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## **NOTE**

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	COM(2016)856
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)

Nr.	Ref.	СОМ	Council	ЕР
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>

OJ C , , p. .

OJ C, , p. .

OJ C,, p...

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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,8	Having regard to the opinion of the European Central Bank,9
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

OJ C , , p. . OJ C , , p. . OJ C 209, 30.6.2017, p. 28. OJ C , , p. . OJ C 372, 1.11.2017, p. 6.

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

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

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

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

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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).

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).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Nr.	Ref.	СОМ	Council	EP
		process of recovery and resolution.	use of public funds as a last resort and	resolution.
			consequently should be closely	
			involved, at an early stage, in the	
			process of recovery and resolution. <i>This</i>	
			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.	
23.	Rec. 15	(15) As CCPs often provide services	(15) As CCPs often provide services	(15) As CCPs often provide services
		across the Union, effective recovery	across the Union, effective recovery and	across the Union, effective recovery and
		and resolution requires cooperation	resolution requires cooperation among	resolution requires cooperation among
		among competent authorities and	competent authorities and resolution	competent authorities and resolution
		resolution authorities within	authorities within supervisory and	authorities within supervisory and
		supervisory and resolution colleges,	resolution colleges, notably at the	resolution colleges, notably at the
		notably at the preparatory stages of	preparatory stages of recovery and	preparatory stages of recovery and
		recovery and resolution. That includes	resolution. That includes assessing	resolution. That includes the assessment
		the assessment of recovery plans	recovery plans drawing up and	of recovery plans developed by the CCP,

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

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		and coordination with relevant third	clearing members and, where relevant,	authorities, these should be invited to
		countries authorities, these should be	clients with regard to potential default	participate in resolution colleges as
		invited to participate in resolution	management, recovery and resolution	observers where necessary. Authorities
		colleges as observers where necessary.	measures and the supervisory	should always take into account the
		Authorities should always take into	treatment of the related exposures	impact of their decisions on the financial
		account the impact of their decisions	towards the CCP. The authorities of	stability in the Member States where the
		on the financial stability in the	Member States whose financial	CCP's operations are critical or important
		Member States where the CCP's	stability could be impacted by the	for local financial markets, including
		operations are critical or important for	failure of the CCP should be able to	where clearing members are located and
		local financial markets, including	participate in the resolution college	where linked trading venues and financial
		where clearing members are located	based on their assessment of the	market infrastructures are established.
		and where linked trading venues and	impact that the CCP's resolution could	
		financial market infrastructures are	have on the financial stability of their	
		established.	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'	

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			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. 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	

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			States where the CCP's operations are critical or important for local financial markets, including where clearing members and, where relevant information is available, their clients are located and where linked trading venues and financial market infrastructures, including interoperable CCPs, are established.	
25.	Rec. 16 a (new)			(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

Nr.	Ref.	СОМ	Council	EP
				jurisdictions.
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, ownership structure, legal form, risk profile, size, legal status, substitutability 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, <i>legal and organisational</i> structure, risk profile, size, legal status and interconnectedness

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

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

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				Recovery plans should not assume access to public financial support or expose taxpayers to the risk of loss.
29.	Rec. 19 a (new)			(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.
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 be required to draw up and regularly review and 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 capital and prudential	

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		financial system. The recovery phase	requirements under Regulation (EU)	(EU) 648/2012. This should be indicated
		in this context should start when there	648/2012 that could lead to the	with relation to a framework of
		is a significant deterioration of the	infringement of its authorisation	qualitative or quantitative indicators
		CCP's financial situation or risk of	requirements that would justify the	included in the recovery plan.
		breach of its prudential requirements	withdrawal of its authorisation	
		under Regulation (EU) 648/2012. This	pursuant to Regulation (EU) No	
		should be indicated with relation to a	648/2012. This should be indicated with	
		framework of qualitative or	relation to a framework of qualitative or	
		quantitative indicators included in the	quantitative indicators included in the	
		recovery plan.	recovery plan. 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	

Nr.	Ref.	COM	Council	ЕР
			distinguish between different types of non-default events.	
31.	Rec. 20 a (new)			(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

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				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.
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

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

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			an increase in the capital requirements	and risk-management activities of the
			in excess of Article 16 of Regulation	CCP, and participate in the default
			(EU) No 648/2012 and could be met by	management process.
			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.	

Nr.	Ref.	СОМ	Council	EP
34.	Rec. 22 a (new)			(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.
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 their recovery plan is non-discriminatory and balanced in terms of its impact and the incentives it creates. The effects of the recovery measures on clearing members and their clients and on the financial system of the Union or one of its Member States more broadly should be proportionate. 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 <i>involved in</i>

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		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.	the drawing-up of the recovery plan through their involvement in the CCP's risk committee, as the case may be, and by being appropriately consulted. 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.
36.	Rec. 23 a (new)			(23a) CCPs should ensure that clients of non-defaulting clearing members are appropriately recompensed should their assets be used during the recovery process.
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) In view of the global nature of the markets served by CCPs, it is necessary to ensure the ability of a CCP to apply the recovery options, where necessary, to

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

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		stability.	financial stability.	
39.	Rec. 25 a (new)			(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.
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

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

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

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

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

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		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	the quality and nature of such group support 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.
		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

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

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		minimise adverse effects on financial	stability that could result from the	the interests of clients that could result
		stability that could result from the	CCP's implementation of certain	from the CCP's implementation of
		CCP's implementation of certain	measures. The early intervention	certain measures. The early intervention
		measures. The early intervention	powers should be conferred on	powers should be conferred on competent
		powers should be conferred on	competent authorities in addition to	authorities in addition to their powers
		competent authorities in addition to	their powers provided for in the national	provided for in the national law of
		their powers provided for in the	law of Member States or under	Member States or under Regulation (EU)
		national law of Member States or	Regulation (EU) No 648/2012 for	No 648/2012 for circumstances other
		under Regulation (EU) No 648/2012	circumstances other than those	than those considered to be early
		for circumstances other than those	considered to be early intervention.	intervention. Early intervention rights
		considered to be early intervention.		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,

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				discretionary pension benefits or severance packages to management.
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.	intervention phases, shareholders should retain their rights in full. They should	intervention phases, shareholders should retain their rights in full. They lose such rights once the CCP has been put under resolution. 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

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		creditor incurring greater loss than it would have incurred under normal insolvency proceedings would be entitled to the payment of the difference.	
48. Rec. 3	should provide for timely entry into resolution before a CCP is insolvent.  A CCP should be considered to be	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	(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.

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		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. 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.
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	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	(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

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		liabilities as they fall due. In order to	liabilities as they fall due. In order to	due. In order to preserve financial
		preserve financial stability, in	preserve financial stability, in particular	stability, in particular in the case of a
		particular in the case of a systemic	in the case of a systemic liquidity	systemic liquidity shortage, State
		liquidity shortage, State guarantees on	shortage, State guarantees on liquidity	guarantees on liquidity facilities provided
		liquidity facilities provided by central	facilities provided by central banks or	by central banks or State guarantees of
		banks or State guarantees of newly	State guarantees of newly issued	newly issued liabilities to remedy a
		issued liabilities to remedy a serious	liabilities to remedy a serious	serious disturbance in the economy of a
		disturbance in the economy of a	disturbance in the economy of a	Member State should not trigger the
		Member State should not trigger the	Member State should not trigger the	resolution framework provided that a
		resolution framework provided that a	resolution framework provided that a	number of conditions are met.
		number of conditions are met.	number of conditions are met.	
50.	Rec. 35 a		(35a) Members of the ESCB, other	
	(new)		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	

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			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	
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	conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution	(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
		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	scenarios caused both by default and non-default events, or a combination of both. Their exercise should be subject to common conditions, objectives, and general principles. In	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.	СОМ	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. 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 exante. 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.
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	should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect

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

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

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

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

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

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

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

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

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

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

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

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

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Nr.	Ref.	COM	Council	ЕР
			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	

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Nr.	Ref.	COM	Council	EP
			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	

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

Nr.	Ref.	СОМ	Council	ЕР
		position and replenishing the required	excess of those that the clearing	through the continued exercise of the
		pre-funded resources either through	members would have borne under their	tools in the CCP's operating rules or
		the continued exercise of the tools in	obligations under the CCP's operating	through other actions.
		the CCP's operating rules or through	rules with instruments of ownership,	
		other actions.	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	

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Nr.	Ref.	СОМ	Council	EP
			members towards that CCP. Such compensation should be deducted from any entitlement to no creditor worse off -payment.	
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.	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. 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 authority uses such measure it should not discriminate anybody on the basis of nationality .	(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 of a CCP should	(48) The <i>recovery and</i> resolution tools

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

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

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

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

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

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

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

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

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		calculated net of the costs arisen from	costs arisen from the failure of the CCP	failure of the CCP and from the
		the failure of the CCP and from the	and from the resolution process.	resolution process.
		resolution process.		
72.	Rec. 57	(57) In order to perform the sale of	(57) In order to perform the sale of	(57) In order to perform the sale of
		business in a timely manner and	business in a timely manner and protect	business in a timely manner and protect
		protect financial stability, the	financial stability, the assessment of the	financial stability, the assessment of the
		assessment of the buyer of a	buyer of a qualifying holding should be	buyer of a qualifying holding should be
		qualifying holding should be carried	carried out in a timely manner that does	carried out in a timely manner that does
		out in a timely manner that does not	not delay the application of the sale of	not delay the application of the sale of
		delay the application of the sale of	business tool. The CCP, the purchaser	business tool.
		business tool.	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	

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			non-compliance with the relevant criteria for membership or participation, nor on the basis of insufficient credit rating.	
73.	Rec. 58	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	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	marketing of a failing CCP and the negotiations with potential acquirers prior to the application of the sale-of-business

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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).

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).

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

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).

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		conditions are appropriate or wound	appropriate or wound up if not longer	viable.
		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	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. In order to avoid moral hazard, the extraordinary public financial support should be provided only as a	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>over time</i> from the <i>clearing participants</i> , <i>which benefit from the</i>
		tools is notwithstanding the role of central banks in providing liquidity to	<ul><li>last resort, and ¶ funds provided should</li><li>always be recovered over an</li></ul>	
		the financial system even in times of	appropriate period of time. The	notwithstanding the role of <i>any</i> central
		stress.		banks in providing liquidity to the
			funds should not, however, be an	financial system even in times of stress,

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			obstacle in using the government stabilisation tools in case the established criteria for their use is met.  The use of government stabilisation tools is notwithstanding the role of any central bank in potentially providing liquidity to the financial system even in times of stress that is subject to its ultimate discretion.	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
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 <i>resolution</i> 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 <i>resolution</i> 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

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

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

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

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

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

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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.	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	(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 on substantive grounds if the decision was arbitrary and unreasonable at the time it was taken, given the information then readily available.
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	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	(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

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

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

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

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

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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).

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).

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

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

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

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

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		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	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	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
		coordination in respect of internationally active CCPs. National	1	active CCPs. National resolution authorities should recognise and enforce

Nr.	Ref.	СОМ	Council	EP
		resolution authorities should recognise	resolution authorities should recognise	third-country resolution proceedings in
		and enforce third-country resolution	and enforce third-country resolution	certain circumstances. Cooperation
		proceedings in certain circumstances.	proceedings in certain circumstances.	should also take place with regard to
		Cooperation should also take place	Cooperation should also take place with	subsidiaries of Union or third-country
		with regard to subsidiaries of Union or	regard to subsidiaries of Union or third-	CCPs and their clearing members and
		third-country CCPs and their clearing	country CCPs and their clearing	clients.
		members and clients.	members and <i>their</i> clients.	
89.	Rec. 73 a		(73a) In order to provide deterrence	
	(new)		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,	

Nr.	Ref.	COM	Council	EP
			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	

Nr.	Ref.	СОМ	Council	EP
			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).	
90.	Rec. 74	Union, the Commission should adopt draft regulatory technical standards	harmonisation and adequate protection for market participants across the Union, the Commission should adopt draft regulatory technical standards	(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.	СОМ	Council	EP
		delegated acts pursuant to Article 290	delegated acts pursuant to Article 290	pursuant to Article 290 TFEU, in
		TFEU, in accordance with Articles 10	TFEU, in accordance with Articles 10	accordance with Articles 10 to 14 of
		to 14 of Regulation (EU) No	to 14 of Regulation (EU) No 1095/2010	Regulation (EU) No 1095/2010 to specify
		1095/2010 to specify the content of	to specify the content of the written	the content of the written arrangements
		the written arrangements and	arrangements and procedures for the	and procedures for the functioning of the
		procedures for the functioning of the	functioning of the resolution colleges,	resolution colleges, the contents of
		resolution colleges, the contents of	the assessment methodology for	resolution plans and elements relevant to
		resolution plans and elements relevant	recovery plans, the contents of	the conduct of valuations.
		to the conduct of valuations.	resolution plans and elements relevant	
			to the conduct of valuations.	
91.	Rec. 75	(75) The Commission should be able	(75) The Commission should be able	(75) The Commission should be able to
		to suspend any clearing obligation	to suspend any clearing obligation	suspend any clearing obligation
		established pursuant to Article 5 of	established pursuant to Article 5 of	established pursuant to Article 5 of
		Regulation (EU) No 648/2012,	Regulation (EU) No 648/2012,	Regulation (EU) No 648/2012, following
		following a request from the resolution	following a request from the resolution	a request from the resolution authority of
		authority of a CCP in resolution or the	authority, the competent authority of a	a CCP in resolution or the competent
		competent authority of a clearing	CCP in resolution or the competent	authority of a clearing member of a CCP
		member of a CCP in resolution, and	authority of a clearing member of a	in resolution, and following a non-
		following a non-binding opinion by	CCP in resolution, and following a non-	binding opinion by ESMA, for specific

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

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

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

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).

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).

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).

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	aa (new)		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	

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			discontinued, therefore alleviating related financial stability concerns.  Such approach is in line with the international guidance from BCBS and IOSCO.	
93.	Rec. 75 b (new)		(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.	
94.	Rec. 75 c		(75c) Directive 2017/1132 <sup>30</sup> , Directive 2011/35/EU <sup>31</sup> , Directive 2005/56/EC <sup>32</sup> ,	

<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

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.	СОМ	Council	EP
	(new)		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	

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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).

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).

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).

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).

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			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.	
95.	Rec. 75 d (new)		(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.	
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	

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

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

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			innocence_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	(79) When taking decisions or actions	(79) When taking decisions or actions
		under this Regulation, competent	under this Regulation, competent	under this Regulation, competent
		authorities and resolution authorities	authorities and resolution authorities	authorities and resolution authorities
		should always have due regard to the	should always have due regard to the	should always have due regard to the
		impact of their decisions and actions	impact of their decisions and actions on	impact of their decisions and actions on
		on financial stability in other Member	financial stability in other Member	financial stability in other jurisdictions
		States and on the economic situation	States and on the economic situation in	and on the economic situation in other
		in other Member States and should	other Member States and should give	jurisdictions and should give
		give consideration to the significance	consideration to the significance of any	consideration to the significance of any
		of any clearing member for the	clearing member for the financial sector	clearing member for the financial sector
		financial sector and the economy of	and the economy of the Member State	and the economy of the jurisdictions
		the Member State where such a	where such a clearing member is	where such a clearing member is
		clearing member is established.	established.	established.
100.	Rec. 80	(80) Since the objective of this	, , ,	•
		Regulation, namely the harmonisation	Regulation, namely the harmonisation	Regulation, namely the harmonisation of

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

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		recovery and resolution of credit	Regulation] to establish all essential	and resolution of credit institutions and
		institutions and investment firms, it is	implementing measures and to allow	investment firms, it is appropriate to
		appropriate to defer the application of	CCPs and other market participants to	defer the application of this Regulation
		this Regulation until the date from	take the necessary steps for compliance	until the date from which Member States
		which Member States are to apply the	purposes.	are to apply the measures transposing
		measures transposing [PO: Please		[PO: Please insert reference to the
		insert reference to the Directive		Directive amending Directive
		amending Directive 2014/59/EU].		2014/59/EU].
102.	Rec. 81 a		(81a) This Regulation should ensure	
	(new)		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	

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			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	

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<sup>&</sup>lt;sup>35</sup> Key Attributes of Effective Resolution Regimes for Financial Institutions, October 2011 https://www.fsb.org/wp-content/uploads/r\_111104cc.pdf

<sup>&</sup>lt;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

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			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	

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			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.	
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

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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;

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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 <i>Articles</i> 48 <i>to 58</i> ;	(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

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	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)			(7a) 'default event' means a scenario in which one or more clearing members fail to honour their financial obligations to the CCP;
117.	Art. 2 - para. 1 - point 7 b (new)			(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;
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

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	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 once the conditions for resolution set out in Article 22 are met;
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;

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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' <i>or</i> ' <i>FMI</i> ' 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)		(14a) 'trading venue' means a trading venue as defined in point 4 of Article 2 of Regulation (EU) No 648/2012;	
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

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

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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) 'supervisory college' means the college referred to in Article 18(1) of Regulation (EU) No 648/2012 with the participation of the Single Resolution Board (SRB);
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 accordance with point 25 of Article 2 of Regulation EU No. 648/2012;	(21) 'capital' means ■ capital as defined in point 25 of Article 2 of Regulation (EU) No 648/2012;

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).

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		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 -	(22) 'default waterfall' means default	(22) 'default waterfall' means default	(22) 'default waterfall' means default
	para. 1 -	waterfall in accordance with Article 45	waterfall in accordance with Article 45	waterfall in accordance with Article 45 of
	point 22	of Regulation (EU) No 648/2012;	of Regulation (EU) No 648/2012;	Regulation (EU) No 648/2012;
136.	Art. 2 -	(23) 'critical functions' means	(23) 'critical functions' means	(23) 'critical functions' means activities,
	para. 1 -	activities, services or operations	activities, services or operations	services or operations provided to third
	point 23	provided to third parties external to the	provided to third parties external to the	parties external to the CCP the
		CCP the discontinuance of which is	CCP the discontinuance of which is	discontinuance of which is likely to lead
		likely to lead to the disruption of	likely to lead to the disruption of	to the disruption of services that are
		services that are essential to the real	services that are essential to the real	essential to the real economy or to disrupt
		economy or to disrupt financial	economy or to disrupt financial stability	financial stability in one or more Member
		stability in one or more Member States	in one or more Member States due to	States due to the size, market share,
		due to the size, market share, external	the size, market share, external and	external and internal interconnectedness,
		and internal interconnectedness,	internal interconnectedness, complexity	complexity or cross-border activities of a

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

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		order to preserve or restore the viability, liquidity or solvency of a CCP or of a group of which such a CCP forms part;		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;		divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to

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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

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

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

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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).

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).

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	giving rights to acquire debt	giving rights to acquire debt instruments;
		debt instruments;	instruments;	
150.	Art. 2 -		(36a) 'initial margin' means margins	
	para. 1 -		collected by the CCP to cover potential	
	point 36 a		future exposure to clearing members	
	(new)		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;	
151.	Art. 2 -		(36b) 'variation margin' means	
	para. 1 -		margins collected or paid out to reflect	
	point 36 b		current exposures resulting from	
	(new)		actual changes in market prices;	
152.	Art. 2 -	(37) 'resolution cash call' means a	(37) 'resolution cash call' means a	(37) 'resolution cash call' means a
	para. 1 -	request for cash resources to be	request for cash resources to be	request for cash resources to be provided

Nr.	Ref.	СОМ	Council	ЕР
	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 and as laid out in the operating rules of the CCP;
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) 'recovery 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	instruments of ownership, debt instruments, assets, rights, obligations	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	(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.	СОМ	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	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	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

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	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;
		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,

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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).

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).

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).

Nr.	Ref.	СОМ	Council	ЕР
	point 43	accelerate, close out, set-off or net	accelerate, close out, set-off or net	close out, set-off or net obligations or any
		obligations or any similar provision	obligations or any similar provision that	similar provision that suspends, modifies
		that suspends, modifies or	suspends, modifies or extinguishes an	or extinguishes an obligation of a party to
		extinguishes an obligation of a party to	obligation of a party to the contract or a	the contract or a provision that prevents
		the contract or a provision that	provision that prevents an obligation	an obligation under the contract from
		prevents an obligation under the	under the contract from arising that	arising that would otherwise arise;
		contract from arising that would	would otherwise arise;	
		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.	СОМ	Council	EP
		European Parliament and of the	European Parliament and of the	Parliament and of the Council <sup>46</sup> ;
		Council <sup>44</sup> ;	Council <sup>45</sup> ;	
161.	Art. 2 -	(46) 'third-country resolution	(46) 'third-country resolution	(46) 'third-country resolution
	para. 1 -	proceedings' means an action under	proceedings' means an action under the	proceedings' means an action under the
	point 46	the law of a third country to manage	law of a third country to manage the	law of a third country to manage the
		the failure of a third-country CCP that	failure of a third-country CCP that is	failure of a third-country CCP that is
		is comparable, in terms of objectives	comparable, in terms of objectives and	comparable, in terms of objectives and
		and anticipated results, to resolution	anticipated results, to resolution actions	anticipated results, to resolution actions
		actions under this Regulation;	under this Regulation;	under this Regulation;
162.	Art. 2 -	(47) 'relevant national authorities'	(47) 'relevant national authorities'	(47) 'relevant national authorities' means
	para. 1 -	means the resolution authorities,	means the resolution authorities,	the resolution authorities, competent
	point 47	competent authorities or competent	competent authorities or competent	authorities or competent ministries
		ministries designated in accordance	ministries designated in accordance	designated in accordance with this
		with this Regulation or pursuant to	with this Regulation or pursuant to	Regulation or pursuant to Article 3 of
		Article 3 of Directive 2014/59/EU or	Article 3 of Directive 2014/59/EU or	Directive 2014/59/EU or other authorities

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)

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)

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)

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

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

Nr.	Ref.	СОМ	Council	ЕР
				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			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.
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.	СОМ	Council	EP
		in carrying out the other functions of that authority.	tasks puruant to Regulation (EU) No 648/2012.	
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. Where required under national law in a Member State, the rules referred to in this paragraph may be adopted in national law.	the structural separation , including rules regarding professional secrecy and information exchanges between the
174.	Art. 3 - para. 4 a (new)		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	

Nr.	Ref.	СОМ	Council	EP
			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.	
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 <i>in a timely manner</i> of the decisions taken pursuant to this Regulation.

Nr.	Ref.	СОМ	Council	ЕР
		Regulation.	Regulation and, unless otherwise stipulated in national law, have its approval before implementing decisions that have a direct fiscal impact or systemic implications.	
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 \bigset{1}, the resolution authority shall obtain the necessary approval as stipulated by \bigset{1} 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	

Nr.	Ref.	COM	Council	EP
	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	purposes of cooperation and	of cooperation and coordination with	
	- point d	coordination with the relevant	the relevant authorities of other Member	
		authorities of other Member States.	States.	
184.	Art. 3 -	10. ESMA shall publish a list of the	10. ESMA shall publish a list of the	10. ESMA shall publish a list of the
	para. 10	resolution authorities and the contact	resolution authorities and the contact	resolution authorities and the contact
		authorities notified pursuant to	authorities notified pursuant to	authorities notified pursuant to paragraph
		paragraph 8.	paragraph 8.	8.
185.	Art. 4 -	Article 4	Article 4	Article 4
	title	Resolution colleges	Resolution colleges	Resolution colleges
186.	Art. 4 -	1. The resolution authority shall	1. The resolution authority <i>of the CCP</i>	1. The resolution authority of the CCP
	para. 1 -	establish, manage and chair a	shall establish, manage and chair a	shall establish, manage and chair a
	subpara.	resolution college to carry out the	resolution college to carry out the tasks	resolution college to carry out the tasks
	1	tasks referred to in Articles 13 16 and	referred to in Articles 13, 16 and 17	referred to in Articles 13, 16 and 17 and
		17 and ensure cooperation and	ensure cooperation and coordination	ensure cooperation and coordination with
		coordination with third-country	with resolution authorities of the	third-country resolution authorities.
		resolution authorities.	Member States and, where appropriate,	
			cooperation 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 <i>drawing up</i> resolution plans, for the application of preparatory and preventative measures and for resolution;	(a) exchange information relevant for the development of resolution plans, for assessing the CCP's interconnectedness and that of its participants, along with other central banks of interest, 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) <i>draw up</i> resolution plans pursuant to Article 13;	(b) <i>assess</i> 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	ЕР
	para. 1 - subpara. 2 - point c	pursuant to Article 16;	pursuant to Article 16;	pursuant to Article 16;
191.	•			
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 <i>about</i> resolution <i>plans and</i> strategies-	(e) coordinate public communication of resolution strategies and schemes;
193.	Art. 4 - para. 1 - subpara. 2 - point e a (new)			(ea) exchange recovery and resolution plans of clearing members and assess potential impact and interconnectedness with the CCP;
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.	СОМ	Council	EP
	para. 2 - introd.	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, including, where relevant, the ECB in the framework of the tasks concerning the prudential supervision of credit institutions within the single supervisory mechanism conferred	resolution authorities of the clearing

Nr.	Ref.	СОМ	Council	EP
			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> ;	
198.	Art. 4 - para. 2 - point c a (new)		(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	

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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).

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).

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			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.	
199.	Art. 4 -		(cb) the competent authorities or the	
	para. 2 -		resolution authorities of clearing	
	point c b		members' clients, provided that the	
	(new)		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.	

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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 <i>of issue</i> referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;

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205.	Art. 4 - para. 2 - point h a (new)		(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.	
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)			(ia) the competent authorities charged with supervision of O-SIIs referred to in Article 131 (3) of Directive 2013/36/EU;

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208.	Art. 4 - para. 2 - point j	<ul><li>(j) the competent ministry, where the resolution authority referred to in point</li><li>(a) is not the competent ministry;</li></ul>	<ul><li>(j) the competent ministry, where the resolution authority referred to in point</li><li>(a) is not the competent ministry;</li></ul>	<ul><li>(j) the competent ministry, where the resolution authority referred to in point</li><li>(a) is not the competent ministry;</li></ul>
209.	Art. 4 - para. 2 - point k	(k) ESMA;	(k) ESMA;	(k) ESMA;
210.	Art. 4 - para. 2 - point 1	(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</i> referred to in points (ca), (cb) and (ha) shall not have voting rights in resolution colleges.	3. ESMA, EBA and the competent authorities charged with the supervision of O-SIIs shall not have voting rights in resolution colleges.
212.	Art. 4 - para. 3 - subpara. 1 a (new)		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.	

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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		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
214.	Art. 4 - para. 4 - subpara. 2 - introd.	equivalent, in the opinion of the chair of the college, to those laid down in Article 71.  The participation of third country authorities in the resolution college shall be limited to the discussion of cross-border enforcement issues,	equivalent, in the opinion of the chair of the college, to those laid down in Article 71.  The participation of third country authorities in the resolution college shall be limited to the discussion of cross-border enforcement issues,	equivalent, in the opinion of the chair of the <i>resolution</i> college, to those laid down in Article 71.  The participation of third country authorities in the resolution college <i>may</i> be limited to the discussion of <i>select</i> cross-border enforcement issues, <i>which</i>
	part	including the following:	including the following:	may include the following:

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

Nr.	Ref.	СОМ	Council	ЕР
		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;	resolution college fully informed in	(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.	СОМ	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)			(ga) making sure the college members exchange all relevant information in a timely manner for the exercise of their tasks under this Regulation.
229.	Art. 4 - para. 5 a (new)		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	

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			the agenda of the college meetings, in particular by adding points to the agenda of the meeting.	
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.	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	standards in order to specify the content of the written arrangements and procedures for the functioning of the
231.	Art. 4 - para. 6 - subpara. 2		regulatory standards referred to in the first subparagraph, ESMA shall take	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.	СОМ	Council	EP
		the Commission Delegated Regulation	the Commission Delegated Regulation	Commission Delegated Regulation (EU)
		(EU) No 876/2013 <sup>49</sup> , of Section 1 of	(EU) No 876/2013 <sup>51</sup> , of Section 1 of	No 876/2013 <sup>53</sup> , of Section 1 of Chapter 6
		Chapter 6 of Commission Delegated	Chapter 6 of Commission Delegated	of Commission Delegated Regulation
		Regulation (EU) –/2016	Regulation (EU) –/2016 supplementing	(EU) XXX/2016 supplementing Directive
		supplementing Directive 2014/59/EU	Directive 2014/59/EU with regard to	2014/59/EU with regard to regulatory
		with regard to regulatory technical	regulatory technical standards adopted	technical standards adopted on the basis
		standards adopted on the basis of	on the basis of Article 88(7) of	of Article 88(7) of Directive
		Article 88(7) of Directive	Directive 2014/59/EU <sup>52</sup> .	2014/59/EU <sup>54</sup> .
		2014/59/EU <sup>50</sup> .		

49 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)

51 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)

53 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)

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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 writedown 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>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 writedown 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>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.	СОМ	Council	EP
232.	Art. 4 - para. 6 - subpara. 3	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: insert date 12 months after the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: insert date 12 months after the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: insert date 12 months after the date of entry into force of this Regulation].
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	-

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]

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	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.	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 and the competent authorities charged with supervision of

Nr.	Ref.	СОМ	Council	EP
		as observers.	as observers.	O-SIIs shall be invited to participate in
				the resolution committee as observers.
239.	Art. 5 -			2a. ESMA shall assess CCP recovery
	para. 2 -			and resolution arrangements across the
	subpara.			Union in terms of their aggregate effect
	2 a (new)			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

Nr.	Ref.	СОМ	Council	EP
				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.
240.	Art. 5 - para. 3	3. For the purposes of this Regulation, ESMA shall cooperate with the European Insurance and	_	ESMA shall cooperate with the European

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

Nr.	Ref.	СОМ	Council	ЕР
	para. 1	resolution authorities shall cooperate closely in the preparation, planning and application of resolution decisions.	resolution authorities shall cooperate closely for the purposes of this Regulation.	authorities and ESMA shall cooperate closely in the preparation, planning and, to the extent possible, in the application of resolution decisions. 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.
244.	Art. 6 - para. 2 - subpara.	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.	СОМ	Council	EP
	para. 2 -	authorities shall, without delay,	authorities shall, without delay, provide	authorities shall, without delay, provide
	subpara.	provide ESMA with all the	ESMA with all the information	ESMA with all the information necessary
	2	information necessary to carry out its	necessary to carry out its duties in	to carry out its duties in accordance with
		duties in accordance with Article 35 of	accordance with Article 35 of	Article 35 of Regulation (EU) No
		Regulation (EU) No 1095/2010.	Regulation (EU) No 1095/2010.	1095/2010.
246.	Section 2	Section II	Section II	Section II
		Decision-making and procedures	Decision-making and procedures	Decision-making and procedures
247.	Art. 7 -	Article 7	Article 7	Article 7
	title	General principles regarding decision-	General principles regarding decision-	General principles regarding decision-
		making	making	making
248.	Art. 7 -	Competent authorities, resolution	Competent authorities, resolution	Competent authorities, resolution
	para. 1 -	authorities and ESMA shall take	authorities and ESMA shall take	authorities and ESMA shall take account
	introd.	account of all the following principles	account of all the following principles	of all the following principles and aspects
	part.	when making decisions and taking	when making decisions and taking	when making decisions and taking action
		action pursuant to this Regulation:	action pursuant to this Regulation:	pursuant to this Regulation:
249.	Art. 7 -	(a) that the proportionality of any	(a) that the proportionality of any	(a) that the <i>effectiveness and</i>
	para. 1 -	decision or action in relation to an	decision or action in relation to an	proportionality of any decision or action
	point a -	individual CCP is ensured, taking into	individual CCP is ensured, taking into	in relation to an individual CCP is

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

Nr.	Ref.	СОМ	Council	EP
				those can be identified easily and without undue delay;
253.	Art. 7 - para. 1 - point a - subpoint iii a (new)		iii a) the substitutability of the CCP in all the markets it serves;	
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) 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.	СОМ	Council	ЕР
256.	Art. 7 - para. 1 - point a - subpoint v a (new)			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;
257.	Art. 7 - para. 1 - point a - subpoint v b (new)			vb) the availability of other CCPs that could credibly and feasibly act as a substitute for the critical functions of the CCP;
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.	СОМ	Council	ЕР
	point b	as low as possible when taking early	low as possible when taking early	low as possible while preventing market
		intervention or resolution action are	intervention <i>measures</i> or resolution	disruption when taking early intervention
		observed;	action are observed;	measures or resolution action are
				observed in order to avoid the use of
				public funds;
260.	Art. 7 -		(ba) that the use of extraordinary	
	para. 1 -		public financial support should be	
	point b a		avoided and that such support shall	
	(new)		only be available and used as a last	
			resort in accordance with the	
			conditions laid out in Article 45;	
261.	Art. 7 -	(c) that decisions are made and action	(c) that decisions are made and action	(c) that decisions are made and action is
	para. 1 -	is taken in a timely manner and with	is taken in a timely manner and with	taken in a timely manner and with due
	point c	due urgency when required;	due urgency when required while at the	urgency when required;
			same time ensuring that market	
			disruption is mitigated to the greatest	
			extent possible;	
262.	Art. 7 -	(d) that resolution authorities,	(d) that resolution authorities,	(d) that resolution authorities, competent

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

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			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;	
265.	Art. 7 - para. 1 - point f a (new)		(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;	
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	of affected clearing members, and to	(g) that due consideration is given to the objectives of balancing the interests of the various clearing <i>members</i> , <i>their clients</i> , <i>wider</i> creditors and <i>stakeholders</i> of the CCP in the Member States

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		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;	<i>CCP</i> in the Member States involved <i>by</i> avoiding unfairly prejudicing or unfairly protecting the interests of particular actors <i>and</i> 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)			(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;
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:

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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 <i>including interoperable CCPs</i> ;	(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, including interoperable CCPs and trading venues, 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)		(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;	

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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 taking into account the circumstances of the case, the resolution objectives will be achieved more effectively by 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 towards the competent authority and resolution authority whenever a proposed decision or action could have implications on the financial stability or fiscal resources of any relevant Member State_;	1 2
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;

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275.	Art. 7 - para. 1 - point l	(l) 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.	(l) 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.	(l) 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.	2. Resolution authorities shall only divulge confidential information provided by a third-country authority where that authority has given its prior	2. By way of derogation from paragraph 1, the resolution 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

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

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283.	Art. 9 -	Article 9	Article 9	Article 9
	title	Recovery plans	Recovery plans	Recovery plans
284.	Art. 9 -	1. CCPs shall draw up and maintain	•	1. CCPs shall draw up and maintain a
	para. 1	a recovery plan providing for	a recovery plan providing for measures	comprehensive and effective recovery
		measures to be taken in order to	to be taken in order to restore their	plan providing for measures to be taken
		restore their financial position	financial soundness and allow them to	in the case of both default and non-
		following a significant deterioration of	continue to provide critical functions	default events and combinations of both
		their financial situation or a risk of	following a significant deterioration of	in order to restore their financial position
		breaching their prudential	their financial situation or a risk of	without any public financial support in
		requirements under Regulation (EU)	breaching their capital and prudential	order to enable them to continue to
		No 648/2012.	requirements under Regulation (EU) No	provide clearing services following a
			648/2012. The recovery plan shall take	significant deterioration of their financial
			into consideration scenarios that	situation or a risk of breaching their
			would severely affect the financial	prudential requirements under Regulation
			soundness or operational viability of	(EU) No 648/2012.
			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	

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

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

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290.	Art. 9 - para. 1 a (new) - introd. part			1a. The recovery plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on:
291.	Art. 9 - para. 1 a (new) - point a			(a) default events;
292.	Art. 9 - para. 1 a (new) - point b			(b) non-default events.
293.	Art. 9 - para. 1 a (new) - subpara. 2			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

Nr.	Ref.	СОМ	Council	ЕР
				time.
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 referred to in the second subparagraph of paragraph 1 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 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.	2. The recovery plan shall include a framework of indicators, based on the risk profile on the CCP, 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, including close cooperation between the relevant authorities, for the regular monitoring of the indicators. CCPs shall report to

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				ESMA and competent authorities on the outcome of this monitoring.
296.	Art. 9 - para. 2 - subpara. 2 a (new)			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.
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</i> with the CCP operating rules:	3. CCPs shall 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:
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

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	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)		Any decision taken pursuant to this paragraph and its justification shall be notified to the competent authority without delay.	3a. Any measure to be taken pursuant to paragraph 3 shall require the approval of the competent authority
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 <i>and ESMA</i> 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.

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

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304.	Art. 9 - para. 5 - subpara. 1	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	5. The competent authority shall promptly inform the resolution authority and the supervisory college, and the resolution authority shall promptly inform the resolution college of any notification received in accordance with the second subparagraph of paragraph 3 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)			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

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				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 severence packages to management.
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</i> , <i>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 :

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	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 and take into account the interdependencies within the group the CCP belongs to where relevant. Competent authorities may require CCPs to include additional information in their recovery plans.	
308.	Art. 9 - para. 7 - poin a (new)			(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;
309.	Art. 9 - para. 7 - poin b (new)			(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

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

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314.	Art. 9 - para. 7 a (new) - point c			(c) re-establish a matched book following a default event;
315.	Art. 9 - para. 7 a (new) - point d			(d) address uncovered liquidity shortfalls; and
316.	Art. 9 - para. 7 a (new) - point e			(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.
317.	Art. 9 - para. 7 b (new)			7b. Recovery plans shall contemplate a range of extreme scenarios, including the default of clearing members beyond

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				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.
318.	Art. 9 - para. 7 c (new)			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

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				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.
319.	Art. 9 - para. 7d (new)			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

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

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	point c			reactions while acting in as transparent a manner as possible;
324.	Art. 9 - para. 7 e (new) - point d			(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 prefunded 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;
325.	Art. 9 - para. 7 e			(e) appropriate conditions and procedures to ensure the timely

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	(new) -			implementation of recovery actions, as
	point e			well as a wide range of recovery options,
				including an estimation of the
				timeframe for executing each material
				aspect of the plan;
326.	Art. 9 -			(f) a detailed description of any
	para. 7 e			material impediment to the effective and
	(new) -			timely execution of the plan, including
	point f			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;
327.	Art. 9 -			(g) identification of critical functions;
	para. 7 e			
	(new) -			

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	point g			
328.	Art. 9 - para. 7 e (new) - point h			(h) a detailed description of the processes for determining the value and marketability of the core business lines, operations and assets of the CCP;
329.	Art. 9 - para. 7 e (new) - point 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;
330.	Art. 9 - para. 7 e			(j) arrangements and measures incentivising non-defaulting clearing

Nr.	Ref.	СОМ	Council	EP
	(new) - point j			members to bid competitively in auctions of a defaulted members' positions;
331.	Art. 9 - para. 7 e (new) - point k			(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;
332.	Art. 9 - para. 7 e (new) - point 1			(1) arrangements and measures:
333.	Art. 9 - para. 7 e			(i) to reduce risk;

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restructure contracts, rights,
nd liabilities including:
partially or fully terminate
ts

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

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Nr.	Ref.	СОМ	Council	EP
	iv			
339.	Art. 9 -			(v) necessary to maintain the
	para. 7 e			continuous functioning of the CCP's
	(new) -			operational processes, including
	point 1 -			infrastructure and IT services;
	subpoint			
	v			
340.	Art. 9 -			(vi) a description of management
	para. 7 e			actions or strategies to restore financial
	(new) -			soundness and the anticipated financial
	point 1 -			effect of those actions or strategies;
	subpoint			
	vi			
341.	Art. 9 -			(vii) preparatory measures that the
	para. 7 e			CCP has taken or plans to take in order
	(new) -			to facilitate the implementation of the
	point 1 -			recovery plan, including those necessary
	subpoint			to enable the timely recapitalisation of

Nr.	Ref.	COM	Council	ЕР
	vii			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.
342.	Art. 9 - para. 7 e (new) - point 1 - subpoint viii			(viii) a framework of indicators which identifies the points at which appropriate actions referred to in the plan may be taken.
343.	Art. 9 - para. 7 e (new) - point 1 -			(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

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

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		investment activities or from operational problems (including severe external threats to a CCP's operations due to an external disruption, shock or cyberrelated incident);
346. Art. 9 - para. 7 f (new)		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(1) 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

Nr.	Ref.	COM	Council	EP
347.	Art. 9 - para. 7 g (new)			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.
348.	Art. 9 - para. 7 h			7h. A CCP shall, in agreement with the competent authority, use the tools

Nr.	Ref.	СОМ	Council	EP
	(new)			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).
349.	Art. 9 - para. 7 i (new)			7i. Competent authorities may require CCPs to include additional information in their recovery plans.
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 <i>and to ESMA</i> .
351.	Art. 9 - para. 8 a		8a. Where the board of the CCP has decided not to follow the advice of the	

Nr.	Ref.	СОМ	Council	EP
	(new)		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.	
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.	in the corporate governance and the	9. Recovery plans shall be considered as part of the operating rules of CCPs and CCPs and their clearing members in the case of provisions related to their clients 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)		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 part of the operating rules of CCPs.	

Nr.	Ref.	COM	Council	ЕР
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 in all jurisdictions where the clearing members, linked FMIs or trading venues are located.	
355.	Art. 9 - para. 9 - subpara. 1c (new)		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].	
356.	Art. 9 - para. 9 a (new)			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

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Nr.	Ref.	СОМ	Council	EP
				items. Clearing members shall ensure that any provisions affecting their clients are adequately communicated to them.
357.	Art. 9 - para. 9 b (new)			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.
358.	Art. 9 a (new) - title		Article 9a Use of own resources in recovery	
359.	Art. 9 a (new) - para. 1		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	

Nr.	Ref.	СОМ	Council	EP
			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.	
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.	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 <i>supervisory</i> 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.	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.	Within six months of the submission of each plan, and in coordination with the <i>supervisory</i> 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		2. The competent authority shall promptly transmit each plan to the supervisory college and to the resolution authority.	

Nr.	Ref.	COM	Council	EP
365.	Art. 10 -	3. When assessing the recovery plan,	3. When assessing the recovery plan,	3. When assessing the recovery plan,
	para. 3	the competent authority shall take into	the competent authority and the	the competent authority shall consult the
		consideration the CCP's capital	supervisory college shall take into	ESRB and take into consideration the
		structure, its default waterfall, the	consideration the following factors:	CCP's capital structure, its default
		level of complexity of the		waterfall, the level of complexity of the
		organisational structure and the risk		organisational structure and the risk
		profile of the CCP, and the impact that		profile of the CCP, including in terms of
		the implementation of the recovery		financial, operational and cyber risks,
		plan would have on clearing members,		the substitutability of its activities, and
		their clients, financial markets served		the impact that the implementation of the
		by the CCP and on the financial		recovery plan would have on clearing
		system as a whole.		members, their clients, financial markets
				served by the CCP and on the financial
				system as a whole 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

Nr.	Ref.	COM	Council	EP
				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.
366.	Art. 10 - para. 3 - point a (new)		(a) the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure, the substitutability of its activities and the risk profile of the CCP :	
367.	Art. 10 - para. 3 - point b (new) - introd. part		(b) the overall impact that the implementation of the recovery plan would have on:	

Nr.	Ref.	СОМ	Council	EP
368.	Art. 10 - para. 3 - point b (new) - subpoint 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;	
369.	Art. 10 - para. 3 - point b (new) - subpoint ii		ii. any linked FMIs;	
370.	Art. 10 - para. 3 - point b (new) - subpoint		iii. financial markets, including trading venues, served by the CCP; and	

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	iii			
371.	Art. 10 -		iv. the financial system of any	
	para. 3 -		Member State and the Union as a	
	point b		whole;	
	(new) -			
	subpoint			
	iv			
372.	Art. 10 -		(c) whether the recovery tools and	
	para. 3 -		their sequence specified by the	
	point c		recovery plan create appropriate	
	(new)		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.	
373.	Art. 10 -		ESMA, in cooperation with the ESCB,	

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

Nr.	Ref.	COM	Council	EP
	(new)			parental support agreements into consideration as valid parts of the recovery plan where those agreements are contractually binding.
377.	Art. 10 - para. 3 a (new)		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.	
378.	Art. 10 - para. 4	4. The resolution authority shall examine the recovery plan in order to identify any measures which may	examine the recovery plan in order to	examine the recovery plan in order to

Nr.	Ref.	СОМ	Council	EP
		adversely impact the resolvability of the CCP. The resolution authority shall make recommendations to the competent authority with regard to those matters.	CCP. Should the resolution authority	adversely impact the resolvability of the CCP. 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.
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.	decides not to act on the recommendations of the resolution authority pursuant to paragraph 4, it shall
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	agrees with the recommendations of the resolution authority, or considers in	agrees with the recommendations of the resolution authority, or otherwise

Nr.	Ref.	СОМ	Council	ЕР
		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.		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.	into account the CCP's views, may require the CCP to submit, within two months, extendable by one month with	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, after consulting the resolution	8. Where the competent authority considers that the deficiencies and

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

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

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

Nr.	Ref.	СОМ	Council	EP
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;
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.	СОМ	Council	EP
391.	Art. 10 - para. 10 a (new) - subpara.			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).
392.	Art. 10 - para. 10 a (new) - subpara. 2			ESMA shall submit those draft regulatory technical standards to the Commission by [12 months after the entry into force of this regulation].
393.	Art. 10 - para. 10 a (new) - subpara.			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.
394.	Art. 11 - title	Article 11		Article 11

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

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

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 10 (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 <i>supervisory</i> college shall reach a joint decision on the issues referred to in points (a) and (b) <i>of paragraph 1</i> 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.	СОМ	Council	ЕР
	subpara.	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	ЕР
	para. 3 -	shall make the decision referred to in	shall make the decision referred to in	make the decision referred to in the first
	subpara.	the first subparagraph taking into	the first subparagraph taking into	subparagraph taking into account the
	2	account the views of the other college	account the views of the other college	views of the other college members
		members expressed during the four-	members expressed during the four-	expressed during the four-month period.
		month period. The competent	month period. The competent authority	The competent authority of the CCP shall
		authority of the CCP shall notify in	of the CCP shall notify in writing that	notify in writing that decision to the CCP,
		writing that decision to the CCP, to its	decision to the CCP and to the other	to its parent undertaking, where relevant,
		parent undertaking, where relevant,	members of the college.	and to the other members of the college.
		and to the other members of the		
		college.		
409.	Art. 12 -	4. Where, by the end of that four-	4. Where, by the end of that four-	4. Where, by the end of that four-month
	para. 4	month period, any member of the	month period a joint decision has not	period, any group of members of the
		college has referred to ESMA in	been reached, any voting member of	supervisory college <i>representing a</i>
		accordance with Article 19 of	the college, based on a majority of the	simple majority of the members of this
		Regulation (EU) No 1095/2010 a	voting members has referred to ESMA	college, has referred to ESMA in
		matter in relation to the assessment of	in accordance with Article 19 of	accordance with Article 19 of Regulation
		recovery plans and implementation of	Regulation (EU) No 1095/2010 a matter	(EU) No 1095/2010 a matter in relation
		the measures pursuant to points (a), (b)	in relation to the assessment of recovery	to the assessment of recovery plans and
		and (d) of Article 10(9) of this	plans and implementation of the	implementation of the measures pursuant

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

Nr.	Ref.	СОМ	Council	EP
		competent authority of the CCP shall	competent authority of the CCP shall	authority of the CCP shall apply.
		apply.	apply.	
411.	Section 2	SECTION 2	SECTION 2	SECTION 2
		RESOLUTION PLANNING	RESOLUTION PLANNING	RESOLUTION PLANNING
412.	Art. 13 -	Article 13	Article 13	Article 13
	title	Resolution plans	Resolution plans	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.	СОМ	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 one of the following or any combination thereof:	(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. default events;
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. non-default events;

Nr.	Ref.	СОМ	Council	ЕР
	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 -		<ul><li>i. clearing members, and to the extent</li><li>the information is available, their</li></ul>	

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

Nr.	Ref.	СОМ	Council	ЕР
424.	Art. 13 - para. 3 - point b - subpoint iv (new)		iv. the financial system in any Member State or the Union as a whole;	
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 <i>provided</i> under standard collateralisation, tenor and interest rate terms 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.	СОМ	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)			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

Nr.	Ref.	COM	Council	EP
				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.
431.	Art. 13 -	5. Resolution authorities shall review	5. The resolution authority of a CCP	5. Resolution authorities shall review
	para. 5 -	resolution plans and where appropriate	shall, after consultation with the	resolution plans and where appropriate
	subpara.	update them, at least annually and in	competent authority and in	update them, at least annually and in any
	1	any case after changes to the legal or	coordination with the resolution	case after changes to the legal or
		organisational structure of the CCP, its	college in accordance with the	organisational structure of the CCP, its
		business or financial situation or any	procedure in Article 15, review	business or financial situation or any
		other change that materially affects the	resolution plans and where appropriate	other change that materially affects the
		effectiveness of the plan.	update them, at least annually and in	effectiveness of the plan.
			any case after changes to the legal or	

Nr.	Ref.	СОМ	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 <i>CCP</i> and the competent <i>authority</i> shall promptly inform the resolution <i>authority</i> 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)			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.
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

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Nr.	Ref.	СОМ	Council	ЕР
	part	and exercising the resolution powers.  The resolution plan shall include the following, quantified whenever appropriate and possible:	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. The resolution plan shall include the following,	the resolution powers. The resolution plan shall include the following, quantified whenever appropriate and possible:
			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 on the basis of the distinction referred to in the first subparagraph;	(a) a summary of the key elements of the plan deferentiating between default events, non-default events and a combination of the two;
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) an assessment of how and whether the CCP's critical functions could be	(c) a demonstration of how the CCP's critical functions could be legally and

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

Nr.	Ref.	СОМ	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 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, critical service providers and other market participants and interoperability arrangements and links with other FMIs;	(k) a description of critical interdependencies between the CCP and other market participants, including intragroup interdependencies, interoperability arrangements and links with other FMIs, together with the ways of addressing such interdependencies;
446.	Art. 13 - para. 6 - point k a (new)		(ka)a description of critical intra-group interdependencies;	
447.	Art. 13 - para. 6 - point 1 - introd. part	(1) 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.	СОМ	Council	ЕР
	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 members, and, where applicable, their clients on a transparent and non-discriminatory basis 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.	СОМ	Council	EP
	subpoint			
	iv			
452.	Art. 13 -	v. the portability of the positions of	v. the portability of the positions <i>and</i>	v. the portability of the assets and
	para. 6 -	clearing participants;	related assets of direct and indirect	positions of the clients and indirect
	point 1 -		clients is not affected;	clients of clearing members, as set out in
	subpoint			Article 39 of Regulation (EU) No
	v			648/2012;
453.	Art. 13 -	vi. preservation of the licenses,	vi. preservation of the licenses,	vi. preservation of the licenses,
	para. 6 -	authorisations, recognitions and legal	authorisations, recognitions and legal	authorisations, recognitions and legal
	point 1 -	designations of a CCP necessary for	designations of a CCP where necessary	designations of a CCP where necessary
	subpoint	the continued performance of the	for the continued performance of the	for the continued performance of the
	vi	CCP's critical functions including its	CCP's critical functions including its	CCP's critical functions including its
		recognition for the purposes of the	recognition for the purposes of the	recognition for the purposes of the
		application of the relevant settlement	application of the relevant settlement	application of the relevant settlement
		finality rules and the participation in	finality rules and the participation in or	finality rules and the participation in or
		or links with other FMIs;	links with other FMIs;	links with other FMIs;
454.	Art. 13 -			(la) a description of the approach that
	para. 6 -			the resolution authority plans to follow

Nr.	Ref.	СОМ	Council	ЕР
	point l a (new)			in order to determine the scope and value of any contracts to be terminated in accordance with Article 29;
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 so as to be as transparent as possible;
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.	СОМ	Council	EP
		functioning of the CCP's operational processes.	operational processes ;	operational processes.
458.	Art. 13 - para. 6 - point o a (new)			(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.
459.	Art. 13 - para. 6 - point o b (new)		(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.	

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			7a. The Resolution Authority of the CCP shall cooperate closely with the Resolution Authorities of the CCP's

Nr.	Ref.	СОМ	Council	EP
	(new)			Clearing Member's with the aim of ensuring that there are no impediments to resolution.
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.	,	
464.	Art. 13 - para. 8 - subpara.			When developing the draft regulatory technical standards, ESMA shall take into due consideration the level of

Nr.	Ref.	СОМ	Council	EP
	1a (new)			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.
465.	Art. 13 - para. 8 - subpara. 2	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: please, insert date: twelve months from the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: please, insert date: twelve months from the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by [PO: please, insert date: twelve months from the date of entry into force of this Regulation].
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.	СОМ	Council	ЕР
		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.	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	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.	resolution authorities with any	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)		CCPs to provide them with detailed	A CCP shall exchange information on a timely manner with competent authorities and ESMA in order to

Nr.	Ref.	СОМ	Council	ЕР
			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.	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.
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.	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	
473.	Art. 15 -	2. The resolution authority shall	2. The resolution authority shall	2. The resolution authority shall

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

Nr.	Ref.	СОМ	Council	ЕР
476.	Art. 15 - para. 3 - point i	i. the CCP's parent undertaking, where applicable;	(a) 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) 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;	ii. clearing members to which the CCP has significant exposure;
478.	Art. 15 - para. 3 - point iii	iii. the CCP's subsidiaries, where applicable;	(c) 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.	(d) other providers of critical services to the CCP;	iv. other providers of critical services to the CCP;

Nr.	Ref.	СОМ	Council	EP
480.	Art. 15 - para. 3 - point iv a (new)		(e) interoperable CCPs.	iva. a CCP with interoperable arrangements with the CCP.
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.	resolution authority, assist the	college in reaching a joint decision in accordance with Article 31(c) of
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 <i>resolution</i> 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 <i>resolution</i> 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 <i>resolution</i> college members expressed

Nr.	Ref.	СОМ	Council	ЕР
		during the four-month period. The	four-month period. The resolution	during the four-month period. The
		resolution authority shall notify in	authority shall notify in writing the	resolution authority shall notify in writing
		writing the decision to the CCP, to its	decision to the CCP and to the other	the decision to the CCP, to its parent
		parent undertaking where relevant, and	members of the college.	undertaking where relevant, and to the
		to the other members of the college.		other members of the <i>resolution</i> college.
483.	Art. 15 -	6. Where, by the end of that four-	6. Where, by the end of that four-	6. Where, by the end of that four-month
	para. 6 -	month period, any member of the	month period, a joint decision has not	period, any group of members of the
	subpara.	resolution college has referred to	been reached, any voting member of	resolution college representing a simple
	1	ESMA in accordance with Article 19	the college, based on a majority of	majority of the members of this college,
		of Regulation (EU) No 1095/2010 a	the voting members has referred to	has referred to ESMA in accordance with
		matter in relation to the resolution	ESMA in accordance with Article 19 of	Article 19 of Regulation (EU) No
		plan, the resolution authority of the	Regulation (EU) No 1095/2010 a matter	1095/2010 a matter in relation to the
		CCP shall await any decision that	in relation to the resolution plan, the	resolution plan, the resolution authority
		ESMA may take in accordance with	resolution authority of the CCP shall	of the CCP shall await any decision that
		Article 19(3) of that Regulation and	await any decision that ESMA may take	ESMA may take in accordance with
		take its decision in accordance with	in accordance with Article 19(3) of that	Article 19(3) of that Regulation and take
		the decision of ESMA.	Regulation and take its decision in	its decision in accordance with the
			accordance with the decision of ESMA.	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.	СОМ	Council	ЕР
	para. 6 -	deemed to be the conciliation phase	deemed to be the conciliation phase	deemed to be the conciliation phase
	subpara.	within the meaning of Regulation	within the meaning of Regulation (EU)	within the meaning of Regulation (EU)
	2	(EU) No 1095/2010. ESMA shall take	No 1095/2010. ESMA shall take its	No 1095/2010. ESMA shall take its
		its decision within one month from the	decision within one month from the	decision within one month from the
		referral of the matter to it. The matter	referral of the matter to it. The matter	referral of the matter to it. The matter
		shall not be referred to ESMA after the	shall not be referred to ESMA after the	shall not be referred to ESMA after the
		end of the four month time period or	end of the four month time period or	end of the four month time period or after
		after a joint decision has been reached.	after a joint decision has been reached.	a joint decision has been reached. In the
		In the absence of an ESMA decision	In the absence of an ESMA decision	absence of an ESMA decision within one
		within one month, the decision of the	within one month, the decision of the	month, the decision of the resolution
		resolution authority shall apply.	resolution authority shall apply.	authority shall apply.
485.	Art. 15 -	7. Where a joint decision is taken	7. Where a joint decision is taken	7. Where a joint decision is taken
	para. 7	pursuant to paragraph 1 and any	pursuant to paragraph 1 and any	pursuant to paragraph 1 and any
		resolution authority considers under	resolution authority or competent	resolution authority considers under
		paragraph 6 that the subject matter of	<i>ministry</i> considers under paragraph 6	paragraph 6 that the subject matter of the
		the disagreement impinges on the	that the subject matter of the	disagreement impinges on the fiscal
		fiscal responsibilities of its Member	disagreement impinges on the fiscal	responsibilities of its Member State, the
		State, the resolution authority of the	responsibilities of its Member State, the	resolution authority of the CCP shall
		CCP shall initiate a reassessment of	resolution authority of the CCP shall	initiate a reassessment of the resolution

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

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

Nr.	Ref.	СОМ	Council	EP
			for undue disadvantage to affected stakeholders.	
493.	Art. 16 - para. 2 - subpara.	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	reduction of the value of instruments of ownership following the exercise of	

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

Nr.	Ref.	СОМ	Council	EP
	(new)			and resolution practices regarding the application of section C of the Annex by [18 months after the entry into force of this Regulation].
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.	coordinationwiththeresolutioncollegeshallmaketheresolvability	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	Article 16, the resolution authority , in coordination with the resolution college in accordance with the procedure	

Nr.	Ref.	СОМ	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.	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	The report referred to in the first subparagraph shall analyse the 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 where possible.
504.	Art. 17 - para. 2	2. The requirement for resolution colleges to reach a joint decision on resolution plans laid down in Article	colleges to reach a joint decision on	2. The requirement for resolution colleges to reach a joint decision on resolution plans laid down in Article 15

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

Nr.	Ref.	СОМ	Council	ЕР
		any measure proposed by the CCP.	resolution authority and resolution	resolution authority and resolution
		The resolution authority and resolution	college shall assess, in accordance with	college shall assess, in accordance with
		college shall assess, in accordance	point (b) of Article 18(1), whether those	point (b) of Article 18(1), whether those
		with point (b) of Article 18(1),	measures effectively address or remove	measures effectively address or remove
		whether those measures effectively	those impediments.	those impediments.
		address or remove those impediments.		
506.	Art. 17 -	4. Where the resolution authority and	4. Where the resolution authority <i>in</i>	4. Where the resolution authority,
	para. 4 -	the resolution college conclude that	coordination with the resolution college	taking into account the opinion of the
	subpara.	the measures proposed by a CCP in	concludes that the measures proposed	resolution college, concludes that the
	1	accordance with paragraph 3 would	by a CCP in accordance with paragraph	measures proposed by a CCP in
		not effectively reduce or remove the	3 would not effectively reduce or	accordance with paragraph 3 would not
		impediments identified in the report,	remove the impediments identified in	effectively reduce or remove the
		the resolution authority shall identify	the report, the resolution authority shall	impediments identified in the report, the
		alternative measures which it shall	identify alternative measures which it	resolution authority shall identify
		communicate to the resolution college	shall communicate to the resolution	alternative measures which it shall
		for joint decision in accordance with	college for joint decision in accordance	communicate to the resolution college for
		Article 18.	with <i>point (c) of_</i> Article 18 <i>(1)</i> .	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 -	the first subparagraph shall take into	the first subparagraph shall take into	the first subparagraph shall take into
	subpara.	account the following:	account the following:	account the following:
	2 - introd.			
	part			
508.	Art. 17 -	(a) the threat to financial stability of	(a) the threat to financial stability of	(a) the threat to financial stability of
	para. 4 -	those impediments to the resolvability	those <i>material</i> impediments to the	those impediments to the resolvability of
	subpara.	of a CCP;	resolvability of a CCP;	a CCP;
	2 - point a			
509.	Art. 17 -	(b) the effect of the alternative	(b) the <i>likely</i> effect of the alternative	(b) the effect of the alternative measures
	para. 4 -	measures on the particular CCP, its	measures on <u>:</u>	on the particular CCP, its clearing
	subpara.	clearing members and their clients,		members and their clients, any linked
	2 - point	any linked FMI and the internal		FMI and the internal market.
	b	market.		
510.	Art. 17 -		i. the particular CCP, including its	
	para. 4 -		business model and operational	
	subpara.		efficiency;	
	2 - point			
	b - point i			

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

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

Nr.	Ref.	СОМ	Council	EP
		and, where appropriate, the designated national macroprudential authority.	where appropriate, the designated national macroprudential authority.	resolution college and, where appropriate, the <i>ESRB</i> .
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 <i>material</i> 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, <i>with a reasonable</i>	month a plan of how it intends to

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			timeframe for the implementation of the plan.	within the period of time established by the resolution authority.
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, allowing for a reasonable timeframe for implementation, may:	7. <i>Only</i> for the purposes of paragraph 4, the resolution authority <i>in coordination</i> with the competent authority may:
520.	Art. 17 - para. 7 - point a	(a) require the CCP to revise or draw up service agreements, whether intragroup or with third parties, to cover the provision of critical functions;	(a) require the CCP to revise or draw up service agreements, whether intragroup 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;

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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, its operating rules, including as regards its terms of participation, and other contractual	(h) require the CCP to make changes to its recovery plan, operating rules and other contractual arrangements;

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			arrangements;	
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;	
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;	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
530.	Art. 17 - para. 7 - point j a (new)		(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,	

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			to restrict netting sets covering different asset classes.	
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 undertaking in the 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 1	(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 <i>financial</i> resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;	(1) 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 and

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

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		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)	chittles of the group.	(p) restrict or prohibit interoperable links of the CCP where such a restriction or prohibition is necessary to avoid adverse effects on resolution.	(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.
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

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537.	Art. 18 - para. 1 - introd. part	The resolution college shall reach a joint decision regarding:	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.	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

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

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

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

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

Nr.	Ref.	СОМ	Council	ЕР
	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:	Regulation (EU) No 648/2012, or poses a risk to the financial stability of the global financial system, the Union
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;

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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	meeting of its shareholders or, if the CCP fails to comply with that requirement, convene the meeting itself.	(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.	СОМ	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;	board or senior management to be removed or replaced where any of those persons is found unfit to perform their	(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

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

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			;	
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 in order to comply or maintain compliance with its capital and prudential requirements.	(k) require the CCP to replenish its financial resources in a timely manner.
564.	Art. 19 - para. 1 - point k a (new)			(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

Nr.	Ref.	СОМ	Council	EP
				shall be passed through a non- defaulting clearing member;
565.	Art. 19 - para. 1 - point k b (new)			(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.
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.	СОМ	Council	EP
567.	Art. 19 - para. 2 a (new)			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.
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, 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.	СОМ	Council	ЕР
			FMIs 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 _in the Union or in one or more of the Member States;	(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 functions of the CCP on a transparent and non-discriminatory basis;
572.	Art. 19 - para. 4 -	(c) maintain and enhance the financial resilience of the CCP.	(c) maintain <i>or restore</i> the financial resilience of the CCP.	(c) maintain and enhance the financial resilience of the CCP.

Nr.	Ref.	СОМ	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 and the resolution authority without undue delay and explain whether that event reflects weaknesses or problems of that CCP.
575.	Art. 19 - para. 6 - subpara.	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.	СОМ	Council	ЕР
		college.	supervisory college on the envisaged	supervisory college.
			measures provided for in paragraph 1.	
576.	Art. 19 -	Following those notifications and the	Following those notifications and the	Following those notifications and the
	para. 6 -	consultation of the college, the	consultation of the supervisory college,	consultation of the supervisory college,
	subpara.	competent authority shall decide	the competent authority shall decide	the competent authority shall decide
	2	whether to apply any of the measures	whether to apply any of the measures	whether to apply any of the measures
		provided for in paragraph 1. The	provided for in paragraph 1. The	provided for in paragraph 1. The
		competent authority shall notify the	competent authority shall notify the	competent authority shall notify the
		decision on the measures to be taken	decision on the measures to be taken to	decision on the measures to be taken to
		to the college, the resolution authority	the college, the resolution authority and	the <i>supervisory</i> college, the resolution
		and ESMA.	ESMA.	authority and ESMA.
577.	Art. 19 -	7. The resolution authority,	7. The resolution authority, following	7. The resolution authority, following
	para. 7	following the notification of the first	the notification of the first subparagraph	the notification of the first subparagraph
		subparagraph of paragraph 6, may	of paragraph 6, may require the CCP to	of paragraph 6, may require the CCP to
		require the CCP to contact potential	contact potential purchasers in order to	contact potential purchasers in order to
		purchasers in order to prepare for its	prepare for its resolution, subject to the	prepare for its resolution, subject to the
		resolution, subject to the conditions	conditions laid down in Article 41 and	conditions laid down in Article 41 and
		laid down in Article 41 and the	the confidentiality provisions laid down	the confidentiality provisions laid down
		confidentiality provisions laid down in	in Article 71. Actions taken in this	in Article 71 as well as to the framework

Nr.	Ref.	СОМ	Council	EP
		Article 71.	context shall not be deemed to be market soundings for the purposes of	on market soundings laid down in Article 11 of Regulation (EU) No 596/2014 and in relevant delegated and implementing legislation.
570			Article.	
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	1. Where there is a significant	Where there is a significant deterioration

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

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

N	· Ref.	СОМ	Council	ЕР
				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.
58	Art. 20 a (new) -			The value of instruments of ownership in future profits of the CCP issued to
	para. 1 - subpara.			each affected non-defaulting clearing member, which must be passed on to clients in a suitable form, shall be

Nr.	Ref.	COM	Council	EP
				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.
586.	Art. 20 a (new) - para. 2			2. This Article does not diminish the responsibility of clearing members to take losses which go beyond the default waterfall.
587.	Art. 20 a (new) -			3. ESMA shall develop draft regulatory technical standards to specify

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