after the resolution authority has taken the crisis management measure.
85.	Rec. 70	(70) It is in the interest of an efficient resolution, and in order to avoid conflicts of jurisdiction, that no normal insolvency proceedings for the failing CCP be opened or continued	(70) It is in the interest of an efficient resolution, and in order to avoid conflicts of jurisdiction, that no normal insolvency proceedings for the failing CCP be opened or continued whilst the	(70) It is in the interest of an efficient resolution, and in order to avoid conflicts of jurisdiction, that no normal insolvency proceedings for the failing CCP be opened or continued whilst the resolution

Nr.	Ref.	COM	Council	EP
		whilst the resolution authority is exercising its resolution powers or using the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has time to put into practice the resolution tools. This should not, however, apply to obligations of a failing CCP towards systems designated under Directive 98/26/EC of the European Parliament and of the Council <sup>22</sup> , other central counterparties and central banks. Directive 98/26/EC reduces the	resolution authority is exercising its resolution powers or using the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has time to put into practice the resolution tools. This should not, however, apply to obligations of a failing CCP towards systems designated under Directive 98/26/EC of the European Parliament and of the Council <sup>23</sup> , other central counterparties and central banks. Directive 98/26/EC reduces the risk	authority is exercising its resolution powers or using the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has time to put into practice the resolution tools. This should not, however, apply to obligations of a failing CCP towards systems designated under Directive 98/26/EC of the European Parliament and of the Council <sup>24</sup> , <b>including</b> other central counterparties and central banks. Directive 98/26/EC reduces the risk associated with

<sup>22</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11. 6. 1998, p. 45).

<sup>23</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11. 6. 1998, p. 45).

<sup>24</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11. 6. 1998, p. 45).

Nr.	Ref.	COM	Council	EP
		risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, a crisis prevention measure or a resolution action should not be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, the operation of a system designated under or the right to collateral security	associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, a crisis prevention measure or a resolution action should not be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, the operation of a system designated under or the right to collateral security guaranteed by Directive 98/26/EC should not be	participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, a crisis prevention measure or a resolution action should not be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, the operation of a system designated under or the right to collateral security guaranteed by Directive 98/26/EC should not be undermined.

Nr.	Ref.	COM	Council	EP
		guaranteed by Directive 98/26/EC should not be undermined.	undermined.	
86.	Rec. 71	(71) In order to ensure that resolution authorities, when transferring assets and liabilities to a private sector purchaser or bridge CCP, have an adequate period to identify contracts that need to be transferred, it might be appropriate to impose proportionate restrictions on counterparties' rights to close out, accelerate or otherwise terminate financial contracts before the transfer is made. Such a restriction would be necessary to allow authorities to obtain a true picture of the balance sheet of the failing CCP, without the changes in value and scope that extensive exercise of termination rights would entail. In	(71) In order to ensure that resolution authorities, when transferring assets and liabilities to a private sector purchaser or bridge CCP, have an adequate period to identify contracts that need to be transferred, it might be appropriate to impose proportionate restrictions on counterparties' rights to close out, accelerate or otherwise terminate financial contracts before the transfer is made. Such a restriction would be necessary to allow authorities to obtain a true picture of the balance sheet of the failing CCP, without the changes in value and scope that extensive exercise of termination rights would entail. In order to interfere with the contractual	(71) In order to ensure that resolution authorities, when transferring assets and liabilities to a private sector purchaser or bridge CCP, have an adequate period to identify contracts that need to be transferred, it might be appropriate to impose proportionate restrictions on counterparties' rights to close out, accelerate or otherwise terminate financial contracts before the transfer is made. Such a restriction would be necessary to allow authorities to obtain a true picture of the balance sheet of the failing CCP, without the changes in value and scope that extensive exercise of termination rights would entail. In order to interfere with the contractual rights of

Nr.	Ref.	COM	Council	EP
		order to interfere with the contractual rights of counterparties to the minimum extent necessary, the restriction on termination rights should apply only in relation to the crisis prevention measure or resolution action, including the occurrence of any event directly linked to the application of such a measure, and rights to terminate arising from any other default, including failure to pay or deliver margin, should remain.	rights of counterparties to the minimum extent necessary, the restriction on termination rights should apply only in relation to the crisis prevention measure or resolution action, including the occurrence of any event directly linked to the application of such a measure, and rights to terminate arising from any other default, including failure to pay or deliver margin, should remain <b><i>and should be limited to the shortest period possible.</i></b>	counterparties to the minimum extent necessary, the restriction on termination rights should apply only in relation to the crisis prevention measure or resolution action, including the occurrence of any event directly linked to the application of such a measure, and rights to terminate arising from any other default, including failure to pay or deliver margin, should remain.
87.	Rec. 72	(72) In order to preserve legitimate capital market arrangements in the event of a transfer of some, but not all, of the assets, contracts, rights and liabilities of a failing CCP, it is appropriate to include safeguards to prevent the splitting of linked	(72) In order to preserve legitimate capital market arrangements in the event of a transfer of some, but not all, of the assets, contracts, rights and liabilities of a failing CCP, it is appropriate to include safeguards to prevent the splitting of linked liabilities,	(72) In order to preserve legitimate capital market arrangements in the event of a transfer of some, but not all, of the assets, contracts, rights and liabilities of a failing CCP, it is appropriate to include safeguards to prevent the splitting of linked liabilities, rights and contracts, as



Nr.	Ref.	COM	Council	EP
		liabilities, rights and contracts, as appropriate. Such a restriction on selected practices in relation to linked contracts and related collateral should extend to contracts with the same counterparty covered by security arrangements, title transfer financial collateral arrangements, set-off arrangements, close out netting agreements, and structured finance arrangements. Where the safeguard applies, resolution authorities should seek to transfer all linked contracts within a protected arrangement, or leave them all with the residual failing CCP. Those safeguards should ensure that the regulatory capital treatment of exposures covered by a netting agreement for the purposes of Directive 2013/36/EU is affected to a	rights and contracts, as appropriate. Such a restriction on selected practices in relation to linked contracts and related collateral should extend to contracts with the same counterparty covered by security arrangements, title transfer financial collateral arrangements, set-off arrangements, close out netting agreements, and structured finance arrangements. Where the safeguard applies, resolution authorities should seek to transfer all linked contracts within a protected arrangement, or leave them all with the residual failing CCP. Those safeguards should ensure that the regulatory capital treatment of exposures covered by a netting agreement for the purposes of Directive 2013/36/EU is affected to a minimum degree.	appropriate. Such a restriction on selected practices in relation to linked contracts and related collateral should extend to contracts with the same counterparty covered by security arrangements, title transfer financial collateral arrangements, set-off arrangements, close out netting agreements, and structured finance arrangements. Where the safeguard applies, resolution authorities should seek to transfer all linked contracts within a protected arrangement, or leave them all with the residual failing CCP. Those safeguards should ensure that the regulatory capital treatment of exposures covered by a netting agreement for the purposes of Directive 2013/36/EU is affected to a minimum degree.

Nr.	Ref.	COM	Council	EP
		minimum degree.		
88.	Rec. 73	(73) EU CCPs provide services to clearing members and clients located in third countries and third country CCPs provide services to clearing members and clients located in the EU. Effective resolution of internationally active CCPs requires cooperation between, Member States and third-country authorities. For that purpose ESMA should provide guidance on the relevant content of cooperation arrangements to be concluded with authorities of third countries. Those cooperation arrangements should ensure effective planning, decision-making and coordination in respect of internationally active CCPs. National	(73) EU CCPs provide services to clearing members and <i>their</i> clients located in third countries and third country CCPs provide services to clearing members and <i>their</i> clients located in the EU. Effective resolution of internationally active CCPs requires cooperation between, Member States and third-country authorities. For that purpose ESMA should provide guidance on the relevant content of cooperation arrangements to be concluded with authorities of third countries. Those cooperation arrangements should ensure effective planning, decision-making and coordination in respect of internationally active CCPs. National	(73) EU CCPs provide services to clearing members and clients located in third countries and third country CCPs provide services to clearing members and clients located in the EU. Effective resolution of internationally active CCPs requires cooperation between, Member States and third-country authorities. For that purpose ESMA should provide guidance on the relevant content of cooperation arrangements to be concluded with authorities of third countries. Those cooperation arrangements should ensure effective planning, decision-making and coordination in respect of internationally active CCPs. National resolution authorities should recognise and enforce

Nr.	Ref.	COM	Council	EP
		resolution authorities should recognise and enforce third-country resolution proceedings in certain circumstances. Cooperation should also take place with regard to subsidiaries of Union or third-country CCPs and their clearing members and clients.	resolution authorities should recognise and enforce third-country resolution proceedings in certain circumstances. Cooperation should also take place with regard to subsidiaries of Union or third-country CCPs and their clearing members and <i>their</i> clients.	third-country resolution proceedings in certain circumstances. Cooperation should also take place with regard to subsidiaries of Union or third-country CCPs and their clearing members and clients.
89.	Rec. 73 a (new)		<i>(73a) In order to provide deterrence and consistent application of the sanctions across Member States, this Regulation should provide a list of key administrative sanctions and other administrative measures that need to be available to the resolution authorities and the competent authorities, for the power to impose those sanctions and other administrative measures on all persons, whether legal or natural,</i>	

Nr.	Ref.	COM	Council	EP
			<p><i>responsible for an infringement, for a list of key criteria when determining the level and type of those sanctions and other administrative measures and for levels of administrative pecuniary sanctions. Administrative sanctions and other administrative measures should take into account factors such as any identified financial benefit resulting from the infringement, the gravity and duration of the infringement, any aggravating or mitigating factors, the need for administrative fines to have a deterrent effect and, where appropriate, include a discount for cooperation with the resolution authority or the competent authority. The adoption and publication of sanctions should respect fundamental rights as laid down in the</i></p>	

Nr.	Ref.	COM	Council	EP
			<i>Charter in particular the rights to respect for private and family life (Article 7), the right to the protection of personal data (Article 8), the freedom to conduct business (Article 16), the right to property (Article 17), the right to an effective remedy and to a fair trial (Article 47), the presumption of innocence and the right of defence (Article 48) and the principles of legality and proportionality of criminal offences and penalties (Article 49).</i>	
90.	Rec. 74	(74) In order to ensure consistent harmonisation and adequate protection for market participants across the Union, the Commission should adopt draft regulatory technical standards developed by ESMA by means of	(74) In order to ensure consistent harmonisation and adequate protection for market participants across the Union, the Commission should adopt draft regulatory technical standards developed by ESMA by means of	(74) In order to ensure consistent harmonisation and adequate protection for market participants across the Union, the Commission should adopt draft regulatory technical standards developed by ESMA by means of delegated acts

Nr.	Ref.	COM	Council	EP
		delegated acts pursuant to Article 290 TFEU, in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 to specify the content of the written arrangements and procedures for the functioning of the resolution colleges, the contents of resolution plans and elements relevant to the conduct of valuations.	delegated acts pursuant to Article 290 TFEU, in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 to specify the content of the written arrangements and procedures for the functioning of the resolution colleges, the <i>assessment methodology for recovery plans</i> , the contents of resolution plans and elements relevant to the conduct of valuations.	pursuant to Article 290 TFEU, in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 to specify the content of the written arrangements and procedures for the functioning of the resolution colleges, the contents of resolution plans and elements relevant to the conduct of valuations.
91.	Rec. 75	(75) The Commission should be able to suspend any clearing obligation established pursuant to Article 5 of Regulation (EU) No 648/2012, following a request from the resolution authority of a CCP in resolution or the competent authority of a clearing member of a CCP in resolution, and following a non-binding opinion by	(75) The Commission should be able to suspend any clearing obligation established pursuant to Article 5 of Regulation (EU) No 648/2012, following a request from the resolution authority, <i>the competent authority</i> of a CCP in resolution or the competent authority of a clearing member of a CCP in resolution, and following a non-	(75) The Commission should be able to suspend any clearing obligation established pursuant to Article 5 of Regulation (EU) No 648/2012, following a request from the resolution authority of a CCP in resolution or the competent authority of a clearing member of a CCP in resolution, and following a non-binding opinion by ESMA, for specific

Nr.	Ref.	COM	Council	EP
		ESMA, for specific classes of OTC derivatives which are cleared by a CCP which is in resolution. The decision to suspend should be adopted only if it is necessary to preserve financial stability and market confidence, in particular to avoid contagion effects and to prevent counterparties and investors having high and uncertain risk exposures to a CCP. In order to adopt its decision, the Commission should take into account the resolution objectives and the criteria stated in Regulation (EU) No 648/2012 for subjecting OTC derivatives to the clearing obligation regarding those OTC derivatives for which the suspension is requested. The suspension should be of a temporary nature with a possibility of renewal.	binding opinion by ESMA, for specific classes of OTC derivatives which are cleared by a CCP which is in resolution. The decision to suspend <i>the clearing obligation</i> should be adopted only if it is necessary to preserve financial stability and market confidence, in particular to avoid contagion effects and to prevent counterparties and investors having high and uncertain risk exposures to a CCP. In order to adopt its decision, the Commission should take into account the resolution objectives and the criteria stated in Regulation (EU) No 648/2012 for subjecting OTC derivatives to the clearing obligation regarding those OTC derivatives for which the suspension is requested. <i>ESMA may request the Commission to suspend the trading</i>	classes of OTC derivatives which are cleared by a CCP which is in resolution. The decision to suspend should be adopted only if it is necessary to preserve financial stability and market confidence, in particular to avoid contagion effects and to prevent counterparties and investors having high and uncertain risk exposures to a CCP. In order to adopt its decision, the Commission should take into account the resolution objectives and the criteria stated in Regulation (EU) No 648/2012 for subjecting OTC derivatives to the clearing obligation regarding those OTC derivatives for which the suspension is requested. The suspension should be of a temporary nature with a possibility of renewal. Likewise, the role of the CCP's risk committee, as set out on Article 28 of Regulation (EU) No

Nr.	Ref.	COM	Council	EP
		Likewise, the role of the CCP's risk committee, as set out on Article 28 of Regulation (EU) No 648/2012, should be enhanced to further encourage the CCP to manage its risks prudently and improve its resilience. Members of the risk committee should be able to inform the competent authority when the CCP does not follow the risk committee's advice, and representatives of clearing members and clients on the risk committee should be able to use information provided to monitor their exposures to the CCP, in accordance with confidentiality safeguards. Finally,	<i>obligation laid down in Regulation (EU) 600/2014<sup>26</sup> where it considers the suspension of the clearing obligation to be a material change in the criteria for the trading obligation.</i> The suspension should be of a temporary nature with a possibility of <i>extension</i> . Likewise, the role of the CCP's risk committee, as set out on Article 28 of Regulation (EU) No 648/2012, should be enhanced to further encourage the CCP to manage its risks prudently and improve its resilience. Members of the risk committee should be able to inform the competent authority when the CCP does not follow the risk committee's	648/2012, should be enhanced to further encourage the CCP to manage its risks prudently and improve its resilience. Members of the risk committee should be able to inform the competent authority when the CCP does not follow the risk committee's advice, and representatives of clearing members and clients on the risk committee should be able to use information provided to monitor their exposures to the CCP, in accordance with confidentiality safeguards. Finally, resolution authorities of CCPs should also have access to all necessary information in trade repositories. Regulation (EU) No 648/2012 and

<sup>26</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).



Nr.	Ref.	COM	Council	EP
		resolution authorities of CCPs should also have access to all necessary information in trade repositories. Regulation (EU) No 648/2012 and Regulation (EU) 2365/2015 of the European Parliament and of the Council <sup>25</sup> should therefore be amended accordingly.	advice, and representatives of clearing members and clients on the risk committee should be able to use information provided to monitor their exposures to the CCP, in accordance with confidentiality safeguards. Finally, resolution authorities of CCPs should also have access to all necessary information in trade repositories. Regulation (EU) No 648/2012 and Regulation (EU) 2365/2015 of the European Parliament and of the Council <sup>27</sup> should therefore be amended accordingly.	Regulation (EU) 2365/2015 of the European Parliament and of the Council <sup>28</sup> should therefore be amended accordingly.
92.	Rec. 75		<i>(75aa) In order to ensure the proper</i>	

<sup>25</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

<sup>27</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

<sup>28</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

Nr.	Ref.	COM	Council	EP
	aa (new)		<i>implementation of the Financial Stability Board's interest rate benchmark reform it is necessary to provide clarity to market participants that transactions entered into or novated before the entry into application of the clearing or margin requirements to OTC derivative transactions referencing an interest rate benchmark ('legacy trades') will not be subject to these requirements when they are novated for the sole purpose of implementing or preparing for the implementation of the interest rate benchmark reform. Doing so would also prevent any risk that European counterparties to those legacy trades find themselves unprepared when a specific benchmark is materially changed or</i>	

Nr.	Ref.	COM	Council	EP
			<i>discontinued, therefore alleviating related financial stability concerns. Such approach is in line with the international guidance from BCBS and IOSCO.</i>	
93.	Rec. 75 b (new)		<i>(75b) To implement resolution of CCPs effectively, the safeguards provided for in Directive 2002/47/EC<sup>29</sup> should not apply to any restriction of the enforcement of a financial collateral arrangement or on the effect of a security financial collateral arrangement, any close-out netting or set-off provision imposed by virtue of this Regulation.</i>	
94.	Rec. 75 c		<i>(75c) Directive 2017/1132<sup>30</sup>, Directive 2011/35/EU<sup>31</sup>, Directive 2005/56/EC<sup>32</sup>,</i>	

<sup>29</sup> Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, OJ L 168, 27.6.2002, p.43

<sup>30</sup> Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

Nr.	Ref.	COM	Council	EP
	(new)		<i>Directive 2004/25/EC<sup>33</sup> and Directive 2007/36/EC<sup>34</sup> contain rules for the protection of shareholders and creditors of CCPs that fall within the scope of those Directives. In a situation where resolution authorities need to act rapidly under this Regulation, those rules may hinder effective resolution action and use of resolution tools and powers by resolution authorities. Derogations under Directive 2014/59/EU should therefore be extended to acts taken in accordance with this Regulation. In order to guarantee the maximum</i>	

<sup>31</sup> *Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies (OJ L 110, 29.4.2011, p. 1).*

<sup>32</sup> *Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies (OJ L 310, 25.11.2005, p. 1).*

<sup>33</sup> *Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJ L 142, 30.4.2004, p. 12).*

<sup>34</sup> *Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17).*

Nr.	Ref.	COM	Council	EP
			<i>degree of legal certainty for stakeholders, the derogations should be clearly and narrowly defined, and they should only be used in the public interest and when resolution triggers are met.</i>	
95.	Rec. 75 d (new)		<i>(75d) In order to avoid a duplication of requirements, Directive 2014/59/EU should be amended to exclude from its scope those CCPs in respect of which, pursuant to Regulation (EU) No 648/2012, Member States apply certain requirements for authorisation under Directive 2013/36/EU and are therefore also authorised as credit institutions.</i>	
96.	Rec. 76	(76) In order to ensure that resolution authorities of CCPs are represented in	(76) In order to ensure that resolution authorities of CCPs are represented in	(76) In order to ensure that resolution authorities of CCPs are represented in all

Nr.	Ref.	COM	Council	EP
		all relevant fora, and to ensure that the ESMA benefits from all expertise necessary to carry out the tasks related to the recovery and resolution of CCPs, Regulation (EU) No 1095/2010 should be amended in order to include national CCP resolution authorities in the concept of competent authorities established by that Regulation.	all relevant fora, and to ensure that the ESMA benefits from all expertise necessary to carry out the tasks related to the recovery and resolution of CCPs, Regulation (EU) No 1095/2010 should be amended in order to include national CCP resolution authorities in the concept of competent authorities established by that Regulation.	relevant fora, and to ensure that the ESMA benefits from all expertise necessary to carry out the tasks related to the recovery and resolution of CCPs, Regulation (EU) No 1095/2010 should be amended in order to include national CCP resolution authorities in the concept of competent authorities established by that Regulation.
97.	Rec. 77	(77) In order to prepare the decisions of ESMA in relation to the tasks allocated to it involving the development of draft technical standards on ex ante and ex-post valuations and on resolution colleges and plans, and of guidelines on the conditions for resolution, and on binding mediation, and to ensure the comprehensive involvement of EBA	(77) In order to prepare the decisions of ESMA in relation to the tasks allocated to it involving the development of draft technical standards on ex ante and ex-post valuations and on resolution colleges and plans, and of guidelines on the conditions for resolution, and on binding mediation, and to ensure the comprehensive involvement of EBA	(77) In order to prepare the decisions of ESMA in relation to the tasks allocated to it involving the development of draft technical standards on ex ante and ex-post valuations and on resolution colleges and plans, and of guidelines on the conditions for resolution, and on binding mediation, and to ensure the comprehensive involvement of EBA and its members in the preparation of these

Nr.	Ref.	COM	Council	EP
		and its members in the preparation of these decisions, ESMA should create an internal Resolution Committee where relevant EBA competent authorities shall be invited to participate as observers.	and its members in the preparation of these decisions, ESMA should create an internal Resolution Committee <b><i>with resolution authorities as members;</i></b> where relevant EBA competent authorities <b><i>should be</i></b> invited to participate as observers.	decisions, ESMA should create an internal Resolution Committee where relevant EBA competent authorities shall be invited to participate as observers.
98.	Rec. 78	(78) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the right to property, the right to an effective remedy and to a fair trial and the right of defence.	(78) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the <b><i>rights to respect for private and family life (Article 7), the right to the protection of personal data (Article 8), the freedom to conduct a business (Article 16), the right to property, (Article 17), the right to an effective remedy and to a fair trial (Article 47), the presumption of</i></b>	(78) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the right to property, the right to an effective remedy and to a fair trial and the right of defence.

Nr.	Ref.	COM	Council	EP
			<i>innocence_</i> and the right of defence (Article 48) and the principles of legality and proportionality of criminal offences and penaltioes (Article 49).	
99.	Rec. 79	(79) When taking decisions or actions under this Regulation, competent authorities and resolution authorities should always have due regard to the impact of their decisions and actions on financial stability in other Member States and on the economic situation in other Member States and should give consideration to the significance of any clearing member for the financial sector and the economy of the Member State where such a clearing member is established.	(79) When taking decisions or actions under this Regulation, competent authorities and resolution authorities should always have due regard to the impact of their decisions and actions on financial stability in other Member States and on the economic situation in other Member States and should give consideration to the significance of any clearing member for the financial sector and the economy of the Member State where such a clearing member is established.	(79) When taking decisions or actions under this Regulation, competent authorities and resolution authorities should always have due regard to the impact of their decisions and actions on financial stability in other <i>jurisdictions</i> and on the economic situation in other <i>jurisdictions</i> and should give consideration to the significance of any clearing member for the financial sector and the economy of the <i>jurisdictions</i> where such a clearing member is established.
100.	Rec. 80	(80) Since the objective of this Regulation, namely the harmonisation	(80) Since the objective of this Regulation, namely the harmonisation	(80) Since the objective of this Regulation, namely the harmonisation of



Nr.	Ref.	COM	Council	EP
		of the rules and processes for the resolution of CCPs, cannot be sufficiently achieved by the Member States, but can rather, by reason of the effects of a failure of any CCPs in the whole Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.	of the rules and processes for the <b>recovery and</b> resolution of CCPs, cannot be sufficiently achieved by the Member States, but can rather, by reason of the effects of a failure of any CCPs in the whole Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.	the rules and processes for the resolution of CCPs, cannot be sufficiently achieved by the Member States, but can rather, by reason of the effects of a failure of any CCPs in the whole Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
101.	Rec. 81	(81) In order avoid inconsistencies between the provisions relating to the recovery and resolution of CCPs and the legal framework governing the	(81) <b><i>The application of this Regulation should be deferred until [PO: Please insert date 24 months from the date of entry into force of this</i></b>	(81) In order avoid inconsistencies between the provisions relating to the recovery and resolution of CCPs and the legal framework governing the recovery

Nr.	Ref.	COM	Council	EP
		recovery and resolution of credit institutions and investment firms, it is appropriate to defer the application of this Regulation until the date from which Member States are to apply the measures transposing [PO: Please insert reference to the Directive amending Directive 2014/59/EU].	<i>Regulation] to establish all essential implementing measures and to allow CCPs and other market participants to take the necessary steps for compliance purposes.</i>	and resolution of credit institutions and investment firms, it is appropriate to defer the application of this Regulation until the date from which Member States are to apply the measures transposing [PO: Please insert reference to the Directive amending Directive 2014/59/EU].
102.	Rec. 81 a (new)		<i>(81a) This Regulation should ensure that CCPs have sufficient loss-absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation with a minimum impact on financial stability and while aiming to avoid an impact on taxpayers. Consistently with the internationally agreed principles for effective resolution regimes for financial institutions developed by the</i>	

Nr.	Ref.	COM	Council	EP
			<p><i>Financial Stability Board ('FSB')<sup>35</sup>, this Regulation should ensure that equity holders of a CCP absorb losses first in resolution in a way that minimises the risk of legal challenge by equity holders, on the basis that their losses in resolution are greater than the losses that they would have incurred under normal insolvency proceedings (the no-creditor-worse-off principle). On 15 November 2018, the FSB published a consultation paper on the use of financial resources to support CCP resolution and the treatment of CCP equity in resolution<sup>36</sup>. Based on the feedback</i></p>	

<sup>35</sup> *Key Attributes of Effective Resolution Regimes for Financial Institutions, October 2011*

[https://www.fsb.org/wp-content/uploads/r\\_111104cc.pdf](https://www.fsb.org/wp-content/uploads/r_111104cc.pdf)

<sup>36</sup> *Financial resources to support CCP resolution and the treatment of CCP equity in resolution – Discussion paper for public consultation* <http://www.fsb.org/wp-content/uploads/P151118-2.pdf>

Nr.	Ref.	COM	Council	EP
			<p><i>received to that paper and further assessments, the FSB plans to issue guidance at the end of 2020 on how equity should be used in the event of resolution of CCPs in a manner that minimises the risk of legal challenge by equity holders resulting from the application of the no-creditor-worse-off principle. Following the publication of that guidance, the Commission should review the application of the rules laid down in this Regulation with regard to the write down of equity in resolution by taking into account those internationally agreed standards. In addition to this specific review, the Commission should review the application of this Regulation after five years following the date of its application, inter alia by</i></p>	

Nr.	Ref.	COM	Council	EP
			<i>taking into account any further international developments. That general review should cover at least certain core matters related to the recovery and resolution of CCPs, such as financial resources available to resolution authorities to cover non-default losses and the CCPs' own resources to be used in recovery and resolution.</i>	
103.		HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:
104.	Title 1 - title	TITLE I SUBJECT MATTER AND DEFINITIONS	TITLE I SUBJECT MATTER AND DEFINITIONS	TITLE I SUBJECT MATTER AND DEFINITIONS
105.	Art. 1 - title	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
106.	Art. 1 - para. 1	This Regulation lays down rules and procedures relating to the recovery and resolution of central counterparties (CCPs) authorised in accordance with Regulation (EU) No 648/2012 and rules relating to the arrangements with third countries in the field of recovery and resolution of CCPs.	This Regulation lays down rules and procedures relating to the recovery and resolution of central counterparties (CCPs) authorised in accordance with Regulation (EU) No 648/2012 and rules relating to the arrangements with third countries in the field of recovery and resolution of CCPs.	This Regulation lays down rules and procedures relating to the recovery and resolution of central counterparties (CCPs) authorised in accordance with Regulation (EU) No 648/2012 and rules relating to the arrangements with third countries in the field of recovery and resolution of CCPs.
107.	Art. 2 - title	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions
108.	Art. 2 - para. 1 - introd. part	For the purposes of this Regulation the following definitions apply:	For the purposes of this Regulation the following definitions apply:	For the purposes of this Regulation the following definitions apply:
109.	Art. 2 - para. 1 - point 1	(1) 'CCP' means a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012;	(1) 'CCP' means a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012;	(1) 'CCP' means a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012;

Nr.	Ref.	COM	Council	EP
110.	Art. 2 - para. 1 - point 2	(2) 'resolution college' means the college established pursuant to Article 4;	(2) 'resolution college' means the college established pursuant to Article 4;	(2) 'resolution college' means the college established pursuant to Article 4;
111.	Art. 2 - para. 1 - point 3	(3) 'resolution authority' means an authority designated by a Member State in accordance with Article 3;	(3) 'resolution authority' means an authority designated by a Member State in accordance with Article 3;	(3) 'resolution authority' means an authority designated ■ in accordance with Article 3;
112.	Art. 2 - para. 1 - point 4	(4) 'resolution tool' means a resolution tool referred to in Article 27(1);	(4) 'resolution tool' means a resolution tool referred to in Article 27(1);	(4) 'resolution tool' means a resolution tool referred to in Article 27(1);
113.	Art. 2 - para. 1 - point 5	(5) 'resolution power' means a power referred to in Article 48;	(5) 'resolution power' means a power referred to in <b>Articles 48 to 58</b> ;	(5) 'resolution power' means a power referred to in Article 48;
114.	Art. 2 - para. 1 - point 6	(6) 'resolution objectives' means the resolution objectives laid down in Article 21;	(6) 'resolution objectives' means the resolution objectives laid down in Article 21;	(6) 'resolution objectives' means the resolution objectives laid down in Article 21;
115.	Art. 2 - para. 1 -	(7) 'competent authority' means an authority designated by a Member	(7) 'competent authority' means an authority designated by a Member State	(7) 'competent authority' means an authority designated ■ in accordance

Nr.	Ref.	COM	Council	EP
	point 7	State in accordance with Article 22 of Regulation (EU) No 648/2012;	in accordance with Article 22 of Regulation (EU) No 648/2012;	with Article 22 of Regulation (EU) No 648/2012;
116.	Art. 2 - para. 1 - point 7 a (new)			<i>(7a) ‘default event’ means a scenario in which one or more clearing members fail to honour their financial obligations to the CCP;</i>
117.	Art. 2 - para. 1 - point 7 b (new)			<i>(7b) ‘non-default’ means a scenario in which losses are incurred by a CCP for any reason other than a default of a clearing member, such as business, custody, investment, legal or operational failures or fraud, including failures resulting from cyber-attacks, or uncovered liquidity shortfalls;</i>
118.	Art. 2 - para. 1 - point 8	(8) 'resolution plan' means a resolution plan for a CCP drawn up in accordance with Article 13;	(8) 'resolution plan' means a resolution plan for a CCP drawn up in accordance with Article 13;	(8) 'resolution plan' means a resolution plan for a CCP drawn up in accordance with Article 13;
119.	Art. 2 -	(9) 'resolution action' means the	(9) 'resolution action' means the	(9) 'resolution action' means the



Nr.	Ref.	COM	Council	EP
	para. 1 - point 9	decision to place a CCP under resolution pursuant to Article 22, the application of a resolution tool, or the exercise of one or more resolution powers;	decision to place a CCP under resolution pursuant to Article 22, the application of a resolution tool, or the exercise of one or more resolution powers;	application of a resolution tool, or the exercise of one or more resolution powers <b><i>once the conditions for resolution set out in Article 22 are met;</i></b>
120.	Art. 2 - para. 1 - point 10	(10) 'clearing member' means a clearing member as defined in point 14 of Article 2 of Regulation (EU) No 648/2012;	(10) 'clearing member' means a clearing member as defined in point 14 of Article 2 of Regulation (EU) No 648/2012;	(10) 'clearing member' means a clearing member as defined in point 14 of Article 2 of Regulation (EU) No 648/2012;
121.	Art. 2 - para. 1 - point 11	(11) 'parent undertaking' means a parent undertaking as defined in point (15)(a) of Article 4(1) of Regulation (EU) No 575/2013;	(11) 'parent undertaking' means a parent undertaking as defined in point (15)(a) of Article 4(1) of Regulation (EU) No 575/2013;	(11) 'parent undertaking' means a parent undertaking as defined in point (15)(a) of Article 4(1) of Regulation (EU) No 575/2013;
122.	Art. 2 - para. 1 - point 12	(12) 'third-country CCP' means a CCP, the head office of which is established in a third country;	(12) 'third-country CCP' means a CCP, the head office of which is established in a third country;	(12) 'third-country CCP' means a CCP, the head office of which is established in a third country;

Nr.	Ref.	COM	Council	EP
123.	Art. 2 - para. 1 - point 13	(13) 'set-off arrangement' means an arrangement under which two or more claims or obligations owed between the CCP under resolution and a counterparty can be set off against each other;	(13) 'set-off arrangement' means an arrangement under which two or more claims or obligations owed between the CCP under resolution and a counterparty can be set off against each other;	(13) 'set-off arrangement' means an arrangement under which two or more claims or obligations owed between the CCP under resolution and a counterparty can be set off against each other;
124.	Art. 2 - para. 1 - point 14	(14) 'financial market infrastructure' (FMI) means a central counterparty, a central securities depository, a trade repository, a payment system or another system defined and designated by a Member State under Article 2(a) of Directive 98/26/EC;	(14) 'financial market infrastructure' <b>or</b> <b>'FMI'</b> means a central counterparty, a central securities depository, a trade repository, a payment system or another system defined and designated by a Member State under Article 2(a) of Directive 98/26/EC;	(14) 'financial market infrastructure' (FMI) means a central counterparty, a central securities depository, a trade repository, a payment system or another system defined and designated by a Member State under Article 2(a) of Directive 98/26/EC;
125.	Art. 2 - para. 1 - point 14 a (new)		<b><i>(14a) 'trading venue' means a trading venue as defined in point 4 of Article 2 of Regulation (EU) No 648/2012;</i></b>	
126.	Art. 2 -	(15) 'client' means a client as defined	(15) 'client' means a client as defined	(15)'client' means a client as defined in

Nr.	Ref.	COM	Council	EP
	para. 1 - point 15	in point 15 of Article 2 of Regulation (EU) No 648/2012;	in point 15 of Article 2 of Regulation (EU) No 648/2012;	point 15 of Article 2 of Regulation (EU) No 648/2012;
127.	Art. 2 - para. 1 - point 15 a (new)			<i>(15a) 'O-SII' means other systemically important institutions as referred to in Article 131(3) of Directive 2013/36/EU;</i>
128.	Art. 2 - para. 1 - point 15 a (new)		<i>(15a) 'indirect client' means an indirect client as defined in point 1 (a) of Article 1 of Commission Delegated Regulation (EU) No. 149/2013;</i>	
129.	Art. 2 - para. 1 - point 16	(16) 'linked CCP' means a CCP with which an interoperability arrangement has been set up under Title V of Regulation (EU) No 648/2012;	(16) <i>'interoperable</i> CCP' means a CCP with which an interoperability arrangement has been set up under Title V of Regulation (EU) No 648/2012;	(16) <i>'interoperable</i> CCP' means a CCP which <i>has entered into</i> an interoperability arrangement <i>pursuant to</i> Title V of Regulation (EU) No 648/2012;
130.	Art. 2 - para. 1 - point 17	(17) 'clearing participants' means clearing members and clients;		

Nr.	Ref.	COM	Council	EP
131.	Art. 2 - para. 1 - point 18	(18) 'recovery plan' means a recovery plan drawn up and maintained by a CCP in accordance with Article 9;	(18) 'recovery plan' means a recovery plan drawn up and maintained by a CCP in accordance with Article 9;	(18) 'recovery plan' means a recovery plan drawn up and maintained by a CCP in accordance with Article 9;
132.	Art. 2 - para. 1 - point 19	(19) 'board' means the administrative or supervisory board, or both, set up pursuant to national company law in accordance with Article 27(2) of Regulation (EU) No 648/2012;	(19) 'board' means the administrative or supervisory board, or both, set up pursuant to national company law in accordance with Article 27(2) of Regulation (EU) No 648/2012;	(19) 'board' means the administrative or supervisory board, or both, set up pursuant to national company law in accordance with Article 27(2) of Regulation (EU) No 648/2012;
133.	Art. 2 - para. 1 - point 20	(20) 'college' means the college referred to in Article 18(1) of Regulation (EU) No 648/2012;	(20) ' <i>supervisory college</i> ' means the college referred to in Article 18(1) of Regulation (EU) No 648/2012;	(20) ' <i>supervisory</i> college' means the college referred to in Article 18(1) of Regulation (EU) No 648/2012 <i>with the participation of the Single Resolution Board (SRB)</i> ;
134.	Art. 2 - para. 1 - point 21	(21) 'capital' means subscribed capital within the meaning of Article 22 of Council Directive 86/635/EEC <sup>37</sup> including instruments of ownership in	(21) 'capital' means ■ capital <i>in accordance with point 25 of Article 2 of Regulation EU No. 648/2012</i> ;	(21) 'capital' means ■ capital <i>as defined in point 25 of Article 2 of Regulation (EU) No 648/2012</i> ;

<sup>37</sup> Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).

Nr.	Ref.	COM	Council	EP
		so far it has been paid up, plus the related share premium accounts, it fully absorbs losses in going concern situations, and, in the event of bankruptcy or liquidation, it ranks after all other claims;		
135.	Art. 2 - para. 1 - point 22	(22) 'default waterfall' means default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012;	(22) 'default waterfall' means default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012;	(22) 'default waterfall' means default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012;
136.	Art. 2 - para. 1 - point 23	(23) 'critical functions' means activities, services or operations provided to third parties external to the CCP the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy or to disrupt financial stability in one or more Member States due to the size, market share, external and internal interconnectedness,	(23) 'critical functions' means activities, services or operations provided to third parties external to the CCP the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy or to disrupt financial stability in one or more Member States due to the size, market share, external and internal interconnectedness, complexity	(23) 'critical functions' means activities, services or operations provided to third parties external to the CCP the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy or to disrupt financial stability in one or more Member States due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of a

Nr.	Ref.	COM	Council	EP
		complexity or cross-border activities of a CCP or group, with particular regard to the substitutability of those activities, services or operations;	or cross-border activities of a CCP <b>■</b> , with particular regard to the substitutability of those activities, services or operations;	CCP or group, with particular regard to the substitutability of those activities, services or operations;
137.	Art. 2 - para. 1 - point 24	(24) 'group' means a parent undertaking and its subsidiaries;	(24) 'group' means a <i>group as defined in point 16 of Article 2 of Regulation (EU) No. 648/2012</i> ;	(24) 'group' means a <i>group as defined in point 16 of Article 2 of Regulation (EU) No 648/2012</i> ;
138.	Art. 2 - para. 1 - point 25	(25) 'linked FMI' means a linked CCP or another FMI with which the CCP has contractual arrangements;	(25) 'linked FMI' means <i>an</i> FMI with which the CCP has contractual arrangements;	(25) 'linked FMI' means <i>an interoperable</i> CCP or another FMI <i>or a CCP</i> with which the CCP has contractual arrangements;
139.	Art. 2 - para. 1 - point 26	(26) 'extraordinary public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in	(26) 'extraordinary public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to	(26) ' <b>■</b> public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore

Nr.	Ref.	COM	Council	EP
		order to preserve or restore the viability, liquidity or solvency of a CCP or of a group of which such a CCP forms part;	preserve or restore the viability, liquidity or solvency of a CCP ■ ;	the viability, liquidity or solvency of a CCP or of a group of which such a CCP forms part;
140.	Art. 2 - para. 1 - point 27	(27) 'financial contracts' means contracts and agreements as set out in point 100 of Article 2(1) of Directive 2014/59/EU;	(27) 'financial contracts' means contracts and agreements as set out in point 100 of Article 2(1) of Directive 2014/59/EU;	(27) 'financial contracts' means contracts and agreements as set out in point 100 of Article 2(1) of Directive 2014/59/EU;
141.	Art. 2 - para. 1 - point 28	(28) 'normal insolvency proceedings' means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to CCPs under national law and either specific to those institutions or generally applicable to any natural or legal person;	(28) 'normal insolvency proceedings' means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to CCPs under national law and either specific to those institutions or generally applicable to any natural or legal person;	(28) 'normal insolvency proceedings' means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to CCPs under national law and either specific to those institutions or generally applicable to any natural or legal person;

Nr.	Ref.	COM	Council	EP
142.	Art. 2 - para. 1 - point 29	(29) 'instruments of ownership' means shares, other instruments that confer ownership, instruments that are convertible into or give the right to acquire shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership;	(29) 'instruments of ownership' means shares, other instruments that confer ownership, instruments that are convertible into or give the right to acquire shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership;	(29) 'instruments of ownership' means shares, other instruments that confer ownership, instruments that are convertible into or give the right to acquire shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership;
143.	Art. 2 - para. 1 - point 30	(30) 'designated national macroprudential authority' means the authority entrusted with the conduct of macroprudential policy referred to in Recommendation B1 of the Recommendation of the European Systemic Risk Board (ESRB) of 22 December 2011 on the macroprudential mandate of national authorities (ESRB/2011/3);	(30) 'designated national macroprudential authority' means the authority entrusted with the conduct of macroprudential policy referred to in Recommendation B1 of the Recommendation of the European Systemic Risk Board (ESRB) of 22 December 2011 on the macroprudential mandate of national authorities (ESRB/2011/3);	(30) 'designated national macroprudential authority' means the authority entrusted with the conduct of macroprudential policy referred to in Recommendation B1 of the Recommendation of the European Systemic Risk Board (ESRB) of 22 December 2011 on the macroprudential mandate of national authorities (ESRB/2011/3);
144.	Art. 2 -	(31) 'default fund' means a default	(31) 'default fund' means a default fund	(31) 'default fund' means a default fund



<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
	para. 1 - point 31	fund held by a CCP in accordance with Article 42 of Regulation (EU) No 648/2012;	held by a CCP in accordance with Article 42 of Regulation (EU) No 648/2012;	held by a CCP in accordance with Article 42 of Regulation (EU) No 648/2012;
145.	Art. 2 - para. 1 - point 32	(32) 'pre-funded resources' means resources which are held by and freely available to the relevant legal person;	(32) 'pre-funded resources' means resources which are held by and freely available to the relevant legal person;	(32) 'pre-funded resources' means resources which are held by and freely available to the relevant legal person;
146.	Art. 2 - para. 1 - point 33	(33) 'senior management' means the person or persons who effectively direct the business of the CCP, and the executive member or members of the board;	(33) 'senior management' means the person or persons who effectively direct the business of the CCP, and the executive member or members of the board;	(33) 'senior management' means the person or persons who effectively direct the business of the CCP, and the executive member or members of the board;
147.	Art. 2 - para. 1 - point 34	(34) 'trade repository' means a trade repository as defined in point 2 of Article 2 of Regulation (EU) No 648/2012 or in point 1 of Article 3 of Regulation (EU) 2015/2365 of the	(34) 'trade repository' means a trade repository as defined in point 2 of Article 2 of Regulation (EU) No 648/2012 or in point 1 of Article 3 of Regulation (EU) 2015/2365 of the	(34) 'trade repository' means a trade repository as defined in point 2 of Article 2 of Regulation (EU) No 648/2012 or in point 1 of Article 3 of Regulation (EU) 2015/2365 of the European Parliament

Nr.	Ref.	COM	Council	EP
		European Parliament and of the Council <sup>38</sup> ;	European Parliament and of the Council <sup>39</sup> ;	and of the Council <sup>40</sup> ;
148.	Art. 2 - para. 1 - point 35	(35) 'Union State aid framework' means the framework established by Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union (TFEU) and regulations and all Union acts, including guidelines, communications and notices, made or adopted pursuant to Article 108(4) or Article 109 TFEU;	(35) 'Union State aid framework' means the framework established by Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union (TFEU) and regulations and all Union acts, including guidelines, communications and notices, made or adopted pursuant to Article 108(4) or Article 109 TFEU;	(35) 'Union State aid framework' means the framework established by Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union (TFEU) and regulations and all Union acts, including guidelines, communications and notices, made or adopted pursuant to Article 108(4) or Article 109 TFEU;
149.	Art. 2 - para. 1 - point 36	(36) 'debt instruments' means bonds or other forms of unsecured transferable debt, instruments creating or acknowledging a debt, and	(36) 'debt instruments' means bonds or other forms of unsecured transferable debt, instruments creating or acknowledging a debt, and instruments	(36) 'debt instruments' means bonds or other forms of unsecured transferable debt, instruments creating or acknowledging a debt, and instruments

<sup>38</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

<sup>39</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

<sup>40</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

Nr.	Ref.	COM	Council	EP
		instruments giving rights to acquire debt instruments;	giving rights to acquire debt instruments;	giving rights to acquire debt instruments;
150.	Art. 2 - para. 1 - point 36 a (new)		<i>(36a) 'initial margin' means margins collected by the CCP to cover potential future exposure to clearing members providing the margin and, where relevant, interoperable CCPs in the interval between the last margin collection and the liquidation of positions following a default of a clearing member or of an interoperable CCP default;</i>	
151.	Art. 2 - para. 1 - point 36 b (new)		<i>(36b) 'variation margin' means margins collected or paid out to reflect current exposures resulting from actual changes in market prices;</i>	
152.	Art. 2 - para. 1 -	(37) 'resolution cash call' means a request for cash resources to be	(37) 'resolution cash call' means a request for cash resources to be	(37) 'resolution cash call' means a request for cash resources to be provided

Nr.	Ref.	COM	Council	EP
	point 37	provided by clearing members to the CCP, additional to prefunded resources, based on statutory powers available to a resolution authority in accordance with Article 31;	provided by clearing members to the CCP, additional to prefunded resources, based on statutory powers available to a resolution authority in accordance with Article 31 ;	by clearing members to the CCP, additional to prefunded resources, based on statutory powers available to a resolution authority in accordance with Article 31 <i>and as laid out in the operating rules of the CCP</i> ;
153.	Art. 2 - para. 1 - point 38	(38) 'cash calls' means requests for cash resources to be provided by clearing members to the CCP, additional to prefunded resources, based on contractual arrangements laid out in the operating rules of the CCP;	(38) 'cash calls' means requests for cash resources to be provided by clearing members to the CCP, additional to prefunded resources, based on contractual arrangements laid out in the operating rules of the CCP;	(38) ' <b>recovery</b> cash calls' means requests for cash resources to be provided by clearing members to the CCP, additional to prefunded resources, based on contractual arrangements laid out in the operating rules of the CCP;
154.	Art. 2 - para. 1 - point 39	(39) 'transfer powers' means the powers specified in points (c) or (d) of Article 48(1) to transfer shares, other instruments of ownership, debt instruments, assets, rights, obligations or liabilities, or any combination of those items from a CCP under	(39) 'transfer powers' means the powers specified in points (c) or (d) of Article 48(1) to transfer shares, other instruments of ownership, debt instruments, assets, rights, obligations or liabilities, or any combination of those items from a CCP under	(39) 'transfer powers' means the powers specified in points (c) or (d) of Article 48(1) to transfer shares, other instruments of ownership, debt instruments, assets, rights, obligations or liabilities, or any combination of those items from a CCP under resolution to a recipient;

Nr.	Ref.	COM	Council	EP
		resolution to a recipient;	resolution to a recipient;	
155.	Art. 2 - para. 1 - point 40	(40) 'derivative' means a derivative as defined in point 5 of Article 2 of Regulation (EU) No 648/2012;	(40) 'derivative' means a derivative as defined in point 5 of Article 2 of Regulation (EU) No 648/2012;	(40) 'derivative' means a derivative as defined in point 5 of Article 2 of Regulation (EU) No 648/2012;
156.	Art. 2 - para. 1 - point 41	(41) 'netting arrangement' means an arrangement under which a number of claims or obligations can be converted into a single net claim, including close-out netting arrangements under which, on the occurrence of an enforcement event (however or wherever defined) the obligations of the parties are accelerated so as to become immediately due or are terminated, and in either case are converted into or replaced by a single net claim, including 'close-out netting provisions' as defined in point (n)(i) of Article 2(1) of Directive 2002/47/EC	(41) 'netting arrangement' means an arrangement under which a number of claims or obligations can be converted into a single net claim, including close-out netting arrangements under which, on the occurrence of an enforcement event (however or wherever defined) the obligations of the parties are accelerated so as to become immediately due or are terminated, and in either case are converted into or replaced by a single net claim, including 'close-out netting provisions' as defined in point (n)(i) of Article 2(1) of Directive 2002/47/EC of the European	(41) 'netting arrangement' means an arrangement under which a number of claims or obligations can be converted into a single net claim, including close-out netting arrangements under which, on the occurrence of an enforcement event (however or wherever defined) the obligations of the parties are accelerated so as to become immediately due or are terminated, and in either case are converted into or replaced by a single net claim, including 'close-out netting provisions' as defined in point (n)(i) of Article 2(1) of Directive 2002/47/EC of the European Parliament and of the

Nr.	Ref.	COM	Council	EP
		of the European Parliament and of the Council <sup>41</sup> and 'netting' as defined in point (k) of Article 2 of Directive 98/26/EC;	Parliament and of the Council <sup>42</sup> and 'netting' as defined in point (k) of Article 2 of Directive 98/26/EC;	Council <sup>43</sup> and 'netting' as defined in point (k) of Article 2 of Directive 98/26/EC;
157.	Art. 2 - para. 1 - point 42	(42) 'crisis prevention measure' means the exercise of powers to require a CCP to take measures to remedy deficiencies in its recovery plan under Article 10(8) and (9), the exercise of powers to address or remove impediments to resolvability under Article 17, or the application of an early intervention measure under Article 19;	(42) 'crisis prevention measure' means the exercise of powers to require a CCP to take measures to remedy deficiencies in its recovery plan under Article 10(8) and (9), the exercise of powers to address or remove impediments to resolvability under Article 17, or the application of an early intervention measure under Article 19;	(42) 'crisis prevention measure' means the exercise of powers to require a CCP to take measures to remedy deficiencies in its recovery plan under Article 10(8) and (9), the exercise of powers to address or remove impediments to resolvability under Article 17, or the application of an early intervention measure under Article 19;
158.	Art. 2 - para. 1 -	(43) 'termination right' means a right to terminate a contract, a right to	(43) 'termination right' means a right to terminate a contract, a right to	(43) 'termination right' means a right to terminate a contract, a right to accelerate,

<sup>41</sup> Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43).

<sup>42</sup> Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43).

<sup>43</sup> Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43).

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
	point 43	accelerate, close out, set-off or net obligations or any similar provision that suspends, modifies or extinguishes an obligation of a party to the contract or a provision that prevents an obligation under the contract from arising that would otherwise arise;	accelerate, close out, set-off or net obligations or any similar provision that suspends, modifies or extinguishes an obligation of a party to the contract or a provision that prevents an obligation under the contract from arising that would otherwise arise;	close out, set-off or net obligations or any similar provision that suspends, modifies or extinguishes an obligation of a party to the contract or a provision that prevents an obligation under the contract from arising that would otherwise arise;
159.	Art. 2 - para. 1 - point 44	(44) 'title transfer financial collateral arrangement' means a title transfer financial collateral arrangement as defined in point (b) of Article 2(1) of Directive 2002/47/EC;	(44) 'title transfer financial collateral arrangement' means a title transfer financial collateral arrangement as defined in point (b) of Article 2(1) of Directive 2002/47/EC;	(44) 'title transfer financial collateral arrangement' means a title transfer financial collateral arrangement as defined in point (b) of Article 2(1) of Directive 2002/47/EC;
160.	Art. 2 - para. 1 - point 45	(45) 'covered bond' means an instrument as referred to in Article 52(4) of Directive 2009/65/EC of the	(45) 'covered bond' means an instrument as referred to in Article 52(4) of Directive 2009/65/EC of the	(45) 'covered bond' means an instrument as referred to in Article 52(4) of Directive 2009/65/EC of the European

Nr.	Ref.	COM	Council	EP
		European Parliament and of the Council <sup>44</sup> ;	European Parliament and of the Council <sup>45</sup> ;	Parliament and of the Council <sup>46</sup> ;
161.	Art. 2 - para. 1 - point 46	(46) 'third-country resolution proceedings' means an action under the law of a third country to manage the failure of a third-country CCP that is comparable, in terms of objectives and anticipated results, to resolution actions under this Regulation;	(46) 'third-country resolution proceedings' means an action under the law of a third country to manage the failure of a third-country CCP that is comparable, in terms of objectives and anticipated results, to resolution actions under this Regulation;	(46) 'third-country resolution proceedings' means an action under the law of a third country to manage the failure of a third-country CCP that is comparable, in terms of objectives and anticipated results, to resolution actions under this Regulation;
162.	Art. 2 - para. 1 - point 47	(47) 'relevant national authorities' means the resolution authorities, competent authorities or competent ministries designated in accordance with this Regulation or pursuant to Article 3 of Directive 2014/59/EU or	(47) 'relevant national authorities' means the resolution authorities, competent authorities or competent ministries designated in accordance with this Regulation or pursuant to Article 3 of Directive 2014/59/EU or	(47) 'relevant national authorities' means the resolution authorities, competent authorities or competent ministries designated in accordance with this Regulation or pursuant to Article 3 of Directive 2014/59/EU or other authorities

<sup>44</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32)

<sup>45</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32)

<sup>46</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32)



<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
		other authorities in Member States with powers in relation to assets, rights, obligations or liabilities of third-country CCPs providing clearing services in their jurisdiction;	other authorities in Member States with powers in relation to assets, rights, obligations or liabilities of third-country CCPs providing clearing services in their jurisdiction;	in Member States with powers in relation to assets, rights, obligations or liabilities of third-country CCPs providing clearing services in their jurisdiction;
163.	Art. 2 - para. 1 - point 48	(48) 'relevant third-country authority' means a third-country authority responsible for carrying out functions comparable to those of resolution authorities or competent authorities pursuant to this Regulation.	(48) 'relevant third-country authority' means a third-country authority responsible for carrying out functions comparable to those of resolution authorities or competent authorities pursuant to this Regulation.	(48) 'relevant third-country authority' means a third-country authority responsible for carrying out functions comparable to those of resolution authorities or competent authorities pursuant to this Regulation.
164.	Title 2 - title	TITLE II AUTHORITIES, RESOLUTION COLLEGE AND PROCEDURES	TITLE II AUTHORITIES, RESOLUTION COLLEGE AND PROCEDURES	TITLE II AUTHORITIES, RESOLUTION COLLEGE AND PROCEDURES
165.	Title 2 - section 1	Section I Resolution authorities, resolution colleges and involvement of European Supervisory Authorities	Section I Resolution authorities, resolution colleges and involvement of European Supervisory Authorities	Section I Resolution authorities, resolution colleges and involvement of European Supervisory Authorities

Nr.	Ref.	COM	Council	EP
166.	Art. 3 - title	Article 3 Designation of resolution authorities and competent ministries	Article 3 Designation of resolution authorities and competent ministries	Article 3 Designation of resolution authorities and competent ministries
167.	Art. 3 - para. 1 - subpara. 1	1. Each Member State shall designate one or more resolution authorities that are empowered to use the resolution tools and exercise the resolution powers as set out in this Regulation.	1. Each Member State shall designate one or more resolution authorities that are empowered to use the resolution tools and exercise the resolution powers as set out in this Regulation.	1. <i>Member States where a CCP is established shall and Member States where no CCP is established may designate one</i> resolution authority that <i>is</i> empowered to <i>apply</i> the resolution tools and exercise the resolution powers as set out in this Regulation.
168.	Art. 3 - para. 1 - subpara. 2	Resolution authorities shall be national central banks, competent ministries, public administrative authorities or other authorities entrusted with public administrative powers.	Resolution authorities shall be national central banks, competent ministries, public administrative authorities or other authorities entrusted with public administrative powers.	Resolution authorities shall be national central banks, competent ministries, public administrative authorities or other authorities entrusted with public administrative powers.
169.	Art. 3 - para. 2	2. Resolution authorities shall have the expertise, resources and operational capacity to apply resolution measures and exercise their	2. Resolution authorities shall have the expertise, resources and operational capacity to apply resolution measures and exercise their powers with the speed	2. Resolution authorities shall have the expertise, resources and operational capacity to apply resolution measures and exercise their powers with the speed and

Nr.	Ref.	COM	Council	EP
		powers with the speed and flexibility that are necessary to achieve the resolution objectives.	and flexibility that are necessary to achieve the resolution objectives.	flexibility that are necessary to achieve the resolution objectives.
170.	Art. 3 - para. 3 - subpara. 1	3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the Member State shall ensure the operational independence of that resolution authority and shall put in place all necessary arrangements to avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.	3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, <b><i>adequate structural arrangements shall be in place to</i></b> avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.	3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the <b><i>effective</i></b> operational independence, <b><i>including separate staff, reporting lines and of the decision making process</i></b> of that resolution authority, <b><i>in particular from the competent authority designated under Article 22 of Regulation (EU) No 648/2012 and the competent and resolution authorities of the clearing members referred to in point (c) of Article 18(2) of that Regulation shall be ensured and</i></b> all necessary arrangements <b><i>shall be established and demonstrated to the satisfaction of ESMA</i></b> in order to

Nr.	Ref.	COM	Council	EP
				avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.
171.	Art. 3 - para. 3 - subpara. 2			<i>The requirements expressed in the first paragraph shall not preclude either that reporting lines converge at the highest level of an organisation that subsumes different authorities or that, staff may, under predefined conditions, be seconded from one authority to another to meet temporarily high workloads.</i>
172.	Art. 3 - para. 4 - subpara. 1	4. The staff involved in carrying out the functions entrusted to the resolution authority pursuant to this Regulation shall be structurally separated from, and subject to separate reporting lines from, the staff involved	4. The staff involved in carrying out the functions entrusted to the resolution authority pursuant to this Regulation shall be structurally separated from, and subject to separate reporting lines from, the staff involved in carrying out the	4. ■

Nr.	Ref.	COM	Council	EP
		in carrying out the other functions of that authority.	<i>tasks pursuant to Regulation (EU) No 648/2012.</i>	
173.	Art. 3 - para. 4 - subpara. 2	The resolution authority shall adopt and make public the internal rules ensuring the structural separation referred to in the first subparagraph, including rules regarding professional secrecy and information exchanges between the different functional areas.	The resolution authority shall adopt and make public the internal rules ensuring the structural separation referred to in the first subparagraph, including rules regarding professional secrecy and information exchanges between the different functional areas. <i>Where required under national law in a Member State, the rules referred to in this paragraph may be adopted in national law.</i>	The resolution authority shall adopt and make public the internal rules ensuring the structural separation ■, including rules regarding professional secrecy and information exchanges between the different functional areas.
174.	Art. 3 - para. 4 a (new)		<i>4a. In derogation from paragraphs 3 and 4, in Member States where no CCP is established the structural separation of the functions and the staff involved in carrying out those functions shall not be required where</i>	

Nr.	Ref.	COM	Council	EP
			<i>the resolution authority designated for the purposes of this Regulation is the competent authority or the resolution authority designated in accordance with Article 3 of Directive 2014/59/EU. In that case, necessary arrangements to avoid conflicts of interests in the decision making process shall nevertheless be put in place.</i>	
175.	Art. 3 - para. 5	5. Each Member State shall designate a single ministry which is responsible for exercising the functions entrusted to the competent ministry pursuant to this Regulation.	5. Each Member State shall designate a single ministry which is responsible for exercising the functions entrusted to the competent ministry pursuant to this Regulation.	5. Each Member State shall designate a single ministry which is responsible for exercising the functions entrusted to the competent ministry pursuant to this Regulation.
176.	Art. 3 - para. 6	6. Where the resolution authority in a Member State is not the competent ministry, the resolution authority shall inform the competent ministry of the decisions taken pursuant to this	6. Where the resolution authority in a Member State is not the competent ministry, the resolution authority shall inform the competent ministry of the decisions taken pursuant to this	6. ■ The resolution authority shall inform the competent ministry <b><i>in a timely manner</i></b> of the decisions taken pursuant to this Regulation.

Nr.	Ref.	COM	Council	EP
		Regulation.	Regulation <i>and, unless otherwise stipulated in national law, have its approval before implementing decisions that have a direct fiscal impact or systemic implications.</i>	
177.	Art. 3 - para. 7	7. Where the decisions referred to in paragraph 6 have a direct fiscal impact or systemic implications, the resolution authority shall obtain the approval of the competent ministry before their implementation unless otherwise stipulated in national law.	■	7. Where the decisions referred to in paragraph 6 have a direct fiscal impact ■, the resolution authority shall obtain the <i>necessary</i> approval <i>as</i> stipulated by ■ law.
178.	Art. 3 - para. 8	8. Member States shall notify the Commission and the European Securities and Markets Authority (ESMA) of the resolution authorities designated pursuant to paragraph 1.	8. Member States shall notify the Commission and the European Securities and Markets Authority (ESMA) of the resolution authorities designated pursuant to paragraph 1.	8. Member States shall notify the Commission and the European Securities and Markets Authority (ESMA) of the resolution authorities designated pursuant to paragraph 1.
179.	Art. 3 -	9. Where a Member State designates	9. Where a Member State designates	■

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
	para. 9 - subpar. 1 - introd. part	more than one resolution authority pursuant to paragraph 1, the notification referred to in paragraph 8 shall include the following:	more than one resolution authority pursuant to paragraph 1, the notification referred to in paragraph 8 shall include the following:	
180.	Art. 3 - para. 9 - subpar. 1 - point a	(a) the reasons justifying that multiple designation;	(a) the reasons justifying that multiple designation;	■
181.	Art. 3 - para. 9 - subpar. 1 - point b	(b) the allocation of functions and responsibilities between those authorities;	(b) the allocation of functions and responsibilities between those authorities;	■
182.	Art. 3 - para. 9 - subpar. 1 - point c	(c) the way in which coordination between them is ensured;	(c) the way in which coordination between them is ensured;	■
183.	Art. 3 - para. 9 -	(d) the resolution authority designated as the contact authority for the	(d) the resolution authority designated as the contact authority for the purposes	■



Nr.	Ref.	COM	Council	EP
	subpar. 1 - point d	purposes of cooperation and coordination with the relevant authorities of other Member States.	of cooperation and coordination with the relevant authorities of other Member States.	
184.	Art. 3 - para. 10	10. ESMA shall publish a list of the resolution authorities and the contact authorities notified pursuant to paragraph 8.	10. ESMA shall publish a list of the resolution authorities and the contact authorities notified pursuant to paragraph 8.	10. ESMA shall publish a list of the resolution authorities and the contact authorities notified pursuant to paragraph 8.
185.	Art. 4 - title	Article 4 Resolution colleges	Article 4 Resolution colleges	Article 4 Resolution colleges
186.	Art. 4 - para. 1 - subpara. 1	1. The resolution authority shall establish, manage and chair a resolution college to carry out the tasks referred to in Articles 13 16 and 17 and ensure cooperation and coordination with third-country resolution authorities.	1. The resolution authority <i>of the CCP</i> shall establish, manage and chair a resolution college to carry out the tasks referred to in Articles 13, 16 and 17 <b>■</b> ensure cooperation and coordination <i>with resolution authorities of the Member States and, where appropriate, cooperation</i> with third-country resolution authorities.	1. The resolution authority of the CCP shall establish, manage and chair a resolution college to carry out the tasks referred to in Articles 13, 16 and 17 and ensure cooperation and coordination with third-country resolution authorities.

Nr.	Ref.	COM	Council	EP
187.	Art. 4 - para. 1 - subpara. 2 - introd. part	Resolution colleges shall provide a framework for resolution authorities and other relevant authorities to perform the following tasks:	Resolution colleges shall provide a framework for resolution authorities and other relevant authorities to perform the following tasks:	Resolution colleges shall provide a framework for resolution authorities and other relevant authorities to perform the following tasks:
188.	Art. 4 - para. 1 - subpara. 2 - point a	(a) exchange information relevant for the development of resolution plans, for the application of preparatory and preventative measures and for resolution;	(a) exchange information relevant for <b>drawing up</b> resolution plans, for the application of preparatory and preventative measures and for resolution;	(a) exchange information relevant for the development of resolution plans, <b>for assessing the CCP's interconnectedness and that of its participants, along with other central banks of interest</b> , for the application of preparatory and preventative measures and for resolution;
189.	Art. 4 - para. 1 - subpara. 2 - point b	(b) develop resolution plans pursuant to Article 13;	(b) <b>draw up</b> resolution plans pursuant to Article 13;	(b) <b>assess</b> resolution plans pursuant to Article 13;
190.	Art. 4 -	(c) assess the resolvability of CCPs	(c) assess the resolvability of CCPs	(c) assess the resolvability of CCPs

Nr.	Ref.	COM	Council	EP
	para. 1 - subpara. 2 - point c	pursuant to Article 16;	pursuant to Article 16;	pursuant to Article 16;
191.	Art. 4 - para. 1 - subpara. 2 - point d	(d) identify, address and remove impediments to the resolvability of CCPs pursuant to Article 17;	(d) identify, address and remove impediments to the resolvability of CCPs pursuant to Article 17;	(d) identify, address and remove impediments to the resolvability of CCPs pursuant to Article 17;
192.	Art. 4 - para. 1 - subpara. 2 - point e	(e) coordinate public communication of resolution strategies and schemes.	(e) coordinate public communication <b><i>about</i></b> resolution <b><i>plans and</i></b> strategies■ .	(e) coordinate public communication of resolution strategies and schemes;
193.	Art. 4 - para. 1 - subpara. 2 - point e a (new)			<b><i>(ea)exchange recovery and resolution plans of clearing members and assess potential impact and interconnectedness with the CCP;</i></b>
194.	Art. 4 -	2. The following shall be members	2. The following shall be members of	2. The following shall be members of

Nr.	Ref.	COM	Council	EP
	para. 2 - introd. part	of the resolution college:	the resolution college:	the resolution college:
195.	Art. 4 - para. 2 - point a	(a) the resolution authority of the CCP;	(a) the resolution authority of the CCP;	(a) the resolution authority of the CCP;
196.	Art. 4 - para. 2 - point b	(b) the competent authority of the CCP;	(b) the competent authority of the CCP;	(b) the competent authority of the CCP;
197.	Art. 4 - para. 2 - point c	(c) the competent authorities and the resolution authorities of the clearing members referred to in point (c) of Article 18(2) of Regulation (EU) No 648/2012;	(c) the competent authorities and the resolution authorities of the clearing members referred to in point (c) of Article 18(2) of Regulation (EU) No 648/2012, <i>including, where relevant, the ECB in the framework of the tasks concerning the prudential supervision of credit institutions within the single supervisory mechanism conferred</i>	(c) the competent authorities and the resolution authorities of the clearing members referred to in point (c) of Article 18(2) of Regulation (EU) No 648/2012;

Nr.	Ref.	COM	Council	EP
			<i>upon it in accordance with Council Regulation (EU) No 1024/2013<sup>47</sup> and the SRB in its role as a competent resolution authority of credit institutions within the single resolution mechanism conferred upon it in accordance with Regulation (EU) No 806/2014 of the European Parliament and of the Council<sup>48</sup>;</i>	
198.	Art. 4 - para. 2 - point c a (new)		<i>(ca) the competent authorities and the resolution authorities of clearing members, other than those referred to in point (c). Those competent authorities and resolution authorities shall inform the resolution authority of the CCP and justify their participation</i>	

<sup>47</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring special tasks on the European Central Bank concerning policies to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p.63).

<sup>48</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) 1093/2010 (OJ L 225, 30.7.2014, p.1).

Nr.	Ref.	COM	Council	EP
			<i>in the college based on their assessment of the impact that the CCP's resolution could have on the financial stability of their respective Member State.</i>	
199.	Art. 4 - para. 2 - point c b (new)		<i>(cb) the competent authorities or the resolution authorities of clearing members' clients, provided that the college does not already have a member from their respective Member State in accordance with points (c), (ca) or (d) – (f) of this paragraph. Those authorities shall inform the resolution authority of the CCP and justify their participation in the college based on their assessment of the impact that the CCP's resolution could have on the financial stability of their respective Member State.</i>	

Nr.	Ref.	COM	Council	EP
200.	Art. 4 - para. 2 - point d	(d) the competent authorities referred to in point (d) of Article 18(2) of Regulation (EU) No 648/2012;	(d) the competent authorities referred to in point (d) of Article 18(2) of Regulation (EU) No 648/2012;	(d) the competent authorities referred to in point (d) of Article 18(2) of Regulation (EU) No 648/2012;
201.	Art. 4 - para. 2 - point e	(e) the competent authorities and the resolution authorities of the CCPs referred to in point (e) of Article 18(2) of Regulation (EU) No 648/2012;	(e) the competent authorities and the resolution authorities of the CCPs referred to in point (e) of Article 18(2) of Regulation (EU) No 648/2012;	(e) the competent authorities and the resolution authorities of the CCPs referred to in point (e) of Article 18(2) of Regulation (EU) No 648/2012;
202.	Art. 4 - para. 2 - point f	(f) the competent authorities referred to in point (f) of Article 18(2) of Regulation (EU) No 648/2012;	(f) the competent authorities referred to in point (f) of Article 18(2) of Regulation (EU) No 648/2012;	(f) the competent authorities referred to in point (f) of Article 18(2) of Regulation (EU) No 648/2012;
203.	Art. 4 - para. 2 - point g	(g) the members of the ESCB referred to in point (g) of Article 18(2) of Regulation (EU) No 648/2012;	(g) the members of the ESCB referred to in point (g) of Article 18(2) of Regulation (EU) No 648/2012;	(g) the members of the ESCB referred to in point (g) of Article 18(2) of Regulation (EU) No 648/2012;
204.	Art. 4 - para. 2 - point h	(h) the central banks referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;	(h) the central banks referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;	(h) the central banks <i>of issue</i> referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;

Nr.	Ref.	COM	Council	EP
205.	Art. 4 - para. 2 - point h a (new)		<i>(ha) the central banks of issue of the Union currencies of the financial instruments cleared by the CCP, other than those referred to in point (h). Those central banks of issue shall inform the resolution authority of the CCP and justify their participation in the college based on their assessment of the impact that the CCP's resolution could have on their respective currency of issue.</i>	
206.	Art. 4 - para. 2 - point i	(i) the competent authority of the parent undertaking, where Article 8(4) applies;	■	(i) the competent authority of the parent undertaking, where Article 11(1) applies;
207.	Art. 4 - para. 2 - point i a (new)			<i>(ia) the competent authorities charged with supervision of O-SIIs referred to in Article 131 (3) of Directive 2013/36/EU;</i>



Nr.	Ref.	COM	Council	EP
208.	Art. 4 - para. 2 - point j	(j) the competent ministry, where the resolution authority referred to in point (a) is not the competent ministry;	(j) the competent ministry, where the resolution authority referred to in point (a) is not the competent ministry;	(j) the competent ministry, where the resolution authority referred to in point (a) is not the competent ministry;
209.	Art. 4 - para. 2 - point k	(k) ESMA;	(k) ESMA;	(k) ESMA;
210.	Art. 4 - para. 2 - point l	(l) the European Banking Authority (EBA).	(l) the European Banking Authority (EBA).	(l) the European Banking Authority (EBA).
211.	Art. 4 - para. 3	3. ESMA and EBA shall not have voting rights in resolution colleges.	3. ESMA, <i>EBA</i> and <i>the authorities referred to in points (ca), (cb) and (ha)</i> shall not have voting rights in resolution colleges.	3. ESMA, EBA <i>and the competent authorities charged with the supervision of O-SIIs</i> shall not have voting rights in resolution colleges.
212.	Art. 4 - para. 3 - subpara. 1 a (new)		<i>Where the ECB is a member of the college pursuant to points (c) and (h) of paragraph 2 of this article, it shall have two votes in the college.</i>	

Nr.	Ref.	COM	Council	EP
213.	Art. 4 - para. 4 - subpara. 1	4. The competent and resolution authorities of clearing members established in third countries and the competent and resolution authorities of third-country CCPs with which the CCP has established interoperability arrangements may be invited to participate in the resolution college as observers. Their attendance shall be conditional on those authorities being subject to confidentiality requirements equivalent, in the opinion of the chair of the college, to those laid down in Article 71.	4. The competent and resolution authorities of clearing members established in third countries and the competent and resolution authorities of third-country CCPs with which the CCP has established interoperability arrangements may be invited to participate in the resolution college as observers. Their attendance shall be conditional on those authorities being subject to confidentiality requirements equivalent, in the opinion of the chair of the college, to those laid down in Article 71.	4. The competent and resolution authorities of clearing members established in third countries and the competent and resolution authorities of third-country CCPs with which the CCP has established interoperability arrangements may be invited to participate in the resolution college as observers. Their attendance shall be conditional on those authorities being subject to confidentiality requirements equivalent, in the opinion of the chair of the <b>resolution</b> college, to those laid down in Article 71.
214.	Art. 4 - para. 4 - subpara. 2 - introd. part	The participation of third country authorities in the resolution college shall be limited to the discussion of cross-border enforcement issues, including the following:	The participation of third country authorities in the resolution college shall be limited to the discussion of cross-border enforcement issues, including the following:	The participation of third country authorities in the resolution college <b>may</b> be limited to the discussion of <b>select</b> cross-border enforcement issues, <b>which may include</b> the following:

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
215.	Art. 4 - para. 4 - subpara. 2 - point a	(a) effective and coordinated enforcement of resolution actions, in particular in accordance with Articles 53 and 75;	(a) effective and coordinated enforcement of resolution actions, in particular in accordance with Articles 53 and 75;	(a) effective and coordinated enforcement of resolution actions, in particular in accordance with Articles 53 and 75;
216.	Art. 4 - para. 4 - subpara. 2 - point b	(b) identifying and removing possible impediments to effective resolution action that may stem from divergent laws governing collateral, netting and set-off arrangements and different recovery and resolution powers or strategies;	(b) identifying and removing possible impediments to effective resolution action that may stem from divergent laws governing collateral, netting and set-off arrangements and different recovery and resolution powers or strategies;	(b) identifying and removing possible impediments to effective resolution action that may stem from divergent laws governing collateral, netting and set-off arrangements and different recovery and resolution powers or strategies;
217.	Art. 4 - para. 4 - subpara. 2 - point c	(c) identifying and coordinating any need for new licensing, recognition or authorisation requirements, considering the need for resolution actions to be carried out in a timely fashion;	(c) identifying and coordinating any need for new licensing, recognition or authorisation requirements, considering the need for resolution actions to be carried out in a timely fashion;	(c) identifying and coordinating any need for new licensing, recognition or authorisation requirements, considering the need for resolution actions to be carried out in a timely fashion;
218.	Art. 4 -	(d) the possible suspension of any	(d) the possible suspension of any	(d) the possible suspension of any

Nr.	Ref.	COM	Council	EP
	para. 4 - subpara. 2 - point d	clearing obligation for the relevant asset classes affected by the resolution of the CCP pursuant to Article 6a of Regulation (EU) No 648/2012 or to any equivalent provision under the national law of the third country concerned;	clearing obligation for the relevant asset classes affected by the resolution of the CCP pursuant to Article 6a of Regulation (EU) No 648/2012 or to any equivalent provision under the national law of the third country concerned;	clearing obligation for the relevant asset classes affected by the resolution of the CCP pursuant to Article 6a of Regulation (EU) No 648/2012 or to any equivalent provision under the national law of the third country concerned;
219.	Art. 4 - para. 4 - subpara. 2 - point e	(e) the possible influence of different time-zones on the applicable close of business hours regarding the end of trading.	(e) the possible influence of different time-zones on the applicable close of business hours regarding the end of trading.	(e) the possible influence of different time-zones on the applicable close of business hours regarding the end of trading.
220.	Art. 4 - para. 5 - introd. part	5. The chair of the resolution college shall be responsible for the following tasks:	5. The <b><i>resolution authority of the CCP as the</i></b> chair of the resolution college shall be responsible for the following tasks:	5. The chair of the resolution college shall be responsible for the following tasks:
221.	Art. 4 - para. 5 - point a	(a) establishing written arrangements and procedures for the functioning of the resolution college, after consulting	(a) establishing written arrangements and procedures for the functioning of the resolution college, after consulting	(a) establishing written arrangements and procedures for the functioning of the resolution college, after consulting the

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
		the other members of the resolution college;	the other members of the resolution college;	other members of the resolution college;
222.	Art. 4 - para. 5 - point b	(b) coordinating all activities of the resolution college;	(b) coordinating all activities of the resolution college;	(b) coordinating all activities of the resolution college;
223.	Art. 4 - para. 5 - point c	(c) convening and chairing all meetings of the resolution college;	(c) convening and chairing all meetings of the resolution college;	(c) convening and chairing all meetings of the resolution college;
224.	Art. 4 - para. 5 - point d	(d) keeping all members of the resolution college fully informed in advance of the organisation of meetings, of the main issues to be discussed in those meetings and of the items to be considered for the purposes of those discussions;	(d) keeping all members of the resolution college fully informed in advance of the organisation of meetings, of the main issues to be discussed in those meetings and of the items to be considered for the purposes of those discussions;	(d) keeping all members of the resolution college fully informed in advance of the organisation of meetings, of the main issues to be discussed in those meetings and of the items to be considered for the purposes of those discussions;
225.	Art. 4 - para. 5 -	(e) deciding whether and which third-country authorities are invited to attend particular meetings of the	(e) deciding whether and which third-country authorities are invited to attend particular meetings of the resolution	(e) deciding whether and which third-country authorities are invited to attend particular meetings of the resolution

Nr.	Ref.	COM	Council	EP
	point e	resolution college in accordance with paragraph 4;	college in accordance with paragraph 4;	college in accordance with paragraph 4;
226.	Art. 4 - para. 5 - point f	(f) coordinating the timely exchange of all relevant information between members of the resolution college;	(f) coordinating the timely exchange of all relevant information between members of the resolution college;	(f) coordinating the timely exchange of all relevant information between members of the resolution college;
227.	Art. 4 - para. 5 - point g	(g) keeping all members of the resolution college informed, in a timely manner, of the decisions and outcomes of those meetings.	(g) keeping all members of the resolution college informed, in a timely manner, of the decisions and outcomes of those meetings.	(g) keeping all members of the resolution college informed, in a timely manner, of the decisions and outcomes of those meetings;
228.	Art. 4 - para. 5 - point g a (new)			<i>(ga) making sure the college members exchange all relevant information in a timely manner for the exercise of their tasks under this Regulation.</i>
229.	Art. 4 - para. 5 a (new)		<i>5a. In order to facilitate the performance of the tasks assigned to the college, members of the college referred to in paragraph 2 shall be entitled to contribute to the setting of</i>	

Nr.	Ref.	COM	Council	EP
			<i>the agenda of the college meetings, in particular by adding points to the agenda of the meeting.</i>	
230.	Art. 4 - para. 6 - subpara. 1	6. In order to ensure the consistent and coherent functioning of resolution colleges across the Union, ESMA shall develop draft regulatory technical standards in order to specify the content of the written arrangements and procedures for the functioning of the resolution colleges referred to in paragraph 1.	6. In order to ensure the consistent and coherent functioning of resolution colleges across the Union, ESMA shall develop draft regulatory technical standards in order to specify the content of the written arrangements and procedures for the functioning of the resolution colleges referred to in paragraph 1.	6. In order to ensure the consistent and coherent functioning of resolution colleges across the Union, ESMA shall develop draft regulatory technical standards in order to specify the content of the written arrangements and procedures for the functioning of the resolution colleges referred to in paragraph 1.
231.	Art. 4 - para. 6 - subpara. 2	For the purposes of preparing the regulatory standards referred to in the first subparagraph, ESMA shall take into account the relevant provisions of	For the purposes of preparing the regulatory standards referred to in the first subparagraph, ESMA shall take into account the relevant provisions of	For the purposes of preparing the regulatory standards referred to in the first subparagraph, ESMA shall take into account the relevant provisions of the

Nr.	Ref.	COM	Council	EP
		the Commission Delegated Regulation (EU) No 876/2013 <sup>49</sup> , of Section 1 of Chapter 6 of Commission Delegated Regulation (EU) –/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 88(7) of Directive 2014/59/EU <sup>50</sup> .	the Commission Delegated Regulation (EU) No 876/2013 <sup>51</sup> , of Section 1 of Chapter 6 of Commission Delegated Regulation (EU) –/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 88(7) of Directive 2014/59/EU <sup>52</sup> .	Commission Delegated Regulation (EU) No 876/2013 <sup>53</sup> , of Section 1 of Chapter 6 of Commission Delegated Regulation (EU) XXX/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 88(7) of Directive 2014/59/EU <sup>54</sup> .

<sup>49</sup> Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19)

<sup>50</sup> Commission Delegated Regulation (EU) ... of 23.3.2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, C(2016) 1691 final [*Note to Publication Office – Please introduce number of Delegated Regulation*]

<sup>51</sup> Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19)

<sup>52</sup> Commission Delegated Regulation (EU) ... of 23.3.2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, C(2016) 1691 final [*Note to Publication Office – Please introduce number of Delegated Regulation*]

<sup>53</sup> Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19)

<sup>54</sup> Commission Delegated Regulation (EU) ... of 23.3.2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-



Nr.	Ref.	COM	Council	EP
232.	Art. 4 - para. 6 - subpara. 3	ESMA shall submit those draft regulatory technical standards to the Commission by <i>[PO: insert date 12 months after the date of entry into force of this Regulation]</i> .	ESMA shall submit those draft regulatory technical standards to the Commission by <i>[PO: insert date 12 months after the date of entry into force of this Regulation]</i> .	ESMA shall submit those draft regulatory technical standards to the Commission by <i>[PO: insert date 12 months after the date of entry into force of this Regulation]</i> .
233.	Art. 4 - para. 6 - subpara. 4	Power is delegated to the Commission to adopt the regulatory technical standards referred to in paragraph 6 in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.	Power is delegated to the Commission to adopt the regulatory technical standards referred to in paragraph 6 in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.	Power is delegated to the Commission to adopt the regulatory technical standards referred to in paragraph 6 in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.
234.	Art. 5 - title	Article 5 ESMA Resolution Committee	Article 5 ESMA Resolution Committee	Article 5 ESMA Resolution Committee
235.	Art. 5 - para. 1 - subpara.	1. ESMA shall create a resolution committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the	1. ESMA shall create a resolution committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the	1. ESMA shall create a resolution committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the

down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, C(2016) 1691 final *[Note to Publication Office – Please introduce number of Delegated Regulation]*

Nr.	Ref.	COM	Council	EP
	1	purpose of preparing the decisions entrusted to ESMA in this Regulation, except for the decisions to be adopted pursuant to Article 12 of this Regulation.	purpose of preparing the decisions entrusted to ESMA in this Regulation, except for the decisions to be adopted pursuant to Article 12 of this Regulation.	purpose of preparing the decisions entrusted to ESMA in this Regulation, except for the decisions to be adopted pursuant to Article 12 of this Regulation.
236.	Art. 5 - para. 1 - subpara. 2	The resolution committee shall promote the development and coordination of resolution plans and develop methods for the resolution of failing CCPs.	The resolution committee shall <i>also</i> promote <i>drawing up</i> and coordination of resolution plans and <i>strategies</i> for the resolution of failing CCPs.	The resolution committee shall <i>also</i> promote the development and coordination of resolution plans and <i>design strategies</i> for the resolution of failing CCPs.
237.	Art. 5 - para. 2 - subpara. 1	2. The resolution committee shall be composed of the authorities designated pursuant to Article 3(1) of this Regulation.	2. The resolution committee shall be composed of the authorities designated pursuant to Article 3(1) of this Regulation.	2. The resolution committee shall be composed of the authorities designated pursuant to Article 3(1) of this Regulation.
238.	Art. 5 - para. 2 - subpara. 2	Authorities referred to in points (i) and (iv) of Article 4(2) of Regulation (EU) No 1093/2010 shall be invited to participate in the resolution committee	Authorities referred to in points (i) and (iv) of Article 4(2) of Regulation (EU) No 1093/2010 shall be invited to participate in the resolution committee	Authorities referred to in points (i) and (iv) of Article 4(2) of Regulation (EU) No 1093/2010 <i>and the competent authorities charged with supervision of</i>

Nr.	Ref.	COM	Council	EP
		as observers.	as observers.	<b><i>O-SIIs</i></b> shall be invited to participate in the resolution committee as observers.
239.	Art. 5 - para. 2 - subpara. 2 a (new)			<b><i>2a. ESMA shall assess CCP recovery and resolution arrangements across the Union in terms of their aggregate effect on Union financial stability through regular stress-testing and crisis simulation exercises with respect to potential system-wide stress events. In exercising this role, ESMA shall ensure consistency with the assessments of the resilience of individual CCPs carried out pursuant to Chapter XII of Commission Delegated Regulation (EU) No 153/2013 with regard to the frequency and design of the tests and shall cooperate closely with the supervisory colleges established in accordance with Article 18 of Regulation (EU) No 648/2012, the</i></b>

Nr.	Ref.	COM	Council	EP
				<i>ESRB and competent authorities designated under Article 4 of Directive 2013/36/EU, including the ECB in carrying out its tasks within a single supervisory mechanism under Regulation (EU) No 1024/2013 and any national competent authorities tasked with the supervision of CCPs. In areas where these arrangements are found to be wanting as a result of these comprehensive stress tests, the responsible institution or institutions will have to address the shortcomings and resubmit their arrangements for another round of stress tests within 6 months of the previous stress tests.</i>
240.	Art. 5 - para. 3	3. For the purposes of this Regulation, ESMA shall cooperate with the European Insurance and	3. For the purposes of this Regulation, ESMA shall cooperate with the European Insurance and Occupational	3. For the purposes of this Regulation, ESMA shall cooperate with the European Insurance and Occupational Pensions

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
		Occupational Pensions Authority (EIOPA) and EBA within the framework of the Joint Committee of the European Supervisory Authorities established in Article 54 of Regulation (EU) No 1093/2010, Article 54 of Regulation (EU) No 1094/2010 and Article 54 of Regulation (EU) No 1095/2010.	Pensions Authority (EIOPA) and EBA within the framework of the Joint Committee of the European Supervisory Authorities established in Article 54 of Regulation (EU) No 1093/2010, Article 54 of Regulation (EU) No 1094/2010 and Article 54 of Regulation (EU) No 1095/2010.	Authority (EIOPA) and EBA within the framework of the Joint Committee of the European Supervisory Authorities established in Article 54 of Regulation (EU) No 1093/2010, Article 54 of Regulation (EU) No 1094/2010 and Article 54 of Regulation (EU) No 1095/2010.
241.	Art. 5 - para. 4	4. For the purposes of this Regulation, ESMA shall ensure structural separation between the resolution committee and other functions referred to in Regulation (EU) No 1095/2010.	4. For the purposes of this Regulation, ESMA shall ensure structural separation between the resolution committee and other functions referred to in Regulation (EU) No 1095/2010.	4. For the purposes of this Regulation, ESMA shall ensure structural separation between the resolution committee and other functions referred to in Regulation (EU) No 1095/2010.
242.	Art. 6 - title	Article 6 Cooperation between authorities	Article 6 Cooperation between authorities	Article 6 Cooperation between authorities
243.	Art. 6 -	1. Competent authorities and	1. Competent authorities and	1. Competent authorities and resolution

Nr.	Ref.	COM	Council	EP
	para. 1	resolution authorities shall cooperate closely in the preparation, planning and application of resolution decisions.	resolution authorities shall cooperate closely <i>for the purposes of this Regulation.</i>	authorities <i>and ESMA</i> shall cooperate closely in the preparation, planning and, <i>to the extent possible, in the</i> application of resolution decisions. <i>In particular, the resolution authority and other relevant authorities, including ESMA, the resolution authorities designated in accordance with Article 3 of Directive 2014/59/EU and competent authorities and authorities of linked FMIs, should cooperate and communicate effectively in recovery to enable the resolution authority to act in a timely manner.</i>
244.	Art. 6 - para. 2 - subpara. 1	2. Competent authorities and resolution authorities shall cooperate with ESMA for the purposes of this Regulation in accordance with Regulation (EU) No 1095/2010.	2. Competent authorities and resolution authorities shall cooperate with ESMA for the purposes of this Regulation in accordance with Regulation (EU) No 1095/2010.	2. Competent authorities and resolution authorities shall cooperate with ESMA for the purposes of this Regulation in accordance with Regulation (EU) No 1095/2010.
245.	Art. 6 -	Competent authorities and resolution	Competent authorities and resolution	Competent authorities and resolution

Nr.	Ref.	COM	Council	EP
	para. 2 - subpara. 2	authorities shall, without delay, provide ESMA with all the information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1095/2010.	authorities shall, without delay, provide ESMA with all the information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1095/2010.	authorities shall, without delay, provide ESMA with all the information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1095/2010.
246.	Section 2	Section II Decision-making and procedures	Section II Decision-making and procedures	Section II Decision-making and procedures
247.	Art. 7 - title	Article 7 General principles regarding decision-making	Article 7 General principles regarding decision-making	Article 7 General principles regarding decision-making
248.	Art. 7 - para. 1 - introd. part.	Competent authorities, resolution authorities and ESMA shall take account of all the following principles when making decisions and taking action pursuant to this Regulation:	Competent authorities, resolution authorities and ESMA shall take account of all the following principles when making decisions and taking action pursuant to this Regulation:	Competent authorities, resolution authorities and ESMA shall take account of all the following principles and aspects when making decisions and taking action pursuant to this Regulation:
249.	Art. 7 - para. 1 - point a -	(a) that the proportionality of any decision or action in relation to an individual CCP is ensured, taking into	(a) that the proportionality of any decision or action in relation to an individual CCP is ensured, taking into	(a) that the <i>effectiveness and</i> proportionality of any decision or action in relation to an individual CCP is

Nr.	Ref.	COM	Council	EP
	introd. part	account at least the following factors:	account at least the following factors:	ensured, taking into account at least the following factors:
250.	Art. 7 - para. 1 - point a - subpoint i	i) the CCP's legal form;	i) the CCP's legal form;	i) <i>the ownership, legal and organisational structure of the CCP, including whether it is part of a larger group of FMIs or other financial institutions;</i>
251.	Art. 7 - para. 1 - point a - subpoint ii	ii) the nature, size and complexity of the CCP's business;	ii) the nature, size and complexity of the CCP's business <i><b>_in particular the size, structure and liquidity in stressed conditions of the underlying markets it serves;</b></i>	ii) the nature, size and complexity of the CCP's business;
252.	Art. 7 - para. 1 - point a - subpoint iii	iii) the CCP's clearing membership structure;	iii) the CCP's clearing membership <i><b>structure and, where relevant information is available to the CCP, clients and indirect clients ;</b></i>	iii) <i><b>the nature and diversity of</b></i> the CCP's clearing membership structure <i><b>including clearing members, their clients and other counterparties to which those clearing members and clients provide clearing services under that CCP, where</b></i>



Nr.	Ref.	COM	Council	EP
				<i>those can be identified easily and without undue delay;</i>
253.	Art. 7 - para. 1 - point a - subpoint iii a (new)		<i>iii a) the substitutability of the CCP in all the markets it serves;</i>	
254.	Art. 7 - para. 1 - point a - subpoint iv	iv) the CCP's shareholding structure;	iv) the CCP's <i>ownership</i> structure;	■
255.	Art. 7 - para. 1 - point a - subpoint v	v) the CCP's interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general;	v) the CCP's interconnectedness with other financial market infrastructures, <i>trading venues</i> , financial institutions and with the financial system in general;	v) the CCP's interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general;

Nr.	Ref.	COM	Council	EP
256.	Art. 7 - para. 1 - point a - subpoint v a (new)			<i>va) whether the CCP clears any OTC derivative contract pertaining to a class of OTC derivatives that has been declared subject to the clearing obligation in accordance with Article 5(2) of Regulation (EU) No. 648/2012;</i>
257.	Art. 7 - para. 1 - point a - subpoint v b (new)			<i>vb) the availability of other CCPs that could credibly and feasibly act as a substitute for the critical functions of the CCP;</i>
258.	Art. 7 - para. 1 - point a - subpoint vi	vi) the actual or potential consequences of the infringements referred to in Articles 19(1) and 22(2).	vi) the actual or potential consequences of the infringements referred to in Articles 19(1) and 22(2).	vi) the actual or potential consequences of the infringements referred to in Articles 19(1) and 22(2).
259.	Art. 7 - para. 1 -	(b) that the imperatives of efficacy of decision-making and of keeping costs	(b) that the imperatives of efficacy of decision-making and of keeping costs as	(b) that the imperatives of efficacy of decision-making and of keeping costs as

Nr.	Ref.	COM	Council	EP
	point b	as low as possible when taking early intervention or resolution action are observed;	low as possible when taking early intervention <i>measures</i> or resolution action are observed;	low as possible <i>while preventing market disruption</i> when taking early intervention measures or resolution action are observed <i>in order to avoid the use of public funds</i> ;
260.	Art. 7 - para. 1 - point b a (new)		<i>(ba) that the use of extraordinary public financial support should be avoided and that such support shall only be available and used as a last resort in accordance with the conditions laid out in Article 45;</i>	
261.	Art. 7 - para. 1 - point c	(c) that decisions are made and action is taken in a timely manner and with due urgency when required;	(c) that decisions are made and action is taken in a timely manner and with due urgency when required <i>while at the same time ensuring that market disruption is mitigated to the greatest extent possible;</i>	(c) that decisions are made and action is taken in a timely manner and with due urgency when required;
262.	Art. 7 -	(d) that resolution authorities,	(d) that resolution authorities,	(d) that resolution authorities, competent

Nr.	Ref.	COM	Council	EP
	para. 1 - point d	competent authorities and other authorities cooperate with each other to ensure that decisions are made and action is taken in a coordinated and efficient manner;	competent authorities and other authorities cooperate with each other to ensure that decisions are made and action is taken in a coordinated and efficient manner;	authorities and other authorities cooperate with each other to ensure that decisions are made and action is taken in a coordinated and efficient manner;
263.	Art. 7 - para. 1 - point e	(e) that the roles and responsibilities of relevant authorities within each Member State are defined clearly;	(e) that the roles and responsibilities of relevant authorities within each Member State are defined clearly;	(e) that the roles and responsibilities of relevant authorities within each Member State are defined clearly;
264.	Art. 7 - para. 1 - point f	(f) that due consideration is given to the interests of the Member States where the CCP provides services and where its clearing members, their clients, and any linked CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those Member States and the Union as a whole;	(f) that due consideration is given to the interests of the Member States where the CCP provides services and where its clearing members, <b><i>and to the extent the information is available, their clients and indirect clients, including where they are designated by Member States as Other Systemically Important Institutions pursuant to Article 131(3) of Directive 2013/36/EU and any linked FMIs, including</i></b>	(f) that due consideration is given to the interests of the Member States where the CCP provides services and where its clearing members, their clients, and any interoperable CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those Member States and the Union as a whole;

Nr.	Ref.	COM	Council	EP
			<i>interoperable CCPs</i> , are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those Member States and the Union as a whole;	
265.	Art. 7 - para. 1 - point f a (new)		<i>(fa) that, notwithstanding the considerations under this Article, a resolution authority or resolution college cannot require Member States to provide extraordinary public financial support or impinge on the budgetary sovereignty and fiscal responsibilities of a Member State;</i>	
266.	Art. 7 - para. 1 - point g	(g) that due consideration is given to the objectives of balancing the interests of the various clearing participants, affected creditors and affected holders in the Member States	<i>(g) the need to balance the interests of</i> affected <i>clearing members, and to the extent the information is available, their clients and indirect clients,</i> creditors and <i>other stake</i> holders <i>of the</i>	(g) that due consideration is given to the objectives of balancing the interests of the various clearing <i>members, their clients, wider</i> creditors and <i>stakeholders of the CCP</i> in the Member States

Nr.	Ref.	COM	Council	EP
		involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular actors in some Member States, including avoiding unfair burden allocation across Member States;	<b>CCP</b> in the Member States involved <b>by</b> avoiding unfairly prejudicing or unfairly protecting the interests of particular actors <b>and</b> avoiding unfair burden allocation ■ ;	involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular actors in some Member States, including avoiding unfair burden allocation across Member States;
267.	Art. 7 - para. 1 - point g a (new)			<i>(ga) that public financial support is avoided to the greatest extent possible and used only as a last resort and under conditions set out in Article 45, and that no expectation of public financial support is created;</i>
268.	Art. 7 - para. 1 - point h	(h) that any obligation under this Regulation to consult an authority before any decision or action is taken implies at least an obligation to consult on those elements of the proposed decision or action which have or which are likely to have:	(h) that any obligation under this Regulation to consult an authority before any decision or action is taken implies at least an obligation to consult on those elements of the proposed decision or action which have or which are likely to have:	(h) that any obligation under this Regulation to consult an authority before any decision or action is taken implies at least an obligation to consult on those elements of the proposed decision or action which have or which are likely to have:

Nr.	Ref.	COM	Council	EP
269.	Art. 7 - para. 1 - point h - subpoint i	(i) an effect on the clearing members, clients or linked FMIs;	(i) an effect on the clearing members, clients or linked FMIs <b><i>including interoperable CCPs;</i></b>	(i) an effect on the clearing members, clients or linked FMIs;
270.	Art. 7 - para. 1 - point h - subpoint ii	(ii) an impact on the financial stability of the Member State where the clearing members, clients or linked FMIs are established or located;	(ii) an impact on the financial stability of the Member State where the clearing members, clients or linked FMIs, <b><i>including interoperable CCPs and trading venues,</i></b> are established or located;	(ii) an impact on the financial stability of the Member State where the clearing members, clients or linked FMIs are established or located;
271.	Art. 7 - para. 1 - point h a (new)		<b><i>(ha) that where an authority raises an issue concerning the financial stability of its Member State, the resolution authority and the resolution college of the CCP considers it thoroughly and if they do not take the concerns expressed into account, explain the reasons for doing so in writing;</i></b>	

Nr.	Ref.	COM	Council	EP
272.	Art. 7 - para. 1 - point i	(i) that resolution plans referred to in Article 13 are complied with, unless deviation from those plans is necessary in order to better achieve the resolution objectives;	(i) that resolution plans referred to in Article 13 are complied with, unless <b><i>taking into account the circumstances of the case, the resolution objectives will be achieved more effectively by</i></b> deviation from those plans ■ ;	(i) that resolution plans referred to in Article 13 are complied with, unless deviation from those plans is necessary in order to better achieve the resolution objectives;
273.	Art. 7 - para. 1 - point j	(j) that transparency is ensured wherever a proposed decision or action is likely to have implications on the financial stability or fiscal resources of any relevant Member State;	(j) that transparency is ensured <b><i>towards the competent authority and resolution authority whenever</i></b> a proposed decision or action <b><i>could</i></b> have implications on the financial stability or fiscal resources of any relevant Member State_;	(j) that transparency is ensured <b><i>towards the relevant authorities</i></b> wherever <b><i>possible, in particular where</i></b> a proposed decision or action is likely to have implications on the financial stability or fiscal resources, <b><i>and towards</i></b> any other jurisdiction, or other parties <b><i>where reasonably possible.</i></b>
274.	Art. 7 - para. 1 - point k	(k) that they coordinate and cooperate as closely as possible, also with the goal to lower the overall cost of resolution;	(k) that they coordinate and cooperate as closely as possible, also with the goal to lower the overall cost of resolution;	(k) that they coordinate and cooperate as closely as possible, also with the goal to lower the overall cost of resolution;



Nr.	Ref.	COM	Council	EP
275.	Art. 7 - para. 1 - point 1	(1) that negative economic and social effects of any decision in all the Member States and third countries where the CCP provides services, including negative impacts on financial stability, are mitigated.	(1) that negative economic and social effects of any decision <i>are mitigated</i> in all the Member States ■ where the CCP provides services, including negative impacts on financial stability■ .	(1) that negative economic and social effects of any decision in all the Member States and third countries where the CCP provides services, including negative impacts on financial stability, are mitigated.
276.	Art. 8 - title	Article 8 Information exchange	Article 8 Information exchange	Article 8 Information exchange
277.	Art. 8 - para. 1	1. Resolution authorities and competent authorities shall, on request, provide each other with all the information relevant for the exercise of their tasks under this Regulation.	1. Resolution authorities and competent authorities shall, on request, provide each other with all the information relevant for the exercise of their tasks under this Regulation.	1. Resolution authorities, competent authorities <i>and ESMA</i> shall, on their own initiative or on request, provide each other <i>in a timely manner</i> with all the information relevant for the exercise of their tasks under this Regulation.
278.	Art. 8 - para. 2 - subpara. 1	2. Resolution authorities shall only divulge confidential information provided by a third-country authority where that authority has given its prior	2. <i>By way of derogation from paragraph 1, the resolution</i> authorities shall only divulge confidential information provided by a third-country	2. Resolution authorities shall only divulge confidential information provided by a third-country authority where that authority has given its prior written

Nr.	Ref.	COM	Council	EP
		consent.	authority where that authority has given its prior <i>written</i> consent.	consent.
279.	Art. 8 - para. 2 - subpara. 2	Resolution authorities shall provide the competent ministry with all information relating to decisions or measures that require notification, consultation or consent of that ministry.	Resolution authorities shall provide the competent ministry with all information relating to decisions or measures that require notification, consultation or consent of that ministry.	Resolution authorities shall provide the competent ministry with all information relating to decisions or measures that require notification, consultation or consent of that ministry.
280.	Title 3 - title	TITLE III PREPARATION	TITLE III PREPARATION	TITLE III PREPARATION
281.	Title 3 - Chapter 1 - title	CHAPTER I Recovery and resolution planning	CHAPTER I Recovery and resolution planning	CHAPTER I Recovery and resolution planning
282.	Title 3 - Chapter 1 - Section 1 - title	Section 1 Recovery planning	Section 1 Recovery planning	Section 1 Recovery planning

Nr.	Ref.	COM	Council	EP
283.	Art. 9 - title	Article 9 Recovery plans	Article 9 Recovery plans	Article 9 Recovery plans
284.	Art. 9 - para. 1	1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in order to restore their financial position following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.	1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken ■ in order to restore their financial <i>soundness and allow them to continue to provide critical functions</i> following a significant deterioration of their financial situation or a risk of breaching their <i>capital and</i> prudential requirements under Regulation (EU) No 648/2012. <i>The recovery plan shall take into consideration scenarios that would severely affect the financial soundness or operational viability of the CCP resulting from the default of one or more of its clearing members and other non-default events, including, but not limited to, losses</i>	1. CCPs shall draw up and maintain a <i>comprehensive and effective</i> recovery plan providing for measures to be taken <i>in the case of both default and non-default events and combinations of both</i> in order to restore their financial position <i>without any public financial support in order to enable them to continue to provide clearing services</i> following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

Nr.	Ref.	COM	Council	EP
			<i>from the CCP's investment activities and operational problems.</i>	
285.	Art. 9 - para. 1 - subpara. 1 a (new) - introd. part		<i>The measures included in the recovery plan shall:</i>	
286.	Art. 9 - para. 1 - subpara. 1 a (new) - introd. part - point a		<i>(a) thoroughly address all the risks identified in the different scenarios, including possible uncovered liquidity shortfalls;</i>	
287.	Art. 9 - para. 1 - subpara.		<i>(b) in the case of default losses ensure the re-establishment of a matched book and the full allocation of</i>	

Nr.	Ref.	COM	Council	EP
	1 a (new) - point b - introd. part		<i>uncovered losses to clearing members and to their clients holding individually segregated accounts in accordance with Article 39 of Regulation (EU) No 648/2012 and shareholders, taking into account the interests of all stakeholders;</i>	
288.	Art. 9 - para. 1 - subpara. 1 a (new) - point b - point b a		<i>(ba) include loss absorbing arrangements that are adequate to cover the losses that might arise from all types of non-default risks;</i>	
289.	Art. 9 - para. 1 - subpara. 1 a (new) - point b - point c		<i>(c) enable the replenishment of the CCP's financial resources.</i>	

Nr.	Ref.	COM	Council	EP
290.	Art. 9 - para. 1 a (new) - introd. part			<i>1a. The recovery plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on:</i>
291.	Art. 9 - para. 1 a (new) - point a			<i>(a) default events;</i>
292.	Art. 9 - para. 1 a (new) - point b			<i>(b) non-default events.</i>
293.	Art. 9 - para. 1 a (new) - subpara. 2			<i>The recovery plan shall include arrangements on how the provisions foreseen for scenarios under points (a) and (b) are to be combined in the case that both scenarios occur at the same</i>

Nr.	Ref.	COM	Council	EP
				<i>time.</i>
294.	Art. 9 - para. 2 - subpara. 1	2. The recovery plan shall include a framework of indicators that identify the circumstances under which measures in the recovery plan are to be taken. The indicators may be of either a qualitative or a quantitative nature relating to the financial position of the CCP.	2. The recovery plan shall include a framework of indicators that identify the circumstances <i>referred to in the second subparagraph of paragraph 1</i> under which measures in the recovery plan are to be taken_. The indicators may be of either a qualitative or a quantitative nature relating to the financial <i>soundness and operational viability of the CCP and should enable recovery actions to be taken early enough to provide sufficient time for the plan to be implemented.</i>	2. The recovery plan shall include a framework of indicators, <i>based on the risk profile on the CCP</i> , that identify the circumstances under which measures in the recovery plan are to be taken, taking into account different scenarios. The indicators may be of either a qualitative or a quantitative nature relating to the financial position of the CCP.
295.	Art. 9 - para. 2 - subpara. 2	CCPs shall put in place appropriate arrangements for the regular monitoring of the indicators.	CCPs shall put in place appropriate arrangements for the regular monitoring of the indicators.	CCPs shall put in place appropriate arrangements, <i>including close cooperation between the relevant authorities</i> , for the regular monitoring of the indicators. <i>CCPs shall report to</i>

Nr.	Ref.	COM	Council	EP
				<i>ESMA and competent authorities on the outcome of this monitoring.</i>
296.	Art. 9 - para. 2 - subpara. 2 a (new)			<i>2a. ESMA shall, in cooperation with the ESRB, by ... [one year after the entry into force of this Regulation], issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the minimum list of qualitative and quantitative indicators referred to in the first subparagraph of paragraph 2 of this Article.</i>
297.	Art. 9 - para. 3 - introd. part	3. CCPs shall not be prevented from deciding any of the following, where duly justified:	3. CCPs shall not be prevented from deciding any of the following, where duly justified <i>and where consistent with the CCP operating rules:</i>	3. CCPs shall <i>include provisions in their operating rules outlining the procedures to be followed by them where, in order to achieve the goals of the recovery process, they propose to:</i>
298.	Art. 9 - para. 3 -	(a) to take measures provided for in their recovery plan despite the fact that	(a) to take measures provided for in their recovery plan despite the fact that	(a) take measures provided for in their recovery plan despite the fact that the



Nr.	Ref.	COM	Council	EP
	point a	the relevant indicators have not been met;	the relevant indicators have not been met;	relevant indicators have not been met; or
299.	Art. 9 - para. 3 - point b	(b) to refrain from taking measures provided for in their recovery plan despite the fact that the relevant indicators have been met.	(b) to refrain from taking measures provided for in their recovery plan despite the fact that the relevant indicators have been met.	(b) refrain from taking measures provided for in their recovery plan despite the fact that the relevant indicators have been met.
300.	Art. 9 - para. 3 a (new)		<i>Any decision taken pursuant to this paragraph and its justification shall be notified to the competent authority without delay.</i>	<i>3a. Any measure to be taken pursuant to paragraph 3 shall require the approval of the competent authority</i>
301.	Art. 9 - para. 4 - subpara. 1	4. Any decision taken pursuant to paragraph 3 and its justification shall be notified to the competent authority without delay. Where a CCP intends to activate its recovery plan, it shall inform the competent authority of the nature and magnitude of the problems it has identified, setting out all relevant	4. ■ Where a CCP intends to activate its recovery plan, it shall inform the competent authority of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation	4. ■ Where a CCP intends to activate its recovery plan, it shall inform the competent authority <b>and ESMA</b> of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation.

Nr.	Ref.	COM	Council	EP
		circumstances and indicating the recovery measures or other measures it intends to take to address the situation.	<i>as well as envisaged time-frames to restore their financial soundness by use of the above-mentioned measures.</i>	
302.	Art. 9 - para. 4 - subpara. 2	Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, it may require the CCP to refrain from taking that measure.	Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, it may require the CCP to refrain from taking that measure.	Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, <i>is unlikely to be effective or may disproportionately affect the clients of the clearing members</i> , it may <i>after informing ESMA</i> require the CCP to refrain from taking that measure.
303.	Art. 9 - para. 4 - subpara. 2 a (new)		<i>Following the notification received under the second subparagraph of paragraph 3, the competent authority shall immediately assess whether the circumstances require the use of early intervention powers in accordance with Article 19.</i>	

Nr.	Ref.	COM	Council	EP
304.	Art. 9 - para. 5 - subpara. 1	5. The competent authority shall promptly inform the resolution authority of any notification received in accordance with the first subparagraph of paragraph 4 and any subsequent instruction by the competent authority in accordance with the second subparagraph of paragraph 4.	5. The competent authority shall promptly inform the resolution authority <b><i>and the supervisory college, and the resolution authority shall promptly inform the resolution college</i></b> of any notification received in accordance <b><i>with the second subparagraph of paragraph 3</i></b> and the first subparagraph of paragraph 4 and any subsequent instruction by the competent authority in accordance with the second subparagraph of paragraph 4.	5. The competent authority shall promptly inform the resolution authority of any notification received in accordance with the first subparagraph of paragraph 4 and any subsequent instruction by the competent authority in accordance with the second subparagraph of paragraph 4.
305.	Art. 9 - para. 5 - subpara. 2 (new)			<b><i>Where the competent authority is informed in accordance with the first subparagraph of paragraph 4, it shall restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including</i></b>

Nr.	Ref.	COM	Council	EP
				<i>dividend payments and buybacks by the CCP and it may restrict, prohibit or freeze any payments of variable remuneration pursuant to Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22, discretionary pension benefits or severance packages to management.</i>
306.	Art. 9 - para. 6	6. CCPs shall update their recovery plans at least annually and after a change to their legal or organisational structure or business or financial situation which could have a material effect on those plans or otherwise necessitate a change to the plans. Competent authorities may require CCPs to update their recovery plans more frequently.	6. CCPs shall <i>review, test and</i> update their recovery plans at least annually and <i>similarly</i> after a change to their legal or organisational structure or business or financial situation which could have a material effect on those plans or otherwise necessitate a change to the plans. Competent authorities may require CCPs to update their recovery plans more frequently.	6. CCPs shall <i>review and</i> update, <i>where necessary</i> , their recovery plans at least annually and after <i>any</i> change to their legal or organisational structure or business or financial situation which could have a material effect on those plans or otherwise necessitate a change to the plans. Competent authorities may require CCPs to update their recovery plans more frequently.
307.	Art. 9 -	7. Recovery plans shall be drafted in	7. Recovery plans shall be <i>drawn up</i>	7. Recovery plans shall <b>■</b> :

Nr.	Ref.	COM	Council	EP
	para. 7	accordance with Section A of the Annex. Competent authorities may require CCPs to include additional information in their recovery plans.	in accordance with Section A of the Annex <i>and take into account the interdependencies within the group the CCP belongs to where relevant.</i> Competent authorities may require CCPs to include additional information in their recovery plans.	
308.	Art. 9 - para. 7 - poin a (new)			<i>(a) not assume any access to or receipt of public financial support, central bank emergency liquidity assistance or central bank emergency liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;</i>
309.	Art. 9 - para. 7 - poin b (new)			<i>(b) consider the interests of all stakeholders that are likely to be affected by that plan, specifically in relation to clearing members and their clients, both direct and indirect; and</i>

Nr.	Ref.	COM	Council	EP
310.	Art. 9 - para. 7 - point c (new)			<i>(c) ensure that clearing members do not have unlimited exposures toward the CCP.</i>
311.	Art. 9 - para. 7 a (new) - introd. part			<i>7a. Recovery tools shall allow to:</i>
312.	Art. 9 - para. 7 a (new) - point a			<i>(a) address losses from non-default events;</i>
313.	Art. 9 - para. 7 a (new) - point b			<i>(b) address losses from default events;</i>

Nr.	Ref.	COM	Council	EP
314.	Art. 9 - para. 7 a (new) - point c			<i>(c) re-establish a matched book following a default event;</i>
315.	Art. 9 - para. 7 a (new) - point d			<i>(d) address uncovered liquidity shortfalls; and</i>
316.	Art. 9 - para. 7 a (new) - point e			<i>(e) replenish the financial resources of the CCP, including its own funds, to a level sufficient in order for the CCP to meet its obligations under Regulation (EU) No 648/2012 and to support the continued and timely operation of the critical functions of the CCP.</i>
317.	Art. 9 - para. 7 b (new)			<i>7b. Recovery plans shall contemplate a range of extreme scenarios, including the default of clearing members beyond</i>

Nr.	Ref.	COM	Council	EP
				<i>the largest two and of other CCPs, relevant to the CCP's specific conditions, including its product mix, business model and liquidity and risk governance framework. That range of scenarios shall include both system-wide stress events and stress events specific to the CCP, taking into account the potential impact of domestic and cross-border contagion in crises, as well as simultaneous crises in several significant markets.</i>
318.	Art. 9 - para. 7 c (new)			<i>7c. ESMA shall, in cooperation with the ESRB, by ... [12 months after the date of entry into force of this Regulation] issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 further specifying the range of scenarios to be considered for the purposes of</i>



Nr.	Ref.	COM	Council	EP
				<i>paragraph 1. In issuing such guidelines, ESMA shall have regard, where appropriate, to the relevant international work carried out in the area of CCP supervisory stress testing and of CCP recovery. It shall seek to take advantage, where achievable, of synergies between supervisory stress testing and recovery scenarios modelling.</i>
319.	Art. 9 - para. 7d (new)			<i>7d. Where the CCP is part of a group and contractual parental support agreements, including the financing of the CCP's capital requirements determined in accordance with Article 16 of Regulation (EU) No 648/2012 through instruments of ownership issued by its parent undertaking form part of the recovery plan, the recovery plan shall contemplate scenarios in</i>

Nr.	Ref.	COM	Council	EP
				<i>which those agreements cannot be honoured.</i>
320.	Art. 9 - para. 7 e (new) - introd. part			<i>7e. The recovery plan shall include the following items:</i>
321.	Art. 9 - para. 7 e (new) - point a			<i>(a) a summary of the key elements of the plan and a summary of overall recovery capacity;</i>
322.	Art. 9 - para. 7 e (new) - point b			<i>(b) a summary of the material changes to the CCP since the most recently filed recovery plan;</i>
323.	Art. 9 - para. 7 e (new) -			<i>(c) a communication and disclosure plan outlining how the CCP intends to manage any potentially negative market</i>

Nr.	Ref.	COM	Council	EP
	point c			<i>reactions while acting in as transparent a manner as possible;</i>
324.	Art. 9 - para. 7 e (new) - point d			<i>(d) a comprehensive range of capital, loss allocation and liquidity actions required to maintain or restore the viability and financial position of the CCP including to restore its matched book and capital, and replenish pre-funded resources which are necessary for the CCP to maintain its viability as a going concern and to continue providing its critical services in accordance with Article 1(2) of Commission Delegated Regulation (EU) No 152/2013 and Articles 32(2) and 32(3) of Commission Delegated Regulation (EU) No 153/2013;</i>
325.	Art. 9 - para. 7 e			<i>(e) appropriate conditions and procedures to ensure the timely</i>

Nr.	Ref.	COM	Council	EP
	(new) - point e			<i>implementation of recovery actions, as well as a wide range of recovery options, including an estimation of the timeframe for executing each material aspect of the plan;</i>
326.	Art. 9 - para. 7 e (new) - point f			<i>(f) a detailed description of any material impediment to the effective and timely execution of the plan, including consideration of the impact on clearing members and clients including in cases where clearing members are likely to take measures in accordance with their recovery plans as referred to in Articles 5 and 7 of Directive 2014/59/EU, and where appropriate on the rest of the group;</i>
327.	Art. 9 - para. 7 e (new) -			<i>(g) identification of critical functions;</i>

Nr.	Ref.	COM	Council	EP
	point g			
328.	Art. 9 - para. 7 e (new) - point h			<i>(h) a detailed description of the processes for determining the value and marketability of the core business lines, operations and assets of the CCP;</i>
329.	Art. 9 - para. 7 e (new) - point i			<i>(i) a detailed description of how recovery planning is integrated into the corporate governance structure of the CCP, how it forms part of the operating rules of the CCP agreed to by clearing members, as well as the policies and procedures governing the approval of the recovery plan and identification of the persons in the organisation responsible for preparing and implementing the plan;</i>
330.	Art. 9 - para. 7 e			<i>(j) arrangements and measures incentivising non-defaulting clearing</i>

Nr.	Ref.	COM	Council	EP
	(new) - point j			<i>members to bid competitively in auctions of a defaulted members' positions;</i>
331.	Art. 9 - para. 7 e (new) - point k			<i>(k) arrangements and measures to ensure that the CCP has adequate access to contingency funding sources, including potential liquidity sources, an assessment of available collateral and an assessment of the possibility to transfer resources or liquidity across business lines, to ensure that it can continue to carry out its operations and meet its obligations as they fall due;</i>
332.	Art. 9 - para. 7 e (new) - point l			<i>(l) arrangements and measures:</i>
333.	Art. 9 - para. 7 e			<i>(i) to reduce risk;</i>

Nr.	Ref.	COM	Council	EP
	(new) - point I - subpoint i			
334.	Art. 9 - para. 7 e (new) - point I - subpoint ii - introd. part			<i>(ii) to restructure contracts, rights, assets and liabilities including:</i>
335.	Art. 9 - para. 7 e (new) - point I - subpoint ii - subpoint a			<i>a) to partially or fully terminate contracts</i>

Nr.	Ref.	COM	Council	EP
336.	Art. 9 - para. 7 e (new) - point 1 - subpoint ii - subpoint b			<i>b) to reduce the value of any gains payable by the CCP to non-defaulting clearing members and their clients</i>
337.	Art. 9 - para. 7 e (new) - point 1 - subpoint iii			<i>(iii) to restructure business lines;</i>
338.	Art. 9 - para. 7 e (new) - point 1 - subpoint			<i>(iv) necessary to maintain continuous access to financial markets infrastructures;</i>



Nr.	Ref.	COM	Council	EP
	iv			
339.	Art. 9 - para. 7 e (new) - point l - subpoint v			<i>(v) necessary to maintain the continuous functioning of the CCP's operational processes, including infrastructure and IT services;</i>
340.	Art. 9 - para. 7 e (new) - point l - subpoint vi			<i>(vi) a description of management actions or strategies to restore financial soundness and the anticipated financial effect of those actions or strategies;</i>
341.	Art. 9 - para. 7 e (new) - point l - subpoint			<i>(vii) preparatory measures that the CCP has taken or plans to take in order to facilitate the implementation of the recovery plan, including those necessary to enable the timely recapitalisation of</i>

Nr.	Ref.	COM	Council	EP
	vii			<i>the CCP, restoring its matched book and replenishment of its pre-funded resources, as well as to ensure its enforceability across borders; this shall include arrangements for non-defaulting clearing members to make a minimum contribution in cash to the CCP up to an amount equivalent to their contribution to the CCP's default fund.</i>
342.	Art. 9 - para. 7 e (new) - point l - subpoint viii			<i>(viii) a framework of indicators which identifies the points at which appropriate actions referred to in the plan may be taken.</i>
343.	Art. 9 - para. 7 e (new) - point l -			<i>(ix) where applicable, an analysis of how and when the CCP may apply, in the conditions addressed in the plan, for the use of central bank facilities and</i>

Nr.	Ref.	COM	Council	EP
	subpoint ix			<i>identify those assets that would be expected to qualify as collateral under the terms of the central bank facility;</i>
344.	Art. 9 - para. 7 e (new) - point l - subpoint x			<i>(x) taking into account the provisions of Article 49(1) of Regulation (EU) 648/2012, a range of extreme scenarios of stress relevant to the CCP's specific conditions, including system-wide events and stress specific to the legal entity and any group to which it belongs and specific stress to the individual clearing members of the CCP or, where appropriate, a linked FMI;</i>
345.	Art. 9 - para. 7 e (new) - point l - subpoint xi			<i>(xi) taking into account the provisions of Article 34 and Article 49(1) of Regulation (EU) 648/2012, scenarios caused both by the stress or default of one or more of its members and by other reasons including losses from the CCP's</i>

Nr.	Ref.	COM	Council	EP
				<i>investment activities or from operational problems (including severe external threats to a CCP's operations due to an external disruption, shock or cyber-related incident);</i>
346.	Art. 9 - para. 7 f (new)			<i>7f. Following a default event, a CCP shall use an additional amount of dedicated own resources equivalent to the amount required to be used in accordance with Article 45(4) of Regulation (EU) 648/2012, prior to the use of the tools referred to in paragraph 7e(l) of this Article. Where the competent authority deems the risks leading to the loss to have been under the control of the CCP, it may require the CCP to use a higher amount of dedicated own resources to be defined by the competent authority.</i>

Nr.	Ref.	COM	Council	EP
347.	Art. 9 - para. 7 g (new)			<i>7g. Following a non-default event, a CCP shall use dedicated own resources equivalent to three times the amount required to be used in accordance with Article 45(4) of Regulation (EU) 648/2012, prior to the use of the tools referred to in paragraph 7e(l) of this Article and, to maintain a strictly incentivised process, CCPs shall not use the default fund and the default waterfall. Where the competent authority deems the risks leading up to the loss to have been outside the control of the CCP, it may allow the CCP to use a lower amount of dedicated own resources to be defined by the competent authority.</i>
348.	Art. 9 - para. 7 h			<i>7h. A CCP shall, in agreement with the competent authority, use the tools</i>

Nr.	Ref.	COM	Council	EP
	(new)			<i>referred to in paragraph 7e (l)(ii) only after cash calls of a minimum amount equivalent to the CCP's default fund have been carried out under the conditions referred to in paragraph 7e(l)(vii).</i>
349.	Art. 9 - para. 7 i (new)			<i>7i. Competent authorities may require CCPs to include additional information in their recovery plans.</i>
350.	Art. 9 - para. 8	8. The board of the CCP shall assess, taking into account the advice of the risk committee in accordance with Article 28(3) of Regulation (EU) No 648/2012, and approve the recovery plan before submitting it to the competent authority.	8. The board of the CCP shall assess, taking into account the advice of the risk committee in accordance with Article 28(3) of Regulation (EU) No 648/2012, and approve the recovery plan before submitting it to the competent authority.	8. The board of the CCP shall assess, taking into account the advice of the risk committee in accordance with Article 28(3) of Regulation (EU) No 648/2012, and approve the recovery plan before submitting it to the competent authority <b>and to ESMA.</b>
351.	Art. 9 - para. 8 a		<b>8a. Where the board of the CCP has decided not to follow the advice of the</b>	

Nr.	Ref.	COM	Council	EP
	(new)		<i>risk committee, it shall explain its decision in detail to the competent authority in accordance with Article 28 (5) of Regulation (EU) No 648/2012.</i>	
352.	Art. 9 - para. 9	9. Recovery plans shall be considered as part of the operating rules of CCPs and CCPs shall ensure that the measures set out in the recovery plans are enforceable at all times.	9. Recovery plans shall be <b><i>integrated in the corporate governance and the overall risk management framework of the CCP.</i></b>	9. Recovery plans shall be considered as part of the operating rules of CCPs and CCPs <b><i>and their clearing members in the case of provisions related to their clients</i></b> shall ensure that the measures set out in the recovery plans are enforceable at all times.
353.	Art. 9 - para. 9 - subpara 1 a (new)		<b><i>The measures set out in the recovery plans that create financial or contractual obligations on clearing members and, where relevant, clients and indirect clients, linked FMIs or trading venues shall form</i></b> part of the operating rules of CCPs.	

Nr.	Ref.	COM	Council	EP
354.	Art. 9 - para. 9 - subpara 1 b (new)		CCPs shall ensure that the measures set out in the recovery plans are enforceable at all times <i>in all jurisdictions where the clearing members, linked FMIs or trading venues are located.</i>	
355.	Art. 9 - para. 9 - subpara. 1c (new)		<i>In order to ensure the common, uniform and consistent application of paragraph 2, ESMA shall issue guidelines to specify the minimum list of qualitative and quantitative indicators by [12 months after the date of entry into force of this Regulation].</i>	
356.	Art. 9 - para. 9 a (new)			<i>9a. CCPs shall make the items listed at points (a) to (g) of paragraph 7e publicly available. The items listed at points (h) to (l) of that paragraph should be publicly available to the extent there is public interest in transparency of these</i>



Nr.	Ref.	COM	Council	EP
				<i>items. Clearing members shall ensure that any provisions affecting their clients are adequately communicated to them.</i>
357.	Art. 9 - para. 9 b (new)			<i>9b. National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to measures taken by a CCP in accordance with its recovery plan established under this Regulation.</i>
358.	Art. 9 a (new) - title		<i>Article 9a</i>  <i>Use of own resources in recovery</i>	
359.	Art. 9 a (new) - para. 1		<i>The CCP shall use its own resources, held by the CCP to comply with Article 16 of Regulation (EU) No 648/2012, as a recovery measure before resorting to</i>	

Nr.	Ref.	COM	Council	EP
			<i>other recovery measures requiring financial contributions from clearing members. The mandatory use of own resources shall be equal in amount to what the CCP is obliged to keep pursuant to Article 45(4) of Regulation (EU) No 648/2012 and the delegated act adopted on the basis of Article 45(5) of Regulation (EU) No 648/2012. This requirement shall not constitute additional capital requirements in excess of those required by Article 16 of Regulation (EU) No 648/2012.</i>	
360.	Art. 10 - title	Article 10 Assessment of recovery plans	Article 10 Assessment of recovery plans	Article 10 Assessment of recovery plans
361.	Art. 10 - para. 1	1. CCPs or, in cases where Article 11 applies their parent undertakings, shall submit their recovery plans to the competent authority for approval.	1. CCPs ■ shall submit their recovery plans to the competent authority ■	1. CCPs ■ shall submit their recovery plans to the competent authority ■ .

Nr.	Ref.	COM	Council	EP
362.	Art. 10 - para. 2 - subpara. 1	2. The competent authority shall transmit each plan to the college and to the resolution authority without undue delay.		2. The competent authority shall transmit each plan to the <b>supervisory</b> college and to the resolution authority without undue delay.
363.	Art. 10 - para. 2 - subpara. 2	Within six months of the submission of each plan, and in coordination with the college in accordance with the procedure in Article 12, the competent authority shall review the recovery plan and assess the extent to which it satisfies the requirements set out in Article 9.	<b><i>within 24 months after the date of entry into force of this Regulation. The competent authority shall review the recovery plan and assess the extent to which it satisfies the requirements set out in Article 9 within 6 months of the submission of the plan and in coordination with the supervisory college in accordance with the procedure in Article 12.</i></b>	Within six months of the submission of each plan, and in coordination with the <b>supervisory</b> college in accordance with the procedure in Article 12, the competent authority shall review the recovery plan and assess the extent to which it satisfies the requirements set out in Article 9.
364.	Art. 10 - para. 2 - subpara. 2		<b><i>2. The competent authority shall promptly transmit each plan to the supervisory college and to the resolution authority.</i></b>	

Nr.	Ref.	COM	Council	EP
365.	Art. 10 - para. 3	3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.	3. When assessing the recovery plan, the competent authority <b>and the supervisory college</b> shall take into consideration <b><i>the following factors:</i></b>	3. When assessing the recovery plan, the competent authority shall <b><i>consult the ESRB</i></b> and take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, <b><i>including in terms of financial, operational and cyber risks, the substitutability of its activities,</i></b> and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole <b><i>The competent authority shall take into due consideration whether the recovery plan will ensure appropriate incentives for the CCP's owners and clearing members and their clients to control the amount of risk that they bring to or incur in the</i></b>

Nr.	Ref.	COM	Council	EP
				<i>system. The competent authority shall encourage monitoring of the CCP's risk-taking and risk management activities, and encourage as full participation as possible in the CCP's default management process.</i>
366.	Art. 10 - para. 3 - point a (new)		<i>(a) the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure, <b>the substitutability of its activities</b> and the risk profile of the CCP</i> ;	
367.	Art. 10 - para. 3 - point b (new) - introd. part		<i>(b) the overall impact that the implementation of the recovery plan would have on:</i>	

Nr.	Ref.	COM	Council	EP
368.	Art. 10 - para. 3 - point b (new) - subpoint i		<i>i. clearing members, and to the extent the information is available, their clients and indirect clients, including where they have been designated as Other Systemically Important Institutions pursuant to Article 131 (3) of Directive 2013/36/EU;</i>	
369.	Art. 10 - para. 3 - point b (new) - subpoint ii		<i>ii. any linked FMIs;</i>	
370.	Art. 10 - para. 3 - point b (new) - subpoint		<i>iii. financial markets, including trading venues, served by the CCP; and</i>	

Nr.	Ref.	COM	Council	EP
	iii			
371.	Art. 10 - para. 3 - point b (new) - subpoint iv		<i>iv. the financial system of any Member State and the Union as a whole;</i>	
372.	Art. 10 - para. 3 - point c (new)		<i>(c) whether the recovery tools and their sequence specified by the recovery plan create appropriate incentives for the CCP's owners and clearing members as relevant to control the amount of risk that they bring to or incur in the system, monitor the CCP's risk-taking and risk management activities and assist in the CCP's default management process.</i>	
373.	Art. 10 -		<i>ESMA, in cooperation with the ESCB,</i>	

Nr.	Ref.	COM	Council	EP
	para. 3 - subpara. 1 a (new)		<i>shall develop draft regulatory technical standards specifying the methodology for assessing the factors referred to in points (a), (b) and (c) of the first subparagraph.</i>	
374.	Art. 10 - para. 3 - subpara. 1 b (new)		<i>ESMA shall submit those draft regulatory standards to the Commission by [PO please insert date: twelve months from the date of entry into force of this Regulation]</i>	
375.	Art. 10 - para. 3 - subpara. 1 c (new)		<i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>	
376.	Art. 10 - para. 3 a			<i>3a. When assessing the recovery plan, the competent authority shall only take</i>



Nr.	Ref.	COM	Council	EP
	(new)			<i>parental support agreements into consideration as valid parts of the recovery plan where those agreements are contractually binding.</i>
377.	Art. 10 - para. 3 a (new)		<i>3a. The supervisory college shall examine each recovery plan and where any member of the college considers that there are material deficiencies in the recovery plan or any material impediment to its implementation it shall make recommendations to the competent authority of the CCP with regard to those matters within two months of the transmission of each recovery plan by the competent authority.</i>	
378.	Art. 10 - para. 4	4. The resolution authority shall examine the recovery plan in order to identify any measures which may	4. The resolution authority shall examine the recovery plan in order to identify any measures which may	4. The resolution authority shall examine the recovery plan in order to identify any measures which may

Nr.	Ref.	COM	Council	EP
		adversely impact the resolvability of the CCP. The resolution authority shall make recommendations to the competent authority with regard to those matters.	adversely impact the resolvability of the CCP. <i>Should the resolution authority identify any such measures, the resolution authority shall make recommendations to the competent authority with regard to those matters within two months of the transmission of each recovery plan by the competent authority.</i>	adversely impact the resolvability of the CCP. <i>Where any such matters are identified, the resolution authority shall bring them to the attention of the competent authority and make recommendations to the competent authority on ways to address the adverse impact of those measures on the resolvability of the CCP.</i>
379.	Art. 10 - para. 5	5. Where the competent authority decides not to act on the recommendations of the resolution authority pursuant to paragraph 4, it shall justify that decision in full to the resolution authority.	5. Where the competent authority decides not to act on the recommendations of the resolution authority pursuant to paragraph 4, it shall justify that decision in full to the resolution authority.	5. Where the competent authority decides not to act on the recommendations of the resolution authority pursuant to paragraph 4, it shall justify that decision in full to the resolution authority.
380.	Art. 10 - para. 6	6. Where the competent authority agrees with the recommendations of the resolution authority, or otherwise considers that there are material	6. Where the competent authority agrees with the recommendations of the resolution authority, or ■ considers <i>in co-ordination with the supervisory</i>	6. Where the competent authority agrees with the recommendations of the resolution authority, or otherwise considers that there are material

Nr.	Ref.	COM	Council	EP
		deficiencies in the recovery plan or material impediments to its implementation, it shall notify the CCP or its parent undertaking and shall give the CCP the opportunity to submit its views.	<i>college in accordance with Article 12</i> that there are material deficiencies in the recovery plan or material impediments to its implementation, it shall notify the CCP ■ and shall give <i>it</i> the opportunity to submit its views.	deficiencies in the recovery plan or material impediments to its implementation, it shall notify the CCP or its parent undertaking and shall give the CCP the opportunity to submit its views.
381.	Art. 10 - para. 7	7. The competent authority, taking into account the CCP's views, may require the CCP or the parent undertaking to submit, within two months, extendable by one month with the competent authority's approval, a revised plan demonstrating how those deficiencies or impediments are addressed. The revised plan shall be assessed in accordance with the second subparagraph of paragraph 2.	7. The competent authority, taking into account the CCP's views, may require the CCP ■ to submit, within two months, extendable by one month with the competent authority's approval, a revised plan demonstrating how those deficiencies or impediments are addressed. The revised plan shall be assessed in accordance with <i>paragraphs 2, 3, 3a, 4, 5, 6 and 7 of this Article</i> .	7. The competent authority, taking into account the CCP's views, may require the CCP or the parent undertaking to submit, within two months, extendable by one month with the competent authority's approval, a revised plan demonstrating how those deficiencies or impediments are addressed. The revised plan shall be assessed in accordance with the second subparagraph of paragraph 2.
382.	Art. 10 - para. 8	8. Where the competent authority considers that the deficiencies and	8. Where the competent authority, <i>after consulting the resolution</i>	8. Where the competent authority considers that the deficiencies and

Nr.	Ref.	COM	Council	EP
		impediments have not been adequately addressed by the revised plan, or where the CCP or parent undertaking has not submitted a revised plan, it shall require the CCP or the parent undertaking to make specific changes to the plan.	<i>authority and in coordination with the supervisory college in accordance with Article 12</i> , considers that the deficiencies and impediments have not been adequately addressed by the revised plan, or where the CCP ■ has not submitted a revised plan, it shall require the CCP ■ to make specific changes to the plan <i>within a reasonable period, as defined by the competent authority</i> .	impediments have not been adequately addressed by the revised plan, or where the CCP or parent undertaking has not submitted a revised plan, it shall require the CCP or the parent undertaking to make specific changes to the plan.
383.	Art. 10 - para. 9 - supbara. 1	9. Where it is not possible to adequately remedy the deficiencies or impediments through specific changes to the plan, the competent authority shall require the CCP or the parent undertaking to identify within a reasonable timeframe any changes to be made to its business in order to	9. Where it is not possible to adequately remedy the deficiencies or impediments through specific changes to the plan, the competent authority ■ <i>after consulting the resolution authority and in coordination with the supervisory college in accordance with the procedure in Article 12</i> , shall	9. Where it is not possible to adequately remedy the deficiencies or impediments through specific changes to the plan, the competent authority shall require the CCP or the parent undertaking to identify within a reasonable timeframe any changes to be made to its business in order to address the deficiencies in or

Nr.	Ref.	COM	Council	EP
		address the deficiencies in or impediments to the implementation of the recovery plan.	<i>require the CCP</i> to identify within a reasonable timeframe any changes to be made to its business in order to address the deficiencies in or impediments to the implementation of the recovery plan.	impediments to the implementation of the recovery plan.
384.	Art. 10 - para. 9 - suppara. 2 - introd. part	Where the CCP or parent undertaking fails to identify such changes within the timeframe set by the competent authority, or where the competent authority considers that the actions proposed would not adequately address the deficiencies or impediments to the implementation of the recovery plan, the competent authority shall require the CCP or parent undertaking to take any of the following measures, taking into account the seriousness of the	Where the CCP ■ fails to identify such changes within the timeframe set by the competent authority, or where the competent authority, <i>after consulting the resolution authority and in coordination with the supervisory college in accordance with the procedures in Article 12,</i> considers that the actions proposed would not adequately address the deficiencies or impediments to the implementation of the recovery plan, the competent authority shall require the CCP ■ to take	Where the CCP or parent undertaking fails to identify such changes within the timeframe set by the competent authority, or where the competent authority considers that the actions proposed would not adequately address the deficiencies or impediments to the implementation of the recovery plan, <i>or improve the resolvability of the CCP,</i> the competent authority shall require the CCP or parent undertaking, <i>within a reasonable period of time specified by the competent authority,</i> to take any of the following

Nr.	Ref.	COM	Council	EP
		deficiencies and impediments and the effect of the measures on the CCP's business:	<i>within a reasonable period, as defined by the competent authority, specified actions with regard to one or more of the following objectives, taking into account the seriousness of the deficiencies and impediments and the effect of the measures on the CCP's business and ability to remain in compliance with Regulation (EU) 648/2012:</i>	measures, taking into account the seriousness of the deficiencies and impediments, the effect of the measures on the CCP's business <i>and the ability of the CCP to remain in compliance with Regulation (EU) No 648/2012:</i>
385.	Art. 10 - para. 9 - subpara. 2 - point a	(a) to reduce the risk profile of the CCP;	(a) to reduce the risk profile of the CCP;	(a) to reduce the risk profile of the CCP;
386.	Art. 10 - para. 9 - subpara. 2 - point b	(b) to enhance the CCP's ability to be recapitalised in a timely manner to meet its prudential requirements;	(b) to enhance the CCP's ability to be recapitalised in a timely manner to meet its <i>capital and</i> prudential requirements;	(b) to enhance the CCP's ability to be recapitalised in a timely manner to meet its prudential requirements;

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
387.	Art. 10 - para. 9 - supbara. 2 - point c	(c) to review the CCP's strategy and structure;	(c) to review the CCP's strategy and structure;	(c) to review the CCP's strategy and structure;
388.	Art. 10 - para. 9 - supbara. 2 - point d	(d) to make changes to the default waterfall, recovery measures and other loss allocation arrangements so as to improve resolvability and the resilience of critical functions;	(d) to make changes to the default waterfall, recovery measures and other loss allocation arrangements so as to improve resolvability and the resilience of critical functions;	(d) to make changes to the default waterfall, recovery measures and other loss allocation arrangements so as to improve resolvability and the resilience of critical functions;
389.	Art. 10 - para. 9 - supbara. 2 - point e	(e) to make changes to the governance structure of the CCP.	(e) to make changes to the governance structure of the CCP.	(e) to make changes to the governance structure of the CCP.
390.	Art. 10 - para. 10	10. The request referred to in the second subparagraph of paragraph 9 shall be reasoned and be notified in writing to the CCP.	10. The request referred to in the second subparagraph of paragraph 9 shall be reasoned and be notified in writing to the CCP.	10. The request referred to in the second subparagraph of paragraph 9 shall be reasoned and be notified in writing to the CCP.

Nr.	Ref.	COM	Council	EP
391.	Art. 10 - para. 10 a (new) - subpara. 1			<i>10a. ESMA shall develop draft regulatory technical standards specifying the minimum criteria that the competent authority is to assess for the purposes of the assessment of paragraph 2 of this Article and of Article 11(1).</i>
392.	Art. 10 - para. 10 a (new) - subpara. 2			<i>ESMA shall submit those draft regulatory technical standards to the Commission by ... [12 months after the entry into force of this regulation].</i>
393.	Art. 10 - para. 10 a (new) - subpara. 3			<i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>
394.	Art. 11 - title	Article 11	I	Article 11



Nr.	Ref.	COM	Council	EP
		Recovery plans for CCPs that belong to a group		Recovery plans for CCPs that belong to a group
395.	Art. 11 - para. 1 - subpara. 1	1. Where the parent undertaking of the group to which a CCP belongs is an institution as defined in point 23 of Article 2(1) of Directive 2014/59/EU or an entity referred to in point (c) or (d) of Article 1(1) of that Directive, the competent authority, as referred to in point 21 of Article 2(1) of that Directive, shall require the parent undertaking to submit a recovery plan for the group in accordance with that Directive. That competent authority shall submit the recovery plan for the group to the competent authority of the CCP.		1. Where the parent undertaking of the group to which a CCP belongs is an institution as defined in point 23 of Article 2(1) of Directive 2014/59/EU or an entity referred to in point (c) or (d) of Article 1(1) of that Directive, the competent authority, as referred to in point 21 of Article 2(1) of that Directive, shall require the parent undertaking to submit a recovery plan for the group in accordance with that Directive. That competent authority shall submit the recovery plan for the group to the competent authority of the CCP.
396.	Art. 11 - para. 1 -	Where the parent undertaking of the group to which a CCP belongs is not		Where the parent undertaking of the group to which a CCP belongs is not an

Nr.	Ref.	COM	Council	EP
	subpara. 2	an institution or entity referred to in the first subparagraph and where appropriate in order to meet the criteria of Section A of the Annex, competent authorities may, after consulting the college and in accordance with the procedure laid down in Article 10 of this Regulation, require the parent undertaking to submit a plan for the recovery of the CCP as part of the recovery plan for the group. That request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.		institution or entity referred to in the first subparagraph and where <i>necessary</i> in order to <i>assess all elements</i> of Section A of the Annex, competent authorities may <b>■</b> in accordance with the procedure laid down in Article 10 of this Regulation, require the <b>CCP</b> to submit a plan for the recovery of the CCP <i>taking into account all relevant elements related to</i> the group <i>structure. Such a</i> request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.
397.	Art. 11 - para. 2	2. Where the parent undertaking submits the recovery plan in accordance with paragraph 1, the provisions on the recovery of the CCP	<b>■</b>	2. Where the parent undertaking submits the recovery plan in accordance with <i>the first subparagraph of</i> paragraph 1, the provisions on the recovery of the

Nr.	Ref.	COM	Council	EP
		shall constitute a distinct part of that recovery plan and shall comply with the requirements of this Regulation and the CCP shall not be required to prepare an individual recovery plan.		CCP shall constitute a distinct part of that recovery plan and shall comply with the requirements of this Regulation and the CCP <i>may</i> not be required to prepare an individual recovery plan.
398.	Art. 11 - para. 3	3. The competent authority of the CCP shall assess in accordance with Article 10 the provisions on the recovery of the CCP, and, where relevant, shall consult the competent authority of the group.		3. The competent authority of the CCP shall assess in accordance with Article 10 the provisions on the recovery of the CCP, and, where relevant, shall consult the competent authority of the group.
399.	Art. 12 - title	Article 12 Coordination procedure for recovery plans	Article 12 Coordination procedure for recovery plans	Article 12 Coordination procedure for recovery plans
400.	Art. 12 - para. 1 - introd. part	1. The college shall reach a joint decision on all of the following issues:	1. The <i>supervisory</i> college shall reach a joint decision on all of the following issues:	1. The <i>supervisory</i> college shall reach a joint decision on all of the following issues:

Nr.	Ref.	COM	Council	EP
401.	Art. 12 - para. 1 - point a	(a) the review and assessment of the recovery plan;	(a) the review and assessment of the recovery plan;	(a) the review and assessment of the recovery plan;
402.	Art. 12 - para. 1 - point b	(b) the application of the measures referred to in Article 9(6), (7), (8) and (9);	(b) the application of the measures referred to in Article <b>10</b> (6), (7), (8) and (9);	(b) the application of the measures referred to in Article 9(6), (7), (8) and (9);
403.	Art. 12 - para. 1 - point c	(c) whether a recovery plan is to be drawn up by parent undertakings in accordance with Article 11(1).	■	(c) whether a recovery plan is to be drawn up by parent undertakings in accordance with Article 11(1).
404.	Art. 12 - para. 2 - subpara. 1	2. The college shall reach a joint decision on the issues referred to in points (a) and (b) within four months of the date of the transmission of the recovery plan by the competent authority.	2. The <b>supervisory</b> college shall reach a joint decision on the issues referred to in points (a) and (b) <b>of paragraph 1</b> within four months of the date of the transmission of the recovery plan by the competent authority.	2. The college shall reach a joint decision on the issues referred to in points (a) and (b) within four months of the date of the transmission of the recovery plan by the competent authority.
405.	Art. 12 - para. 2 -	The college shall reach a joint decision on the issue referred to in point (c)	■	The college shall reach a joint decision on the issue referred to in point (c) within

Nr.	Ref.	COM	Council	EP
	subpara. 2	within four months of the date that the competent authority decides to request the parent undertaking to prepare a group plan.		four months of the date that the competent authority decides to request the parent undertaking to prepare a group plan.
406.	Art. 12 - para. 2 - subpara. 3	ESMA may, at the request of a competent authority within the college, assist the college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.	ESMA may, at the request of a competent authority within the <i>supervisory</i> college, assist the college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.	ESMA may, at the request of a competent authority within the college, assist the <i>supervisory</i> college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.
407.	Art. 12 - para. 3 - subpara. 1	3. Where, after four months from the date of transmission of the recovery plan, the college has failed to reach a joint decision on the issues referred to in points (a) and (b) of paragraph 1, the competent authority of the CCP shall make its own decision.	3. Where, after four months from the date of transmission of the recovery plan, the college has failed to reach a joint decision on the issues referred to in points (a) and (b) of paragraph 1, the competent authority of the CCP shall make its own decision.	3. Where, after four months from the date of transmission of the recovery plan, the college has failed to reach a joint decision on the issues referred to in points (a) and (b) of paragraph 1, the competent authority of the CCP shall make its own decision.
408.	Art. 12 -	The competent authority of the CCP	The competent authority of the CCP	The competent authority of the CCP shall

Nr.	Ref.	COM	Council	EP
	para. 3 - subpara. 2	shall make the decision referred to in the first subparagraph taking into account the views of the other college members expressed during the four-month period. The competent authority of the CCP shall notify in writing that decision to the CCP, to its parent undertaking, where relevant, and to the other members of the college.	shall make the decision referred to in the first subparagraph taking into account the views of the other college members expressed during the four-month period. The competent authority of the CCP shall notify in writing that decision to the CCP ■ and to the other members of the college.	make the decision referred to in the first subparagraph taking into account the views of the other college members expressed during the four-month period. The competent authority of the CCP shall notify in writing that decision to the CCP, to its parent undertaking, where relevant, and to the other members of the college.
409.	Art. 12 - para. 4	4. Where, by the end of that four-month period, any member of the college has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the assessment of recovery plans and implementation of the measures pursuant to points (a), (b) and (d) of Article 10(9) of this	4. Where, by the end of that four-month period <b><i>a joint decision has not been reached</i></b> , any <b><i>voting</i></b> member of the college, <b><i>based on a majority of the voting members</i></b> has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the assessment of recovery plans and implementation of the	4. Where, by the end of that four-month period, <b><i>any group of members</i></b> of the supervisory college <b><i>representing a simple majority of the members of this college</i></b> , has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the assessment of recovery plans and implementation of the measures pursuant

Nr.	Ref.	COM	Council	EP
		Regulation, the competent authority of the CCP shall await the decision taken by ESMA in accordance with Article 19(3) of Regulation (EU) No 1095/2010 and decide in accordance with the decision of ESMA.	measures pursuant to points (a), (b) and (d) of Article 10(9) of this Regulation, the competent authority of the CCP shall await the decision taken by ESMA in accordance with Article 19(3) of Regulation (EU) No 1095/2010 and decide in accordance with the decision of ESMA.	to points (a), (b) and (d) of Article 10(9) of this Regulation, the competent authority of the CCP shall await the decision taken by ESMA in accordance with Article 19(3) of Regulation (EU) No 1095/2010 and decide in accordance with the decision of ESMA.
410.	Art. 12 - para. 5	5. The four-month period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the	5. The four-month period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the	5. The four-month period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the competent

Nr.	Ref.	COM	Council	EP
		competent authority of the CCP shall apply.	competent authority of the CCP shall apply.	authority of the CCP shall apply.
411.	Section 2	SECTION 2 RESOLUTION PLANNING	SECTION 2 RESOLUTION PLANNING	SECTION 2 RESOLUTION PLANNING
412.	Art. 13 - title	Article 13 Resolution plans	Article 13 Resolution plans	Article 13 Resolution plans
413.	Art. 13 - para. 1	1. The resolution authority shall, after consultation with the competent authority and in coordination with the resolution college, in accordance with the procedure set out in Article 15, draw up a resolution plan for each CCP.	1. The resolution authority <i>of the CCP</i> shall, after consultation with the competent authority and in coordination with the resolution college, in accordance with the procedure set out in Article 15, draw up a resolution plan for <i>the</i> CCP.	1. The resolution authority of the CCP shall, after consultation with the competent authority <i>and ESMA</i> and in coordination with the resolution college, in accordance with the procedure set out in Article 15, draw up a resolution plan for each CCP.
414.	Art. 13 - para. 2	2. The resolution plan shall provide for the resolution actions that the resolution authority may take where the CCP meets the conditions for	2. The resolution plan shall provide for the resolution actions that the resolution authority may take where the CCP meets the conditions for resolution	2. The resolution plan shall provide for the resolution actions that the resolution authority may take where the CCP meets the conditions for resolution referred to in



Nr.	Ref.	COM	Council	EP
		resolution referred to in Article 22.	referred to in Article 22.	Article 22.
415.	Art. 13 - para. 3 - introd. part	3. The resolution plan shall take into consideration at least the following:	3. The resolution plan shall take into consideration at least the following:	3. The resolution plan shall take into consideration at least the following:
416.	Art. 13 - para. 3 - point a - introd. part	(a) the CCP's failure due to:	(a) the CCP's failure due to <b><i>one of the following or any combination thereof.</i></b>	(a) the CCP's failure due to:
417.	Art. 13 - para. 3 - point a - subpoint i	i. the default of one or more of its members;	i. the default of one or more of its members;	i. <b><i>default events;</i></b>
418.	Art. 13 - para. 3 - point a - subpoint	ii. other reasons including losses from its investment activities or operational problems;	ii. other reasons including losses from its investment activities or operational problems;	ii. <b><i>non-default events;</i></b>

Nr.	Ref.	COM	Council	EP
	ii			
419.	Art. 13 - para. 3 - point a - subpoint iii	iii. broader financial instability or system wide events;	iii. broader financial instability or system wide events;	iii. broader financial instability or system wide events;
420.	Art. 13 - para. 3 - point b	(b) the impact that the implementation of the resolution plan would have on clearing members and their clients, including where clearing members are likely to be subject to recovery measures or resolution actions in accordance with Directive 2014/59/EU, on any linked FMIs, financial markets served by the CCP and the financial system as a whole;	(b) the impact that the implementation of the resolution plan would have on :	(b) the impact that the implementation of the resolution plan would have on clearing members and their clients, including where clearing members are likely to be subject to recovery measures or resolution actions in accordance with Directive 2014/59/EU, on any linked FMIs, financial markets served by the CCP and the financial system as a whole;
421.	Art. 13 - para. 3 -		<i>i.</i> clearing members, and <i>to the extent the information is available,</i> their	

Nr.	Ref.	COM	Council	EP
	point b - subpoint i (new)		clients <i>and indirect clients</i> , including where <i>they have been designated as Other Systemically Important Institutions pursuant to Article 131 (3) of Directive 2013/36/EU and those</i> likely to be subject to recovery measures or resolution actions in accordance with Directive 2014/59/EU <b>I</b> ;	
422.	Art. 13 - para. 3 - point b - subpoint ii (new)		<i>ii. any linked FMIs;</i>	
423.	Art. 13 - para. 3 - point b - subpoint iii (new)		<i>iii. financial markets, including trading venues, served by the CCP; and</i>	

Nr.	Ref.	COM	Council	EP
424.	Art. 13 - para. 3 - point b - subpoint iv (new)		<i>iv. the financial system in any Member State or the Union as a whole;</i>	
425.	Art. 13 - para. 3 - point c	(c) the manner and the circumstances under which a CCP may apply for the use of central bank facilities and the identification of the assets that would be expected to qualify as collateral.	(c) the manner and the circumstances under which a CCP may apply for the use of central bank facilities <b><i>provided under standard collateralisation, tenor and interest rate terms</i></b> and the identification of the assets that would be expected to qualify as collateral.	(c) the manner and the circumstances under which a CCP may apply for the use of central bank facilities and the identification of the assets that would be expected to qualify as collateral.
426.	Art. 13 - para. 4 - introd. part	4. The resolution plan shall not assume any of the following:	4. The resolution plan shall not assume any of the following:	4. The resolution plan shall not assume any of the following:
427.	Art. 13 - para. 4 -	(a) extraordinary public financial support;	(a) extraordinary public financial support;	(a) ■ public financial support;

Nr.	Ref.	COM	Council	EP
	point a			
428.	Art. 13 - para. 4 - point b	(b) central bank emergency liquidity assistance;	(b) central bank emergency liquidity assistance;	(b) central bank emergency liquidity assistance;
429.	Art. 13 - para. 4 - point c	(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.	(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.	(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.
430.	Art. 13 - para. 4 a (new)			<i>4a. The resolution plan shall make prudent assumptions regarding the financial resources available as resolution tools that may be required to achieve the resolution objectives and the resources that it expects to be available in accordance with the CCPs rules and arrangements at the time of entering into resolution. Those prudent assumptions shall be based on the</i>

Nr.	Ref.	COM	Council	EP
				<i>findings of latest stress tests carried out in accordance with Article 5(2a) and still be valid in scenarios of extreme market conditions compounded by the recovery or resolution of one or more other CCPs, including the default of one or several additional clearing members beyond the two clearing members to which the CCP has the largest exposures.</i>
431.	Art. 13 - para. 5 - subpara. 1	5. Resolution authorities shall review resolution plans and where appropriate update them, at least annually and in any case after changes to the legal or organisational structure of the CCP, its business or financial situation or any other change that materially affects the effectiveness of the plan.	5. <i>The resolution authority of a CCP shall, after consultation with the competent authority and in coordination with the resolution college in accordance with the procedure in Article 15,</i> review resolution plans and where appropriate update them, at least annually and in any case after changes to the legal or	5. Resolution authorities shall review resolution plans and where appropriate update them, at least annually and in any case after changes to the legal or organisational structure of the CCP, its business or financial situation or any other change that materially affects the effectiveness of the plan.

Nr.	Ref.	COM	Council	EP
			organisational structure of the CCP, its business or financial situation or any other change that materially affects the effectiveness of the plan.	
432.	Art. 13 - para. 5 - subpara. 2	The CCPs and the competent authorities shall promptly inform the resolution authorities of any such change.	The <b>CCP</b> and the competent <b>authority</b> shall promptly inform the resolution <b>authority</b> of any such change.	The CCPs and the competent authorities shall promptly inform the resolution authorities of any such change.
433.	Art. 13 - para. 5 a (new)			<i>5a. The resolution plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on the circumstances referred to in, respectively, points i), ii) and iii) of point a) of paragraph 3.</i>
434.	Art. 13 - para. 6 - introd.	6. The resolution plan shall specify the circumstances and different scenarios for using the resolution tools	6. The resolution plan shall specify the circumstances and different scenarios for using the resolution tools and	6. The resolution plan shall specify the circumstances and different scenarios for using the resolution tools and exercising

Nr.	Ref.	COM	Council	EP
	part	and exercising the resolution powers. The resolution plan shall include the following, quantified whenever appropriate and possible:	exercising the resolution powers. <i>It shall clearly distinguish between failure caused by default events, non-default events, and a combination of both, as well as between different types of non-default events</i> . The resolution plan shall include the following, quantified whenever appropriate and possible:	the resolution powers. The resolution plan shall include the following, quantified whenever appropriate and possible:
435.	Art. 13 - para. 6 - point a	(a) a summary of the key elements of the plan;	(a) a summary of the key elements of the plan <i>on the basis of the distinction referred to in the first subparagraph;</i>	(a) a summary of the key elements of the plan <i>deferentiating between default events, non-default events and a combination of the two;</i>
436.	Art. 13 - para. 6 - point b	(b) a summary of the material changes to the CCP that have occurred since the resolution plan was last updated;	(b) a summary of the material changes to the CCP that have occurred since the resolution plan was last updated;	(b) a summary of the material changes to the CCP that have occurred since the resolution plan was last updated;
437.	Art. 13 - para. 6 -	(c) a demonstration of how the CCP's critical functions could be legally and	(c) <i>an assessment</i> of how <i>and whether</i> the CCP's critical functions could be	(c) a demonstration of how the CCP's critical functions could be legally and



Nr.	Ref.	COM	Council	EP
	point c	economically separated, to the extent necessary, from its other functions so as to ensure their continuity upon the failure of the CCP;	legally and economically separated, to the extent necessary, from its other functions so as to ensure their continuity <b>■</b> <i>in the resolution</i> of the CCP;	economically separated, to the extent necessary, from its other functions so as to ensure their continuity upon <b>entry into all possible forms of resolution</b> , including <b>■</b> failure, of the CCP;
438.	Art. 13 - para. 6 - point d	(d) an estimation of the timeframe for executing each material aspect of the plan;	(d) an estimation of the timeframe for <b>implementing</b> each material aspect of the plan;	(d) an estimation of the timeframe for <b>carrying out</b> each material aspect of the plan, <b>including for replenishing the CCP's financial resources</b> ;
439.	Art. 13 - para. 6 - point e	(e) a detailed description of the assessment of resolvability carried out in accordance with Article 16;	(e) a detailed description of the assessment of resolvability carried out in accordance with Article 16;	(e) a detailed description of the assessment of resolvability carried out in accordance with Article 16;
440.	Art. 13 - para. 6 - point f	(f) a description of any measures required pursuant to Article 17 to address or remove impediments to resolvability identified as a result of the assessment carried out in accordance with Article 16;	(f) a description of any measures required pursuant to Article 17 to address or remove impediments to resolvability identified as a result of the assessment carried out in accordance with Article 16;	(f) a description of any measures required pursuant to Article 17 to address or remove impediments to resolvability identified as a result of the assessment carried out in accordance with Article 16;

Nr.	Ref.	COM	Council	EP
441.	Art. 13 - para. 6 - point g	(g) a description of the processes for determining the value and marketability of the critical functions and assets of the CCP;	(g) a description of the processes for determining the value and marketability of the critical functions and assets of the CCP;	(g) a description of the processes for determining the value and marketability of the critical functions and assets of the CCP;
442.	Art. 13 - para. 6 - point h	(h) a detailed description of the arrangements for ensuring that the information required pursuant to Article 14 is up to date and available to the resolution authorities at all times;	(h) a detailed description of the arrangements for ensuring that the information required pursuant to Article 14 is up to date and available to the resolution authorities at all times;	(h) a detailed description of the arrangements for ensuring that the information required pursuant to Article 14 is up to date and available to the resolution authorities at all times;
443.	Art. 13 - para. 6 - point i	(i) an explanation as to how resolution actions could be financed without the assumption of the elements referred to in paragraph 4;	(i) an explanation as to how resolution actions <i>will</i> be financed without the assumption of the elements referred to in paragraph 4;	(i) an explanation as to how resolution actions could be financed without the assumption of the elements referred to in paragraph 4;
444.	Art. 13 - para. 6 - point j	(j) a detailed description of the different resolution strategies that could be applied according to the different possible scenarios and their	(j) a detailed description of the different resolution strategies that could be applied according to the different possible scenarios and their related	(j) a detailed description of the different resolution strategies that could be applied according to the different possible scenarios and their related timeframes;

Nr.	Ref.	COM	Council	EP
		related timeframes;	timeframes;	
445.	Art. 13 - para. 6 - point k	(k) a description of critical interdependencies between the CCP and other market participants;	(k) a description of critical interdependencies between the CCP, <i>critical service providers</i> and other market participants <i>and interoperability arrangements and links with other FMIs;</i>	(k) a description of critical interdependencies between the CCP and other market participants, <i>including intragroup interdependencies, interoperability arrangements and links with other FMIs, together with the ways of addressing such interdependencies;</i>
446.	Art. 13 - para. 6 - point k a (new)		<i>(ka) a description of critical intra-group interdependencies;</i>	
447.	Art. 13 - para. 6 - point l - introd. part	(l) a description of the different options to ensure:	(l) a description of the different options to ensure:	(l) a description of the different options to ensure:
448.	Art. 13 -	i. access to payments and clearing	i. access to payments and clearing	i. access to payments and clearing

Nr.	Ref.	COM	Council	EP
	para. 6 - point 1 - subpoint i	services and other infrastructures;	services and other infrastructures;	services and other infrastructures;
449.	Art. 13 - para. 6 - point 1 - subpoint ii	ii. timely settlement of obligations due to clearing participants and any linked FMIs;	ii. timely settlement of obligations due to clearing <i>members and, where applicable, their clients</i> and any linked FMIs;	ii. timely settlement of obligations due to clearing <i>members and their clients</i> and any linked FMIs;
450.	Art. 13 - para. 6 - point 1 - subpoint iii	iii. access of clearing participants to securities or cash accounts provided by the CCP and securities or cash collateral posted to and held by the CCP that is owed to such participants;	iii. access of clearing <i>members, and, where applicable, their clients on a transparent and non-discriminatory basis</i> to securities or cash accounts provided by the CCP and securities or cash collateral posted to and held by the CCP that is owed to such participants;	iii. access of clearing <i>members and their clients</i> to securities or cash accounts provided by the CCP and securities or cash collateral posted to and held by the CCP that is owed to such participants <i>on a transparent and non-discriminatory basis</i> ;
451.	Art. 13 - para. 6 - point 1 -	iv. continuity in the operations of links between the CCP and other FMIs;	iv. continuity in the operations of links between the CCP and other FMIs;	iv. continuity in the operations of links between the CCP and other FMIs;

Nr.	Ref.	COM	Council	EP
	subpoint iv			
452.	Art. 13 - para. 6 - point I - subpoint v	v. the portability of the positions of clearing participants;	v. the portability of the positions <i>and related assets</i> of <i>direct and indirect clients is not affected</i> ;	v. the portability of the assets and positions of the clients <i>and indirect clients</i> of clearing members, as <i>set out</i> in Article 39 of Regulation (EU) No 648/2012;
453.	Art. 13 - para. 6 - point I - subpoint vi	vi. preservation of the licenses, authorisations, recognitions and legal designations of a CCP necessary for the continued performance of the CCP's critical functions including its recognition for the purposes of the application of the relevant settlement finality rules and the participation in or links with other FMIs;	vi. preservation of the licenses, authorisations, recognitions and legal designations of a CCP <i>where</i> necessary for the continued performance of the CCP's critical functions including its recognition for the purposes of the application of the relevant settlement finality rules and the participation in or links with other FMIs;	vi. preservation of the licenses, authorisations, recognitions and legal designations of a CCP <i>where</i> necessary for the continued performance of the CCP's critical functions including its recognition for the purposes of the application of the relevant settlement finality rules and the participation in or links with other FMIs;
454.	Art. 13 - para. 6 -			<i>(la) a description of the approach that the resolution authority plans to follow</i>

Nr.	Ref.	COM	Council	EP
	point l a (new)			<i>in order to determine the scope and value of any contracts to be terminated in accordance with Article 29;</i>
455.	Art. 13 - para. 6 - point m	(m) an analysis of the impact of the plan on the employees of the CCP, including an assessment of any associated costs, and a description of envisaged procedures to consult with staff during the resolution process, taking into account any national rules and systems for dialogue with social partners;	(m) an analysis of the impact of the plan on the employees of the CCP, including an assessment of any associated costs, and a description of envisaged procedures to consult with staff during the resolution process, taking into account any national rules and systems for dialogue with social partners;	(m) an analysis of the impact of the plan on the employees of the CCP, including an assessment of any associated costs, and a description of envisaged procedures to consult with staff during the resolution process, taking into account any national rules and systems for dialogue with social partners;
456.	Art. 13 - para. 6 - point n	(n) a plan for communicating with the media and the public;	(n) a plan for communicating with the media and the public;	(n) a plan for communicating with the media and the public <i>so as to be as transparent as possible;</i>
457.	Art. 13 - para. 6 - point o	(o) a description of essential operations and systems for maintaining the continuous	(o) a description of essential operations and systems for maintaining the continuous functioning of the CCP's	(o) a description of essential operations and systems for maintaining the continuous functioning of the CCP's

Nr.	Ref.	COM	Council	EP
		functioning of the CCP's operational processes.	operational processes ;	operational processes.
458.	Art. 13 - para. 6 - point o a (new)			<i>(oa) a description of the arrangements for exchanging information within the resolution college prior to and during resolution, in line with the written arrangements and procedures for the functioning of the resolution colleges referred to in paragraph 1 of Article 4.</i>
459.	Art. 13 - para. 6 - point o b (new)		<i>(p) a description of the measures to facilitate the portability of positions and related assets of the clearing members and clients of the defaulting CCP from the defaulting CCP to another CCP or a bridge CCP while not affecting the contractual relationships between the clearing members and their clients.</i>	

Nr.	Ref.	COM	Council	EP
460.	Art. 13 - para. 6 - subpara. 2	The information referred to in point (a) of paragraph 6 shall be disclosed to the CCP concerned. The CCP may express its opinion in writing on the resolution plan to the resolution authority. That opinion shall be included in the plan.	The information referred to in point (a) of paragraph 6 shall be disclosed to the CCP concerned. The CCP may express its opinion in writing on the resolution plan to the resolution authority. That opinion shall be included in the plan.	The information referred to in point (a) of paragraph 6 shall be disclosed to the CCP concerned. The CCP may express its opinion in writing on the resolution plan to the resolution authority. That opinion shall be included in the plan.
461.	Art. 13 - para. 7	7. Resolution authorities may require CCPs to provide them with detailed records of the contracts referred to in Article 29 of Regulation (EU) No 648/2012 to which it is a party. Resolution authorities may specify a time limit to provide those records and may specify different time limits for different types of contracts.		7. Resolution authorities may require CCPs to provide them with detailed records of the contracts referred to in Article 29 of Regulation (EU) No 648/2012 to which it is a party. Resolution authorities may specify a time limit to provide those records and may specify different time limits for different types of contracts.
462.	Art. 13 - para. 7 a			<b><i>7a. The Resolution Authority of the CCP shall cooperate closely with the Resolution Authorities of the CCP's</i></b>



Nr.	Ref.	COM	Council	EP
	(new)			<i>Clearing Member's with the aim of ensuring that there are no impediments to resolution.</i>
463.	Art. 13 - para. 8 - subpara. 1	8. ESMA, after consulting with the ESRB and taking into account the relevant provisions of Commission Delegated Regulation (EU) –/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 10(9) of Directive 2014/59/EU, shall develop draft regulatory technical standards further specifying the contents of the resolution plan in accordance with paragraph 6.	8. ESMA, after consulting with the ESRB and taking into account the relevant provisions of Commission Delegated Regulation (EU) ■ 2016/1075 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 10(9) of Directive 2014/59/EU, shall develop draft regulatory technical standards further specifying the contents of the resolution plan in accordance with paragraph 6.	8. ESMA, after consulting with the ESRB and taking into account the relevant provisions of Commission Delegated Regulation (EU) XXX/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 10(9) of Directive 2014/59EU, <b><i>and respecting the principle of proportionality</i></b> shall develop draft regulatory technical standards further specifying the contents of the Resolution Plan in accordance with paragraph 6.
464.	Art. 13 - para. 8 - subpara.			<i>When developing the draft regulatory technical standards, ESMA shall take into due consideration the level of</i>

Nr.	Ref.	COM	Council	EP
	1a (new)			<i>differentiation between national legal frameworks, in particular in the area of insolvency law, across the Union, as well the differing sizes and nature of CCPs established in the Union.</i>
465.	Art. 13 - para. 8 - subpara. 2	ESMA shall submit those draft regulatory technical standards to the Commission by [ <i>PO: please, insert date: twelve months from the date of entry into force of this Regulation</i> ].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <i>PO: please, insert date: twelve months from the date of entry into force of this Regulation</i> ].	ESMA shall submit those draft regulatory technical standards to the Commission by [ <i>PO: please, insert date: twelve months from the date of entry into force of this Regulation</i> ].
466.	Art. 13 - para. 8 - subpara. 3	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.
467.	Art. 14 - title	Article 14 CCPs' duty to cooperate and provide	Article 14 CCPs' duty to cooperate and provide	Article 14 CCPs' duty to cooperate and provide

Nr.	Ref.	COM	Council	EP
		information	information	information
468.	Art. 14 - para. 1	CCPs shall cooperate as necessary in the drawing up of resolution plans and provide the resolution authorities, either directly or through the competent authority, with all the information necessary to draw up and implement those plans, including the information and analysis specified in Section B of the Annex.	CCPs shall cooperate as necessary in drawing up of resolution plans and provide <i>their</i> resolution <i>authority</i> , either directly or through <i>their</i> competent authority, with all the information necessary to draw up and implement those plans, including the information and analysis specified in Section B of the Annex.	CCPs shall cooperate as necessary in the drawing up of resolution plans and provide the resolution authorities, either directly or through the competent authority, with all the information necessary to draw up and implement those plans, including the information and analysis specified in Section B of the Annex.
469.	Art. 14 - para. 2	Competent authorities shall provide resolution authorities with any information referred to in the first subparagraph which is already available to them.	Competent authorities shall provide resolution authorities with any information referred to in the first subparagraph which is already available to them.	Competent authorities shall provide resolution authorities with any information referred to in the first subparagraph which is already available to them.
470.	Art. 14 - para. 3 (new)		<i>Resolution authorities may require CCPs to provide them with detailed records of the contracts referred to in</i>	<i>A CCP shall exchange information on a timely manner with competent authorities and ESMA in order to</i>

Nr.	Ref.	COM	Council	EP
			<i>Article 29 of Regulation (EU) No 648/2012 to which it is a party. Resolution authorities may specify a time limit to provide those records and may specify different time limits for different types of contracts.</i>	<i>facilitate the assessment of the risk profiles of the CCP and the interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general as defined in Articles 9 and 10 of this Regulation.</i>
471.	Art. 15 - title	Article 15 Coordination procedure for resolution plans	Article 15 Coordination procedure for resolution plans	Article 15 Coordination procedure for resolution plans
472.	Art. 15 - para. 1	1. The resolution college shall reach a joint decision regarding the resolution plan and any changes thereto within a period of four months of the date of the transmission of that plan by the resolution authority as referred to in paragraph 2.	1. The resolution college shall reach a joint decision regarding the resolution plan and any changes thereto within a period of four months of the date of the transmission of that plan by the resolution authority as referred to in paragraph 2.	1. The resolution college shall reach a joint decision regarding the resolution plan and any changes thereto within a period of four months of the date of the transmission of that plan by the resolution authority as referred to in paragraph 2.
473.	Art. 15 -	2. The resolution authority shall	2. The resolution authority shall	2. The resolution authority shall

Nr.	Ref.	COM	Council	EP
	para. 2 - subpara. 1	transmit to the resolution college a draft resolution plan, the information provided in accordance with Article 14 and any additional information relevant to the resolution college.	transmit to the resolution college a draft resolution plan, the information provided in accordance with Article 14 and any additional information relevant to the resolution college.	transmit to the resolution college a draft resolution plan, the information provided in accordance with Article 14 and any additional information relevant to the resolution college.
474.	Art. 15 - para. 2 - subpara. 2	The resolution authority shall ensure that ESMA is provided with all the information that is relevant to its role in accordance with this Article.	The resolution authority shall ensure that ESMA is provided with all the information that is relevant to its role in accordance with this Article.	The resolution authority shall ensure that ESMA is provided with all the information that is relevant to its role in accordance with this Article.
475.	Art. 15 - para. 3 - introd. part	3. The resolution authority may decide to involve third country authorities in the drawing up and review of the resolution plan, provided that they meet the confidentiality requirements laid down in Article 71 and are from jurisdictions in which any of the following entities are established:	3. The resolution authority may decide to involve third country authorities in the <b>■</b> review of the resolution plan <b><i>in accordance with Article 4(4)</i></b> , provided that they meet the confidentiality requirements laid down in Article 71 and are from jurisdictions in which any of the following entities are established:	3. The resolution authority may decide to involve third country authorities in the drawing up and review of the resolution plan, provided that they meet the confidentiality requirements laid down in Article 71 and are from jurisdictions in which any of the following entities are established:

Nr.	Ref.	COM	Council	EP
476.	Art. 15 - para. 3 - point i	i. the CCP's parent undertaking, where applicable;	<b>(a)</b> the CCP's parent undertaking, where applicable;	i. the CCP's parent undertaking, where applicable;
477.	Art. 15 - para. 3 - point ii	ii. significant clearing members of the CCP;	<b>(b) clearing members of the CCP where their contribution to the default fund of the CCP is, on an aggregate basis over a one-year period, higher than those of the third Member State with the largest contributions as referred to in Article 18(2)(c) of Regulation (EU) No 648/2012;</b>	ii. clearing members <b>to which</b> the CCP <b>has significant exposure;</b>
478.	Art. 15 - para. 3 - point iii	iii. the CCP's subsidiaries, where applicable;	<b>(c)</b> the CCP's subsidiaries, where applicable;	iii. the CCP's subsidiaries, where applicable;
479.	Art. 15 - para. 3 - point iv	iv. other providers of critical services to the CCP.	<b>(d)</b> other providers of critical services to the CCP ;	iv. other providers of critical services to the CCP;

Nr.	Ref.	COM	Council	EP
480.	Art. 15 - para. 3 - point iv a (new)		<i>(e) interoperable CCPs.</i>	<i>iva. a CCP with interoperable arrangements with the CCP.</i>
481.	Art. 15 - para. 4	4. ESMA may, at the request of a resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.	4. ESMA may, at the request of a resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.	4. ESMA may, at the request of a resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.
482.	Art. 15 - para. 5	5. Where, after four months from the date of transmission of the resolution plan, the college has failed to reach a joint decision, the resolution authority shall make its own decision on the resolution plan. The resolution authority shall make its decision taking into account the views of the other college members expressed	5. Where, after four months from the date of transmission of the resolution plan, the <b>resolution</b> college has failed to reach a joint decision, the resolution authority shall make its own decision on the resolution plan. The resolution authority shall make its decision taking into account the views of the other college members expressed during the	5. Where, after four months from the date of transmission of the resolution plan, the <b>resolution</b> college has failed to reach a joint decision, the resolution authority shall make its own decision on the resolution plan. The resolution authority shall make its decision taking into account the views of the other <b>resolution</b> college members expressed

Nr.	Ref.	COM	Council	EP
		during the four-month period. The resolution authority shall notify in writing the decision to the CCP, to its parent undertaking where relevant, and to the other members of the college.	four-month period. The resolution authority shall notify in writing the decision to the CCP ■ and to the other members of the college.	during the four-month period. The resolution authority shall notify in writing the decision to the CCP, to its parent undertaking where relevant, and to the other members of the <i>resolution</i> college.
483.	Art. 15 - para. 6 - subpara. 1	6. Where, by the end of that four-month period, any member of the resolution college has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the resolution plan, the resolution authority of the CCP shall await any decision that ESMA may take in accordance with Article 19(3) of that Regulation and take its decision in accordance with the decision of ESMA.	6. Where, by the end of that four-month period, <i>a joint decision has not been reached</i> ,_any <i>voting</i> member of the ■ college, <i>based on a majority of the voting members</i> has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the resolution plan, the resolution authority of the CCP shall await any decision that ESMA may take in accordance with Article 19(3) of that Regulation and take its decision in accordance with the decision of ESMA.	6. Where, by the end of that four-month period, <i>any group of members</i> of the resolution college <i>representing a simple majority of the members of this college</i> , has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the resolution plan, the resolution authority of the CCP shall await any decision that ESMA may take in accordance with Article 19(3) of that Regulation and take its decision in accordance with the decision of ESMA.
484.	Art. 15 -	The four-month time period shall be	The four-month time period shall be	The four-month time period shall be



Nr.	Ref.	COM	Council	EP
	para. 6 - subpara. 2	deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.	deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.	deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.
485.	Art. 15 - para. 7	7. Where a joint decision is taken pursuant to paragraph 1 and any resolution authority considers under paragraph 6 that the subject matter of the disagreement impinges on the fiscal responsibilities of its Member State, the resolution authority of the CCP shall initiate a reassessment of	7. Where a joint decision is taken pursuant to paragraph 1 and any resolution authority <i>or competent ministry</i> considers under paragraph 6 that the subject matter of the disagreement impinges on the fiscal responsibilities of its Member State, the resolution authority of the CCP shall	7. Where a joint decision is taken pursuant to paragraph 1 and any resolution authority considers under paragraph 6 that the subject matter of the disagreement impinges on the fiscal responsibilities of its Member State, the resolution authority of the CCP shall initiate a reassessment of the resolution

Nr.	Ref.	COM	Council	EP
		the resolution plan.	initiate a reassessment of the resolution plan.	plan.
486.	Chapter 2 - title	CHAPTER II Resolvability	CHAPTER II Resolvability	CHAPTER II Resolvability
487.	Art. 16 - title	Article 16 Assessment of resolvability	Article 16 Assessment of resolvability	Article 16 Assessment of resolvability
488.	Art. 16 - para. 1 - introd. part	1. The resolution authority, in cooperation with the resolution college in accordance with Article 17, shall assess the extent to which a CCP is resolvable without assuming any of the following:	1. The resolution authority, in <b>coordination</b> with the resolution college in accordance with Article 17, <b>and after consultation with the competent authority</b> , shall assess the extent to which a CCP is resolvable without assuming any of the following:	1. The resolution authority, in cooperation with the resolution college in accordance with Article 17, shall assess the extent to which a CCP is resolvable without assuming any of the following:
489.	Art. 16 - para. 1 - point a	(a) extraordinary public financial support;	(a) extraordinary public financial support;	(a) ■ public financial support;
490.	Art. 16 -	(b) central bank emergency liquidity	(b) central bank emergency liquidity	(b) central bank emergency liquidity

Nr.	Ref.	COM	Council	EP
	para. 1 - point b	assistance;	assistance;	assistance;
491.	Art. 16 - para. 1 - point c	(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.	(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.	(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.
492.	Art. 16 - para. 2 - subpara. 1	2. A CCP shall be deemed resolvable where the resolution authority considers it feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it using the resolution tools and exercising the resolution powers while ensuring the continuity of the CCP's critical functions and avoiding to the maximum extent possible any significant adverse effect on the financial system.	2. A CCP shall be deemed resolvable where the resolution authority considers it feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it using the resolution tools and exercising the resolution powers while ensuring the continuity of the CCP's critical functions and avoiding <b><i>any use of extraordinary public financial support</i></b> and to the maximum extent possible any significant adverse effect on the financial system <b><i>as well as the potential</i></b>	2. A CCP shall be deemed resolvable where the resolution authority considers it feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it using the resolution tools and exercising the resolution powers while ensuring the continuity of the CCP's critical functions and avoiding <b><i>any use of public funds and</i></b> to the maximum extent possible any significant adverse effect on the financial system.

Nr.	Ref.	COM	Council	EP
			<i>for undue disadvantage to affected stakeholders.</i>	
493.	Art. 16 - para. 2 - subpara. 2	The adverse effects referred to in the first subparagraph shall include broader financial instability or system wide events in any Member State.	The adverse effects referred to in the first subparagraph shall include broader financial instability or system wide events in any Member State.	The adverse effects referred to in the first subparagraph shall include broader financial instability or system wide events in any Member State.
494.	Art. 16 - para. 2 - subpara. 3	The resolution authority shall notify ESMA in a timely manner where it considers a CCP not to be resolvable.	The resolution authority shall notify ESMA in a timely manner where it considers a CCP not to be resolvable.	The resolution authority shall notify ESMA in a timely manner where it considers a CCP not to be resolvable.
495.	Art. 16 - para. 3 - introd. part	3. Upon request by the resolution authority, a CCP shall demonstrate that:	3. Upon request by the resolution authority, a CCP shall demonstrate that:	3. Upon request by the resolution authority, a CCP shall demonstrate that:
496.	Art. 16 - para. 3 - point a	(a) there are no impediments to the reduction of the value of instruments of ownership following the exercise of resolution powers, regardless of	(a) there are no impediments to the reduction of the value of instruments of ownership following the exercise of resolution powers, regardless of	(a) there are no impediments to the reduction of the value of instruments of ownership following the exercise of resolution powers, regardless of whether

Nr.	Ref.	COM	Council	EP
		whether outstanding contractual arrangements or other measures in the CCP's recovery plan have been fully exhausted;	whether outstanding contractual arrangements or other measures in the CCP's recovery plan have been fully exhausted;	outstanding contractual arrangements or other measures in the CCP's recovery plan have been fully exhausted;
497.	Art. 16 - para. 3 - point b	(b) the contracts of the CCP with clearing members or third parties do not enable those clearing members or third parties to successfully challenge the exercise of resolution powers by a resolution authority or otherwise avoid being subject to those powers.	(b) the contracts of the CCP with clearing members or third parties do not enable those clearing members or third parties to successfully challenge the exercise of resolution powers by a resolution authority or otherwise avoid being subject to those powers.	(b) the contracts of the CCP with clearing members or third parties do not enable those clearing members or third parties to successfully challenge the exercise of resolution powers by a resolution authority or otherwise avoid being subject to those powers.
498.	Art. 16 - para. 4	4. For the purposes of the assessment of resolvability referred to in paragraph 1, the resolution authority shall, as relevant, examine the matters specified in Section C of the Annex.	4. For the purposes of the assessment of resolvability referred to in paragraph 1, the resolution authority shall, as relevant, examine the matters specified in Section C of the Annex.	4. For the purposes of the assessment of resolvability referred to in paragraph 1, the resolution authority shall, as relevant, examine the matters specified in Section C of the Annex.
499.	Art. 16 - para. 4 a			<b><i>4a. ESMA shall adopt guidelines to promote the convergence of supervisory</i></b>

Nr.	Ref.	COM	Council	EP
	(new)			<i>and resolution practices regarding the application of section C of the Annex by ... [18 months after the entry into force of this Regulation].</i>
500.	Art. 16 - para. 5	5. The resolution authority shall make the resolvability assessment at the same time as drawing up and updating the resolution plan in accordance with Article 13.	5. The resolution authority <i>in coordination with the resolution college</i> shall make the resolvability assessment at the same time as drawing up and updating the resolution plan in accordance with Article 13.	5. The resolution authority <i>in cooperation with the resolution college</i> shall make the resolvability assessment at the same time as drawing up and updating the resolution plan in accordance with Article 13.
501.	Art. 17 - title	Article 17 Addressing or removing impediments to resolvability	Article 17 Addressing or removing impediments to resolvability	Article 17 Addressing or removing impediments to resolvability
502.	Art. 17 - para. 1 - subpara. 1	1. Where, following the assessment in Article 16, the resolution authority and resolution college conclude that there are substantive impediments to the resolvability of a CCP, the	1. Where, following the assessment in Article 16, the resolution authority <b>■</b> , <i>in coordination with the resolution college in accordance with the procedure referred to in Article 18</i> , conclude that	1. Where, following the assessment in Article 16 <i>and after consulting the resolution college</i> , the resolution authority <i>concludes</i> that there are substantive impediments to the

Nr.	Ref.	COM	Council	EP
		resolution authority, in cooperation with the competent authority, shall prepare and submit a report to the CCP and to the resolution college.	there are <i>material</i> impediments to the resolvability of a CCP, the resolution authority, in cooperation with the competent authority, shall prepare and submit a report to the CCP and to the resolution college.	resolvability of a CCP, the resolution authority, in cooperation with the competent authority, shall prepare and submit a report to the CCP and to the resolution college.
503.	Art. 17 - para. 1 - subpara. 2	The report referred to in the first subparagraph shall analyse the substantive impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those impediments.	The report referred to in the first subparagraph shall analyse the <i>material</i> impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those impediments.	The report referred to in the first subparagraph shall analyse the <b>■</b> impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those <b>■</b> <i>where possible</i> .
504.	Art. 17 - para. 2	2. The requirement for resolution colleges to reach a joint decision on resolution plans laid down in Article	2. The requirement for resolution colleges to reach a joint decision on resolution plans laid down in Article 15	2. The requirement for resolution colleges to reach a joint decision on resolution plans laid down in Article 15

Nr.	Ref.	COM	Council	EP
		15 shall be suspended following the submission of the report referred to in paragraph 1 until the measures to remove the substantive impediments to resolvability have been accepted by the resolution authority pursuant to paragraph 3 of this Article or alternative measures have been decided pursuant to paragraph 4 of this Article.	shall be suspended following the submission of the report referred to in paragraph 1 until the measures to remove the <i>material</i> impediments to resolvability have been accepted by the resolution authority pursuant to paragraph 3 of this Article or alternative measures have been decided pursuant to paragraph 4 of this Article.	shall be suspended following the submission of the report referred to in paragraph 1 until the measures to remove the substantive impediments to resolvability have been accepted by the resolution authority pursuant to paragraph 3 of this Article or alternative measures have been decided pursuant to paragraph 4 of this Article.
505.	Art. 17 - para. 3	3. Within four months of the date of receipt of the report submitted in accordance with paragraph 1, the CCP shall propose to the resolution authority possible measures to address or remove the substantive impediments identified in the report. The resolution authority shall communicate to the resolution college	3. Within four months of the date of receipt of the report submitted in accordance with paragraph 1, the CCP shall propose to the resolution authority possible measures to address or remove the <i>material</i> impediments identified in the report. The resolution authority shall communicate to the resolution college any measure proposed by the CCP. The	3. Within four months of the date of receipt of the report submitted in accordance with paragraph 1, the CCP shall propose to the resolution authority possible measures to address or remove the substantive impediments identified in the report. The resolution authority shall communicate to the resolution college any measure proposed by the CCP. The



Nr.	Ref.	COM	Council	EP
		any measure proposed by the CCP. The resolution authority and resolution college shall assess, in accordance with point (b) of Article 18(1), whether those measures effectively address or remove those impediments.	resolution authority and resolution college shall assess, in accordance with point (b) of Article 18(1), whether those measures effectively address or remove those impediments.	resolution authority and resolution college shall assess, in accordance with point (b) of Article 18(1), whether those measures effectively address or remove those impediments.
506.	Art. 17 - para. 4 - subpara. 1	4. Where the resolution authority and the resolution college conclude that the measures proposed by a CCP in accordance with paragraph 3 would not effectively reduce or remove the impediments identified in the report, the resolution authority shall identify alternative measures which it shall communicate to the resolution college for joint decision in accordance with Article 18.	4. Where the resolution authority <i>in coordination with</i> the resolution college <i>concludes</i> that the measures proposed by a CCP in accordance with paragraph 3 would not effectively reduce or remove the impediments identified in the report, the resolution authority shall identify alternative measures which it shall communicate to the resolution college for joint decision in accordance with <i>point (c) of</i> Article 18 (1).	4. Where the resolution authority, <i>taking into account the opinion of</i> the resolution college, <i>concludes</i> that the measures proposed by a CCP in accordance with paragraph 3 would not effectively reduce or remove the impediments identified in the report, the resolution authority shall identify alternative measures which it shall communicate to the resolution college for joint decision in accordance with Article 18.
507.	Art. 17 -	The alternative measures referred to in	The alternative measures referred to in	The alternative measures referred to in

Nr.	Ref.	COM	Council	EP
	para. 4 - subpara. 2 - introd. part	the first subparagraph shall take into account the following:	the first subparagraph shall take into account the following:	the first subparagraph shall take into account the following:
508.	Art. 17 - para. 4 - subpara. 2 - point a	(a) the threat to financial stability of those impediments to the resolvability of a CCP;	(a) the threat to financial stability of those <i>material</i> impediments to the resolvability of a CCP;	(a) the threat to financial stability of those impediments to the resolvability of a CCP;
509.	Art. 17 - para. 4 - subpara. 2 - point b	(b) the effect of the alternative measures on the particular CCP, its clearing members and their clients, any linked FMI and the internal market.	(b) the <i>likely</i> effect of the alternative measures on :	(b) the effect of the alternative measures on the particular CCP, its clearing members and their clients, any linked FMI and the internal market.
510.	Art. 17 - para. 4 - subpara. 2 - point b - point i		<i>i. the particular CCP, including its business model and operational efficiency;</i>	

Nr.	Ref.	COM	Council	EP
	(new)			
511.	Art. 17 - para. 4 - subpara. 2 - point b - point ii (new)		<i>ii. its clearing members, and to the extent the information is available, their clients and indirect clients, including where they have been designated as Other Systemically Important Institutions pursuant to Article 131 (3) of Directive 2013/36/EU;</i>	
512.	Art. 17 - para. 4 - subpara. 2 - point b - point iii (new)		<i>iii. any linked FMIs;</i>	
513.	Art. 17 - para. 4 - subpara.		<i>iv. financial markets, including trading venues, served by the CCP; and</i>	

Nr.	Ref.	COM	Council	EP
	2 - point b - point iv (new)			
514.	Art. 17 - para. 4 - subpara. 2 - point b - point v (new)		<i>v. the financial system in any Member State or the Union as a whole.</i>	
515.	Art. 17 - para. 4 - subpara. 2 - point b a (new)			<i>(ba) the effects on the provision of integrated clearing services for different products and portfolio margining across asset classes.</i>
516.	Art. 17 - para. 4 - subpara. 3	For the purposes of point (b) of the second subparagraph, the resolution authority shall consult the competent authority and the resolution college	For the purposes of <i>points (a) and</i> (b) of the second subparagraph, the resolution authority shall consult the competent authority and the resolution college and,	For the purposes of point (b) of the second subparagraph, the resolution authority shall consult the competent authority, <i>the supervisory college</i> and the

Nr.	Ref.	COM	Council	EP
		and, where appropriate, the designated national macroprudential authority.	where appropriate, the designated national macroprudential authority.	resolution college and, where appropriate, the <b>ESRB</b> .
517.	Art. 17 - para. 5	5. The resolution authority shall, in accordance with Article 18, notify the CCP in writing, either directly or indirectly through the competent authority, of the alternative measures to take in order to achieve the objective of removing impediments to resolvability. The resolution authority shall justify why the measures proposed by the CCP would not be able to remove the impediments to resolvability and how the alternative measures would be effective in doing so.	5. The resolution authority shall, in accordance with Article 18, notify the CCP in writing, either directly or indirectly through the competent authority, of the alternative measures to take in order to achieve the objective of removing impediments to resolvability. The resolution authority shall justify why the measures proposed by the CCP would not be able to remove the <b>material</b> impediments to resolvability and how the alternative measures would be effective in doing so.	5. The resolution authority shall, in accordance with Article 18, notify the CCP in writing, either directly or indirectly through the competent authority, of the alternative measures to take in order to achieve the objective of removing impediments to resolvability. The resolution authority shall justify why the measures proposed by the CCP would not be able to remove the impediments to resolvability and how the alternative measures would be effective in doing so.
518.	Art. 17 - para. 6	6. The CCP shall propose within one month a plan to comply with the alternative measures.	6. The CCP shall propose within one month a plan to comply with the alternative measures, <b>with a reasonable</b>	6. The CCP shall propose within one month a plan <b>of how it intends to implement</b> the alternative measures

Nr.	Ref.	COM	Council	EP
			<i>timeframe for the implementation of the plan.</i>	<i>within the period of time established by the resolution authority.</i>
519.	Art. 17 - para. 7 - introd. part	7. For the purposes of paragraph 4, the resolution authority may:	7. For the purposes of paragraph 4, the resolution authority, <b><i>allowing for a reasonable timeframe for implementation</i></b> , may:	7. <b><i>Only</i></b> for the purposes of paragraph 4, the resolution authority <b><i>in coordination with the competent authority</i></b> may:
520.	Art. 17 - para. 7 - point a	(a) require the CCP to revise or draw up service agreements, whether intra-group or with third parties, to cover the provision of critical functions;	(a) require the CCP to revise or draw up service agreements, whether intra-group or with third parties, to cover the provision of critical functions;	(a) require the CCP to revise or draw up service agreements, whether intra-group or with third parties, to cover the provision of critical functions;
521.	Art. 17 - para. 7 - point b	(b) require the CCP to limit its maximum individual and aggregate uncovered exposures;	(b) require the CCP to limit its maximum individual and aggregate uncovered exposures;	(b) require the CCP to limit its maximum individual and aggregate uncovered exposures;
522.	Art. 17 - para. 7 - point c	(c) require the CCP to make changes to how it collects and holds margin pursuant to Article 41 of Regulation (EU) No 648/2012;	(c) require the CCP to make changes to how it collects and holds margin pursuant to Article 41 of Regulation (EU) No 648/2012;	(c) require the CCP to make changes to how it collects and holds margin pursuant to Article 41 of Regulation (EU) No 648/2012;

Nr.	Ref.	COM	Council	EP
523.	Art. 17 - para. 7 - point d	(d) require the CCP to make changes to the composition and number of its default funds referred to in Article 42 of Regulation (EU) No 648/2012;	(d) require the CCP to make changes to the composition and number of its default funds referred to in Article 42 of Regulation (EU) No 648/2012;	(d) require the CCP to make changes to the composition and number of its default funds referred to in Article 42 of Regulation (EU) No 648/2012;
524.	Art. 17 - para. 7 - point e	(e) impose on the CCP specific or regular additional information requirements;	(e) impose on the CCP specific or regular additional information requirements;	(e) impose on the CCP specific or regular additional information requirements;
525.	Art. 17 - para. 7 - point f	(f) require the CCP to divest specific assets;	(f) require the CCP to divest specific assets;	(f) require the CCP to divest <i>itself of</i> specific assets;
526.	Art. 17 - para. 7 - point g	(g) require the CCP to limit or cease specific existing or proposed activities;	(g) require the CCP to limit or cease specific existing or proposed activities;	(g) require the CCP to limit or cease specific existing or proposed activities;
527.	Art. 17 - para. 7 - point h	(h) require the CCP to make changes to its recovery plan;	(h) require the CCP to make changes to its recovery plan, <i>its operating rules, including as regards its terms of participation, and other contractual</i>	(h) require the CCP to make changes to its recovery plan, <i>operating rules and other contractual arrangements;</i>

Nr.	Ref.	COM	Council	EP
			<i>arrangements;</i>	
528.	Art. 17 - para. 7 - point i	(i) restrict or prevent the development of new or existing business lines or provision of new or existing services;	(i) restrict or prevent the development of new or existing business lines or provision of new or existing services;	(i) restrict or prevent the development of new or existing business lines or provision of new or existing services;
529.	Art. 17 - para. 7 - point j	(j) require changes to legal or operational structures of the CCP or any group entity directly or indirectly under its control to ensure that critical functions may be legally and operationally separated from other functions through the application of resolutions tools;	(j) require changes to legal or operational structures of the CCP or any group entity directly or indirectly under its control to ensure that critical functions may be legally and operationally separated from other functions through the application of resolutions tools;	(j) require changes to legal or operational structures of the CCP or any group entity directly or indirectly under its control to ensure that critical functions may be legally and operationally separated from other functions through the application of resolutions tools;
530.	Art. 17 - para. 7 - point j a (new)		<i>(ja) require the CCP to operationally and financially segregate its different clearing services so as to isolate some specific asset classes from other asset classes and where deemed appropriate,</i>	



Nr.	Ref.	COM	Council	EP
			<i>to restrict netting sets covering different asset classes.</i>	
531.	Art. 17 - para. 7 - point k	(k) require the CCP to set up a parent financial holding company in a Member State or a Union parent financial holding company;	(k) require the CCP to set up a parent <b><i>undertaking</i></b> in <i>the</i> Union	(k) require the CCP to set up a parent financial holding company in a Member State or a Union parent financial holding company;
532.	Art. 17 - para. 7 - point l	(l) require the CCP or any group entity directly or indirectly under its control which provides financial support to the CCP to issue liabilities that can be written down and converted or to set aside other resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;	(l) require the CCP ■ to issue liabilities that can be written down and converted or to set aside other <b><i>financial</i></b> resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;	(l) require the CCP ■ to issue liabilities that can be written down and converted or to set aside other resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;
533.	Art. 17 - para. 7 -	(m) require the CCP, or any group entity directly or indirectly under its	(m) require the CCP ■ to take other steps to enable capital, other liabilities	(m) require the CCP ■ to take other steps to enable capital, other liabilities and

Nr.	Ref.	COM	Council	EP
	point m	control which provides financial support to the CCP to take other steps to enable capital, other liabilities and contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources, including in particular to attempt to renegotiate any liability it has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;	and contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources, including in particular to attempt to renegotiate any liability it has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;	contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources. <i>Actions considered may include</i> in particular <i>attempting</i> to renegotiate any liability <i>the CCP</i> has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;
534.	Art. 17 - para. 7 - point n	(n) where the CCP is a subsidiary, coordinate with relevant authorities with a view to requiring the parent	(n) where the CCP is a subsidiary, coordinate with relevant authorities with a view to requiring the parent	■

Nr.	Ref.	COM	Council	EP
		undertaking to set up a separate financial holding company to control the CCP, where that measure is necessary in order to facilitate the resolution of the CCP and to avoid the adverse effects that the use of the resolution tools and the exercise of the resolution powers could have on other entities of the group.	undertaking to set up a separate holding company to control the CCP, where that measure is necessary in order to facilitate the resolution of the CCP and to avoid the adverse effects that the use of the resolution tools and the exercise of the resolution powers could have on other entities of the group ;	
535.	Art. 17 - para. 7 - point n a (new)		<i>(p) restrict or prohibit interoperable links of the CCP where such a restriction or prohibition is necessary to avoid adverse effects on resolution.</i>	<i>(na) restrict or suspend interoperability links of the CCP where such a restriction or suspension is necessary in order to prevent the adverse effect that the application of the recovery tools and the exercise of the resolution powers could have on interoperable CCPs.</i>
536.	Art. 18 - title	Article 18 Coordination procedure to address or remove impediments to resolvability	Article 18 Coordination procedure to address or remove impediments to resolvability	Article 18 Coordination procedure to address or remove impediments to resolvability

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
537.	Art. 18 - para. 1 - introd. part	1. The resolution college shall reach a joint decision regarding:	1. The resolution college shall reach a joint decision regarding:	1. The resolution college shall reach a joint decision regarding:
538.	Art. 18 - para. 1 - point a	(a) the identification of the material impediments to resolvability pursuant to Article 16(1);	(a) the identification of the material impediments to resolvability pursuant to Article 16(1);	(a) the identification of the material impediments to resolvability pursuant to Article 16(1);
539.	Art. 18 - para. 1 - point b	(b) the assessment of the measures proposed by the CCP pursuant to Article 17(3), as necessary;	(b) the assessment of the measures proposed by the CCP pursuant to Article 17(3), as necessary;	(b) the assessment of the measures proposed by the CCP pursuant to Article 17(3), as necessary;
540.	Art. 18 - para. 1 - point c	(c) the alternative measures required pursuant to Article 17(4).	(c) the alternative measures required pursuant to Article 17(4).	(c) the alternative measures required pursuant to Article 17(4).
541.	Art. 18 - para. 2 - subpara. 1	2. The joint decision on the identification of material impediments to resolvability referred to in point (a) of paragraph 1 shall be adopted within	2. The joint decision on the identification of material impediments to resolvability referred to in point (a) of paragraph 1 shall be adopted within	2. The joint decision on the identification of material impediments to resolvability referred to in point (a) of paragraph 1 shall be adopted within four

Nr.	Ref.	COM	Council	EP
		four months of the submission of the report referred to in Article 17(1) to the resolution college.	four months of the submission of the report referred to in Article 17(1) to the resolution college.	months of the submission of the report referred to in Article 17(1) to the resolution college.
542.	Art. 18 - para. 2 - subpara. 2	The joint decision referred to in points (b) and (c) of paragraph 1 shall be adopted within four months of submission of the CCP's proposed measures to remove impediments to resolvability.	The joint decision referred to in <i>point (b)</i> of paragraph 1 shall be adopted within four months of submission of the CCP's proposed measures to remove impediments to resolvability <i>as referred to in Article 17(3)</i> .	The joint decision referred to in points (b) and (c) of paragraph 1 shall be adopted within four months of submission of the CCP's proposed measures to remove impediments to resolvability.
543.	Art. 18 - para. 2 - subpara. 2 a (new)		<i>The joint decision referred to in point (c) of paragraph 1 shall be adopted within four months of the communication of the alternative measures to the resolution college as referred to in Article 17(4).</i>	
544.	Art. 18 - para. 2 - subpara.	The joint decisions referred to in paragraph 1 shall be reasoned and notified in writing by the resolution	The joint decisions referred to in paragraph 1 shall be reasoned and notified in writing by the resolution	The joint decisions referred to in paragraph 1 shall be reasoned and notified in writing by the resolution

Nr.	Ref.	COM	Council	EP
	3	authority to the CCP and, where relevant, its parent undertaking.	authority to the CCP .	authority to the CCP and, where relevant, its parent undertaking.
545.	Art. 18 - para. 2 - subpara. 4	ESMA may, at the request of the resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.	ESMA may, at the request of the resolution authority <i>of the CCP</i> , assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.	ESMA may, at the request of the resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.
546.	Art. 18 - para. 3 - subpara 1	3. Where, after four months from the date of transmission of the report provided for in Article 17(1), the college has failed to adopt a joint decision, the resolution authority shall take its own decision on the appropriate measures to be taken in accordance with Article 17(5). The resolution authority shall take its decision having taken into account the views of the other college members	3. Where, after four months from the date of transmission of the report provided for in Article 17(1), the <i>resolution</i> college has failed to adopt a joint decision, the resolution authority shall take its own decision on the appropriate measures to be taken in accordance with Article 17(5). The resolution authority shall take its decision having taken into account the views of the other college members	3. Where, after four months from the date of transmission of the report provided for in Article 17(1), the <i>resolution</i> college has failed to adopt a joint decision, the resolution authority shall take its own decision on the appropriate measures to be taken in accordance with Article 17(5). The resolution authority shall take its decision having taken into account the views of the other <i>resolution</i> college members

Nr.	Ref.	COM	Council	EP
		expressed during the four-month period.	expressed during the four-month period.	expressed during the four-month period.
547.	Art. 18 - para. 3 - subpara 2	The resolution authority shall notify the decision to the CCP, to its parent undertaking where relevant, and to the other members of the college in writing.	The resolution authority shall notify the decision to the CCP, ■ and to the other members of the college in writing.	The resolution authority shall notify the decision to the CCP, to its parent undertaking where relevant, and to the other members of the <i>resolution</i> college in writing.
548.	Art. 18 - para. 4 - subpara. 1	4. Where, by the end of that four-month period, any member of the resolution college has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter referred to in points (j), (k) or (n) of Article 17(7), the resolution authority of the CCP shall defer its decision and await any decision that ESMA may take in accordance with Article 19(3) of that Regulation. In that case, the resolution authority shall	4. Where, by the end of that four-month period, <i>a joint decision has not been reached,</i> any <i>voting</i> member of the ■ college, <i>based on a majority of the voting members</i> has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter referred to in points ■ (k) or (n) of Article 17(7), the resolution authority of the CCP shall defer its decision and await any decision that ESMA may take in accordance with Article 19(3) of that	4. Where, by the end of that four-month period, <i>any group of members</i> of the resolution college <i>representing a simple majority of the members of this college,</i> has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter referred to in points (j), (k) or (n) of Article 17(7), the resolution authority of the CCP shall defer its decision and await any decision that ESMA may take in accordance with Article 19(3) of that Regulation. In that

Nr.	Ref.	COM	Council	EP
		take its decision in accordance with the decision of ESMA.	Regulation. In that case, the resolution authority shall take its decision in accordance with the decision of ESMA.	case, the resolution authority shall take its decision in accordance with the decision of ESMA.
549.	Art. 18 - para. 4 - subpara. 2	The four-month time period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.	The four-month time period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.	The four-month time period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.
550.	Title 4	TITLE IV EARLY INTERVENTION	TITLE IV EARLY INTERVENTION	TITLE IV EARLY INTERVENTION
551.	Art. 19 -	Article 19	Article 19	Article 19



Nr.	Ref.	COM	Council	EP
	title	Early intervention measures	Early intervention measures	Early intervention measures
552.	Art. 19 - para. 1 - introd. part	1. Where a CCP infringes or is likely to infringe in the near future the prudential requirements of Regulation (EU) No 648/2012, or where the competent authority has determined that there are other indications of an emerging crisis situation that could affect the operations of the CCP, competent authorities may:	1. Where a CCP infringes or is likely to infringe in the near future the <i>capital and</i> prudential requirements of Regulation (EU) No 648/2012, or where the competent authority has determined that there are other indications of an emerging crisis situation that could affect the operations of the CCP, competent authorities may:	1. Where a CCP infringes or is likely to infringe the prudential requirements of Regulation (EU) No 648/2012, <i>or poses a risk to the financial stability of the global financial system, the Union financial system, or parts of either thereof</i> , or where the competent authority has determined that there are other indications of <i>developments</i> that could affect the operations of the CCP, in particular, its ability to provide clearing services, the competent authority may:
553.	Art. 19 - para. 1 - point a	(a) require the CCP to update the recovery plan in accordance with Article 9(6), where the circumstances that required early intervention are different from the assumptions set out in the initial recovery plan;	(a) require the CCP to update the recovery plan in accordance with Article 9(6), where the circumstances that required early intervention are different from the assumptions set out in the initial recovery plan;	(a) require the CCP to update the recovery plan in accordance with Article 9(6), where the circumstances that required early intervention are different from the assumptions set out in the initial recovery plan;

<b>Nr.</b>	<b>Ref.</b>	<b>COM</b>	<b>Council</b>	<b>EP</b>
554.	Art. 19 - para. 1 - point b	(b) require the CCP to implement one or more of the arrangements or measures set out in the recovery plan within a specific timeframe. Where the plan is updated pursuant to point (a), those arrangements or measures shall include any updated arrangements or measures;	(b) require the CCP to implement one or more of the arrangements or measures set out in the recovery plan within a specific timeframe. Where the plan is updated pursuant to point (a), those arrangements or measures shall include any updated arrangements or measures;	(b) require the CCP to implement one or more of the arrangements or measures set out in the recovery plan within a specific timeframe. Where the plan is updated pursuant to point (a), those arrangements or measures shall include any updated arrangements or measures;
555.	Art. 19 - para. 1 - point c	(c) require the CCP to identify the causes of the infringement or likely infringement as mentioned in paragraph 1 and draw up an action programme, including suitable measures and timeframes;	(c) require the CCP to identify the causes of the infringement or likely infringement as mentioned in paragraph 1 and draw up an action programme, including suitable measures and timeframes;	(c) require the CCP to identify the causes of the infringement or likely infringement as mentioned in paragraph 1 and draw up an action programme, including suitable measures and timeframes;
556.	Art. 19 - para. 1 - point d	(d) require the CCP to convene a meeting of its shareholders or, if the CCP fails to comply with that requirement, convene the meeting itself. In both cases the competent	(d) require the CCP to convene a meeting of its shareholders or, if the CCP fails to comply with that requirement, convene the meeting itself. In both cases the competent authority	(d) require the CCP to convene a meeting of its shareholders or, if the CCP fails to comply with that requirement, convene the meeting itself. In both cases the competent authority shall set the

Nr.	Ref.	COM	Council	EP
		authority shall set the agenda, including the decisions to be considered for adoption by the shareholders;	shall set the agenda, including the decisions to be considered for adoption by the shareholders;	agenda, including the decisions to be considered for adoption by the shareholders;
557.	Art. 19 - para. 1 - point e	(e) require one or more members of the board or senior management to be removed or replaced where any of those persons is found unfit to perform their duties pursuant to Article 27 of Regulation (EU) No 648/2012;	(e) require one or more members of the board or senior management to be removed or replaced where any of those persons is found unfit to perform their duties pursuant to Article 27 of Regulation (EU) No 648/2012;	(e) require one or more members of the board or senior management to be removed or replaced where any of those persons is found unfit to perform their duties pursuant to Article 27 of Regulation (EU) No 648/2012;
558.	Art. 19 - para. 1 - point f	(f) require changes to the business strategy of the CCP;	(f) require changes to the business strategy of the CCP;	(f) require changes to the business strategy of the CCP;
559.	Art. 19 - para. 1 - point g	(g) require changes to the legal or operational structures of the CCP;	(g) require changes to the legal or operational structures of the CCP;	(g) require changes to the legal or operational structures of the CCP;
560.	Art. 19 -	(h) provide the resolution authority	(h) provide the resolution authority	(h) provide the resolution authority with

Nr.	Ref.	COM	Council	EP
	para. 1 - point h	with all the information necessary to update the CCP's resolution plan in order to prepare for the possible resolution of the CCP and the valuation of its assets and liabilities in accordance with Article 24, including any information required through on-site inspections;	with all the information necessary to update the CCP's resolution plan in order to prepare for the possible resolution of the CCP and the valuation of its assets and liabilities in accordance with Article 24, including any information required through on-site inspections;	all the information necessary to update the CCP's resolution plan in order to prepare for the possible resolution of the CCP and the valuation of its assets and liabilities in accordance with Article 24, including any information required through on-site inspections;
561.	Art. 19 - para. 1 - point i	(i) require, where necessary and in accordance with paragraph 4, the implementation of the CCP's recovery measures;	(i) require, where necessary and in accordance with paragraph 4, the implementation of the CCP's recovery measures;	(i) require, where necessary and in accordance with paragraph 4, the implementation of the CCP's recovery measures;
562.	Art. 19 - para. 1 - point j	(j) require the CCP to abstain from the implementation of certain recovery measures where the competent authority has determined that the implementation of those measures may have an adverse effect on financial stability;	(j) require the CCP to abstain from the implementation of certain recovery measures where the competent authority has determined that the implementation of those measures may have an adverse effect on financial stability <b><i>in the Union or in one or more of the Member States</i></b>	(j) require the CCP to abstain from the implementation of certain recovery measures where the competent authority has determined that the implementation of those measures may have an adverse effect on financial stability <b><i>or unduly harm the interests of clients;</i></b>

Nr.	Ref.	COM	Council	EP
			;	
563.	Art. 19 - para. 1 - point k	(k) require the CCP to replenish its financial resources in a timely manner.	(k) require the CCP to replenish its financial resources in a timely manner <i>in order to comply or maintain compliance with its capital and prudential requirements.</i>	(k) require the CCP to replenish its financial resources in a timely manner.
564.	Art. 19 - para. 1 - point k a (new)			<i>(ka) exceptionally and on a one-off basis allow clients of clearing members to participate directly in auctions, while waiving prudential requirements pursuant to Chapter 3 of Title IV of Regulation (EU) 648/2012 other than margin requirements as set out in Article 41 of Regulation (EU) 648/2012 for those clients. The clients' clearing members shall inform clients comprehensively about the auction and facilitate the bidding process for clients. Required margin payments by the clients</i>

Nr.	Ref.	COM	Council	EP
				<i>shall be passed through a non-defaulting clearing member;</i>
565.	Art. 19 - para. 1 - point k b (new)			<i>(kb) restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP, and it may restrict, prohibit or freeze any payments of variable remuneration under Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22, of discretionary pension benefits or of severance packages to management.</i>
566.	Art. 19 - para. 2	2. For each of those measures, the competent authority shall set an appropriate deadline and evaluate the effectiveness of those measures once they have been taken.	2. For each of those measures, the competent authority shall set an appropriate deadline and evaluate the effectiveness of those measures once they have been taken.	2. For each of those measures, the competent authority shall set an appropriate deadline and evaluate the effectiveness of those measures once they have been taken.

Nr.	Ref.	COM	Council	EP
567.	Art. 19 - para. 2 a (new)			<i>2a. National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to early intervention measures taken by the competent authority in accordance with this Regulation.</i>
568.	Art. 19 - para. 3	3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other Member States where the CCP operates or provides services, in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and FMIs are established.	3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other Member States where the CCP operates or provides services <i>and after informing the relevant competent authorities</i> , in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and	3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other Member States where the CCP operates or provides services, in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and FMIs are established.

Nr.	Ref.	COM	Council	EP
			FMIIs are established.	
569.	Art. 19 - para. 4 - introd. part	4. The competent authority may only apply the measure in point (i) of paragraph 1 where that measure is in the public interest and is necessary to achieve any of the following objectives:	4. The competent authority may only apply the measure in point (i) of paragraph 1 where that measure is in the public interest and is necessary to achieve any of the following objectives:	4. The competent authority may only apply the measure in point (i) of paragraph 1 where that measure is in the public interest and is necessary to achieve any of the following objectives:
570.	Art. 19 - para. 4 - point a	(a) maintain the financial stability of the Union;	(a) maintain the financial stability <b><i>_in the Union or in one or more of the Member States;</i></b>	(a) maintain the financial stability of the Union;
571.	Art. 19 - para. 4 - point b	(b) maintain the continuity of the critical services of the CCP;	(b) maintain the continuity of the critical <b><i>functions</i></b> of the CCP <b><i>and access to these services on a transparent and non-discriminatory basis;</i></b>	(b) maintain the continuity of the critical <b><i>functions</i></b> of the CCP <b><i>on a transparent and non-discriminatory basis;</i></b>
572.	Art. 19 - para. 4 -	(c) maintain and enhance the financial resilience of the CCP.	(c) maintain <b><i>or restore</i></b> the financial resilience of the CCP.	(c) maintain and enhance the financial resilience of the CCP.



Nr.	Ref.	COM	Council	EP
	point c			
573.	Art. 19 - para. 4 - subpara. 2	The competent authority shall not apply the measure in point (i) of paragraph 1 in relation to measures involving the transfer of property, rights or liabilities of another CCP.	The competent authority shall not apply the measure in point (i) of paragraph 1 in relation to measures involving the transfer of property, rights or liabilities of another CCP.	The competent authority shall not apply the measure in point (i) of paragraph 1 in relation to measures involving the transfer of property, rights or liabilities of another CCP.
574.	Art. 19 - para. 5	5. Where a CCP has initiated its default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012, it shall inform the competent authority without undue delay and explain whether that event reflects weaknesses or problems of that CCP.		5. Where a CCP has initiated its default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012, it shall inform the competent authority <b>and the resolution authority</b> without undue delay and explain whether that event reflects weaknesses or problems of that CCP.
575.	Art. 19 - para. 6 - subpara. 1	6. Where the conditions referred to in paragraph 1 are met, the competent authority shall notify ESMA and the resolution authority and consult the	6. Where the conditions referred to in paragraph 1 are met, the competent authority shall notify ESMA and the resolution authority and consult the	6. Where the conditions referred to in paragraph 1 are met, the competent authority shall notify ESMA and the resolution authority and consult the

Nr.	Ref.	COM	Council	EP
		college.	<i>supervisory</i> college <i>on the envisaged measures provided for in paragraph 1.</i>	<i>supervisory</i> college.
576.	Art. 19 - para. 6 - subpara. 2	Following those notifications and the consultation of the college, the competent authority shall decide whether to apply any of the measures provided for in paragraph 1. The competent authority shall notify the decision on the measures to be taken to the college, the resolution authority and ESMA.	Following those notifications and the consultation of the <i>supervisory</i> college, the competent authority shall decide whether to apply any of the measures provided for in paragraph 1. The competent authority shall notify the decision on the measures to be taken to the college, the resolution authority and ESMA.	Following those notifications and the consultation of the <i>supervisory</i> college, the competent authority shall decide whether to apply any of the measures provided for in paragraph 1. The competent authority shall notify the decision on the measures to be taken to the <i>supervisory</i> college, the resolution authority and ESMA.
577.	Art. 19 - para. 7	7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the confidentiality provisions laid down in	7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the confidentiality provisions laid down in Article 71. <i>Actions taken in this</i>	7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the confidentiality provisions laid down in Article 71 <i>as well as to the framework</i>

Nr.	Ref.	COM	Council	EP
		Article 71.	<i>context shall not be deemed to be market soundings for the purposes of Article 11 of Regulation (EU) No 596/2014<sup>55</sup>.8. ESMA shall by [PO please insert the date 12 months after the date of entry into force of this Regulation] issue guidelines in accordance with Article 16 of Regulation (EU) No. 1095/2010 to promote the consistent application of the trigger for the use of the measures referred to in paragraph 1 of this Article.</i>	<i>on market soundings laid down in Article 11 of Regulation (EU) No 596/2014 and in relevant delegated and implementing legislation.</i>
578.	Art. 20 - title	Article 20 Removal of senior management and board	Article 20 Removal of senior management and board	Article 20 Removal of senior management and board
579.	Art. 20 -	Where there is a significant	<i>1.</i> Where there is a significant	Where there is a significant deterioration

<sup>55</sup> *Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC*

Nr.	Ref.	COM	Council	EP
	para. 1	deterioration in the financial situation of a CCP, or the CCP infringes its legal requirements, including its operating rules, and other measures taken in accordance with Article 19 are not sufficient to reverse that situation, competent authorities may require total or partial removal of the senior management or board of the CCP.	deterioration in the financial situation of a CCP, or the CCP infringes its legal requirements, including its operating rules, and other measures taken in accordance with Article 19 are not sufficient to reverse that situation, competent authorities may require total or partial removal of the senior management or board of the CCP.	in the financial situation of a CCP, or the CCP infringes its legal requirements, including its operating rules, and other measures taken in accordance with Article 19 are not sufficient to reverse that situation, competent authorities may require total or partial removal of the senior management or board of the CCP.
580.	Art. 20 - para. 1 - subpara. 1 a (new)		<i>Where the competent authority requires complete or partial removal of the senior management or board of the CCP, it shall notify ESMA, the resolution authority and the supervisory college.</i>	
581.	Art. 20 - para. 2	The appointment of the new senior management or board shall be done in accordance with Article 27 of	<b>2.</b> The appointment of the new senior management or board shall be done in accordance with Article 27 of	The appointment of the new senior management or board shall be done in accordance with Article 27 of Regulation

Nr.	Ref.	COM	Council	EP
		Regulation (EU) No 648/2012 and be subject to the approval or consent of the competent authority.	Regulation (EU) No 648/2012 and be subject to the approval or consent of the competent authority. <i>Where appropriate, the competent authority may appoint one or more temporary administrators to the CCP.</i>	(EU) No 648/2012 and be subject to the approval or consent of the competent authority.
582.	Title IV a (new)			<b><i>TITLE IVA</i></b>  <b><i>RECOUPMENT OF LOSSES</i></b>
583.	Art. 20 a (new) - title			<b><i>Article 20a</i></b> <b><i>Issuance of instruments of ownerships in future profits to clearing members and clients that have suffered losses</i></b>
584.	Art. 20 a (new) - para. 1 - subpara. 1			<b><i>1. Where a CCP in Recovery, caused by a non-default event has applied the arrangements and measures to reduce the value of any gains payable by the CCP to non-defaulting clearing members and their clients set out in its</i></b>

Nr.	Ref.	COM	Council	EP
				<i>recovery plan pursuant to point (l)(ii)(b) of Article 9(7e) which go beyond the default waterfall set out in Article 45 of Regulation (EU) 648/2012, on non-defaulting clearing members and their clients, and has not entered Resolution as a result, the Competent Authority of the CCP may, once a matched book has been restored, require the CCP to recompense the participants for their loss, either through cash payments or, where appropriate, may require the CCP to issue instruments of ownership in future profits of the CCP.</i>
585.	Art. 20 a (new) - para. 1 - subpara. 2			<i>The value of instruments of ownership in future profits of the CCP issued to each affected non-defaulting clearing member, which must be passed on to clients in a suitable form, shall be</i>

Nr.	Ref.	COM	Council	EP
				<i>proportionate to its loss and shall be based on a valuation conducted in accordance with Article 24(3). These instruments of ownership shall entitle the possessor to receive payments from the CCP on an annual basis until the loss has been recouped in full up to an appropriate maximum number of years from the date of issuance. An appropriate maximum share of the CCP's annual profits shall be used towards payments relating to these instruments of ownership.</i>
586.	Art. 20 a (new) - para. 2			<i>2. This Article does not diminish the responsibility of clearing members to take losses which go beyond the default waterfall.</i>
587.	Art. 20 a (new) -			<i>3. ESMA shall develop draft regulatory technical standards to specify</i>

Nr.	Ref.	COM	Council	EP
	para. 3 - subpara. 1			<i>the order in which recompense must be paid, the appropriate maximum number of years and the appropriate maximum share of the CCP's annual profits referred to in the second subparagraph of paragraph 1.</i>
588.	Art. 20 a (new) - para. 3 - subpara. 2			<i>ESMA shall submit those draft regulatory technical standards to the Commission by [XXX after entry into force of this Regulation].</i>
589.	Art. 20 a (new) - para. 3 - subpara. 3			<i>The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>



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