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From:	Presidency
To:	Working Party on Financial Services and the Banking Union (EMIR/CCP) Financial Services Attachés
Subject:	EMIR Review: - SE PCY draft compromise text on EMIR supervisory framework and processes

28 June 2023

SE PCY draft compromise text on EMIR supervisory framework and processes

Introduction

The draft compromise text proposed by the PCY is based on the COM proposal EMIR 3.0 Articles 14, 15, 17, 17a, 17b, 18, 19, 23a, 23b, 24, 24a, 49 and includes two new proposed articles (Articles 17c and 49a). The PCY has also amended recitals [19], 20, 21, 22, 23, 24, 25, 28, 31, 44, 47 and included a new proposed recital 44a, in order to further explain the meaning of the amended articles. The drafting is based on the views expressed by MS during the past Council Working parties as well as sent in written comments and bilateral meetings. The reason for the proposed amendments in the draft are further explained in the accompanying explanatory note.

Recital 19

[To ensure a consistent and convergent approach amongst competent authorities throughout the Union, authorised CCPs or legal persons that wish to be authorised under Article 14 of Regulation (EU) No 648/2012 to provide clearing services and activities in financial instruments should also be able to be authorised to provide clearing services and other activities in relation to non-financial instruments. Regulation (EU) No 648/2012 applies to CCPs as entities, and not to specific services, as set out in Article 1(2) of that Regulation. When a CCP clears non-financial instruments, in addition to financial instruments, the CCP's competent authority should be able to ensure that the CCP complies with all requirements of Regulation (EU) No 648/2012 for all services it offers]

Recital 20

Union CCPs face challenges in expanding their product offer and experience difficulties in bringing new products to the market. Those challenges and difficulties can be explained by certain provisions of Regulation (EU) No 648/2012 that render some authorisation procedures too long, complex and uncertain in their outcome. The process of authorising Union CCPs or extending their authorisation should therefore be simplified **and should include defined timelines**, while ensuring the appropriate involvement of ESMA and the college referred to in Article 18 of Regulation (EU) No 648/2012. First, to avoid significant, and potentially indefinite, delays when competent authorities assess the completeness of an application for an authorisation, the competent authority should **[swiftly acknowledge**

receipt of that application and thereafter, ~~leaving within the set~~ timeline, verify whether the CCP has provided the documents and information required for the assessment. If this is not the case, the application could be rejected. This does not preclude requests for further information or documents identified as missing. To ensure that Union CCPs submit all required documents and information with their applications, ESMA should develop draft regulatory and implementing technical standards specifying which documents should be provided, what information those documents should contain and in which format they should be submitted. ESMA should define the regulatory technical standards referred to in this regulation with the level of details that ensures a significant reduction of the complexity and duration of the procedures to approve the launching of new clearing services. Second, to ensure an efficient and concurrent assessment of applications, CCPs should be able to submit all documents via a central database where they should be shared instantaneously with the CCP's competent authority, ESMA and the college. Third, a CCP's competent authority, ~~ESMA and the college~~ should, during the assessment period, engage and coordinate questions ask to the CCP from itself, ESMA and the college ~~any questions~~ to ensure a swift, flexible, and cooperative process for a comprehensive review. To avoid duplication and unnecessary delays, all questions and subsequent clarifications should also be shared simultaneously between the CCP's competent authority, ESMA and the college.

Recital 21

There is currently uncertainty as to when an additional service or activity is covered by a CCP's existing authorisation. An extension of an authorisation is required where an applicant CCP would like to offer clearing services or activities for which they are not already authorised and similarly no such extension of an authorisation is therefore needed where the CCP is already authorised to undertake such activity. It is necessary to address that uncertainty and to ensure proportionality when the proposed additional service or activity not covered by a CCP's existing authorisation does not increase the risks for the CCP. It is therefore necessary to lay down that applications in those cases should not undergo the full assessment procedure. For that reason and in order to ensure supervisory convergence, it should be further specified by ESMA which additional clearing services and activities should be considered as ~~are~~ non-material, and thus do not increase the risks for a Union CCP, and

~~should~~ may be approved through an ~~non-objection expedited~~ procedure by that CCP's competent authority instead of the more burdensome procedure currently used for all extensions of a CCP's authorisation. ~~That non-objection procedure should be applied where the CCP intends to clear one or more financial instruments belonging to the same classes of financial instruments for which it has been authorised to clear, provided such financial instruments are traded on a trading venue for which the CCP already provides clearing services or performs activities and the proposed additional clearing service or activity does not involve a payment in a new currency. That non-objection procedure should also be applied where the CCP adds a new Union currency in a class of financial instruments already covered by the CCP's authorisation, or where the CCP adds one or more additional tenors to a class of financial instruments already covered by the CCP's authorisation provided that the maturity range is not significantly extended. In addition, a~~ A CCP should ~~also~~ be able to ask its competent authority for the ~~non-objection expedited~~ procedure to apply where that CCP considers that the proposed additional service or activity would not increase its risks, in particular where the new clearing service or activity is similar to the services the CCP is already authorised to provide. The ~~non-objection expedited~~ procedure should not require a separate opinion from ESMA and the college since such requirement would be disproportionate [but rather ESMA would provide input to the CCP's competent authority in the assessment whether the extension qualifies to fall under the expedited procedure]. ~~Instead ESMA and the college should be able to provide input to the CCP's competent authority through the joint supervisory team established for that CCP.~~

Recital 22

To foster a cooperative supervision of CCPs on an ongoing basis, the college should issue an opinion where a competent authority considers withdrawing a CCP's authorisation, except where a decision is required urgently, and when a competent authority conducts the annual review and evaluation of that CCP.

Recital 23

~~To ensure the consistent functioning of all colleges and to further enhance supervisory convergence, ESMA should manage and chair the college for each Union CCP and should be granted the right to vote in that college.~~

Recital 24

ESMA should be able to contribute more effectively to ensuring that Union CCPs are safe, robust and competitive in providing their services throughout the Union. Therefore, ESMA should, in addition to the supervisory competences currently laid down in Regulation (EU) No 648/2012, also issue an opinion to the CCP's competent authority about a CCP's annual review and evaluation, the withdrawal of its authorisation and margin requirements. When issuing an opinion, ESMA should assess a CCP's compliance with the applicable requirements, focusing ~~in particular~~ on identified cross-border risks or risks to the financial stability of the Union. It is also necessary to further enhance supervisory convergence ~~and to ensure that all stakeholders are informed of ESMA's and the college's assessment of a CCP's activities.~~ ESMA should therefore ~~disclose~~ inform the Board of Supervisors, taking into account the need to protect confidential information, the fact that where a competent authority does not comply or does not intend to comply with ~~its~~ ESMA's opinion or ~~the opinion of the college and~~ with any conditions or recommendations included therein. ~~ESMA should be able to decide, on a case by case basis, to publish~~ The information should also include the reasons provided by the competent authority for not complying with the ESMA opinion ~~or the college opinion~~ or any conditions or recommendations contained therein.

Recital 25

It is necessary to ensure that the CCP complies with Regulation (EU) No 648/2012 on an ongoing basis, including after ~~an non-objection~~ expedited procedure approving the provision of additional clearing services or activities, or after ~~an non-objection expedited~~ procedure for the validation of a model change in which cases ESMA and the college do not issue a separate opinion. The review conducted by the competent authority of the CCP at least on an annual basis should therefore in particular consider such new clearing services or activities and any model changes. To ensure supervisory convergence and that Union CCPs are safe, robust and competitive in providing their services throughout the Union, the report of

the competent authority should be subject to an opinion by ESMA and the college and should be submitted every year.

Recital 28

~~It is necessary to ensure a prompt exchange of information, knowledge sharing and effective cooperation between the authorities involved in the supervision of authorised CCPs, and in particular where a swift decision by a CCP's competent authority is required. It is therefore appropriate to set up a joint supervisory team for each Union CCP to assist those supervisory authorities, including by providing input to the CCP's competent authority within the context of the expedited procedure for extending a CCP's existing authorisation, assisting in establishing the frequency and depth of a CCP's review and evaluation, and participating to on-site inspections. Considering that a CCP's competent authority remains ultimately responsible for the final supervisory decisions, the joint supervisory teams should work under the auspices of the CCP's competent authority for which the team is established and should be composed of staff members from the CCP's competent authority, ESMA and certain members of the college. Other members of the college should also be able to request to participate justifying the request based on their assessment of the impact that the CCP's financial distress could have on the financial stability of their respective Member State.~~

Recital 31

The 2020 market turmoil as a result of the Covid-19 pandemic and the 2022 high prices on energy wholesale markets following Russia's unprovoked and unjustified aggression against Ukraine showed that, while it is essential for competent authorities to cooperate and exchange information to address ensuing risks when events with cross-border impacts emerge, ESMA still lacks the necessary tools to ensure such coordination ~~and a convergent approach at Union level~~. ESMA should therefore be empowered to act in an emergency situation likely to affect more than one CCP. A CCP can be affected by an emergency situation in many ways, including by volatility in market for the instruments it clears or through its clearing members, trading venues or other entities or operational functions shared between CCPs, where, for example, difficulties in a CCP could have contagion risks for other CCPs. ESMA should ~~therefore~~ be able to convene meetings of the CCP Supervisory Committee, either on its own

initiative or upon request, potentially with an enlarged composition to coordinate effectively competent authorities' responses in emergency situations. ESMA should also be able to ~~request ask, by simple request,~~ information from relevant competent authorities regarding market participants which is necessary for ESMA to perform its coordination function in those situations and to be able to issue recommendations to the competent authority. The role of ESMA in emergency situations should be without prejudice to the final responsibility of the CCP's competent authority to take supervisory decisions on the CCP it supervises, including on emergency measures. It is also essential that college members are able to forward the information they receive in an emergency situation to public bodies, including ministries, responsible for the financial stability of their markets.

Recital 44

In relation to the validation of changes to the models of the CCPs, certain amendments should be introduced to simplify the process in order ~~To~~ to facilitate CCPs' ability to respond promptly to market developments that may require amendments to their risk models and parameters. It should be clarified which changes to the CCPs' models and parameters are significant. To ensure supervisory convergence, ~~Regulation (EU) No 648/2012 ESMA~~ should specify the criteria for changes that should be considered as significant and ~~non-significant should~~ therefore contain, for example, robust quantitative thresholds or other qualifications. The criteria for significant changes to the models and parameters should only cover situations which always require a validation. This should be the case where certain conditions would be met referring to different aspects of the CCP's financial position and overall risk level. All significant changes are subject to a full validation before their adoption.

(NEW) Recital 44a

In line with the objective of having safe and resilient EU CCPs while building a modern and competitive EU clearing ecosystem able to attract business, an expedited procedure for non-significant changes to models and parameters is introduced in order to mitigate the obstacles and uncertainty that currently challenge the supervisory validation procedure of such changes. This procedure is introduced to bring clarity to non-significant changes of models and parameters that

today fall under the full validation procedure [or are left unassessed resulting in unknown risks in the CCP]. Non-significant changes to models and parameters that do not increase the risks for a Union CCP should be able to be approved through an expedited procedure by that CCP's competent authority in cooperation with ESMA. Where a CCP intends to adopt a change that to its models and parameters, that is likely a non-significant change, the CCP may request the expedited procedure to apply to the model change validation. The CCP will be informed in a swift manner within the defined timeline stating if the CCP's competent authority and ESMA both agree with the CCP that the model change is non-significant and if the CCP's competent authority validates the change.

Recital 47

To ensure consistent harmonisation of rules and supervisory practice on applications for authorisation, extension of authorisation and model validations as well as the active account requirement, the Commission should be empowered to adopt regulatory technical standards developed by ESMA with regard to the following: the documents and information CCPs are required to submit when applying for authorisation, extension of authorisation, expedited procedures for extension of authorisation, expedited procedure for model changes and validation of model changes; the conditions to determine if the expedited procedures for extension of authorisation may apply; to further specify the changes to models and parameters that are likely to constitute a significant change; the proportion of activity in the relevant derivative contracts that should be held in active accounts at Union CCPs and the calculation methodology to be used to calculate that proportion; the scope and details of the reporting by Union clearing members and clients to their competent authorities on their clearing activity in third-country CCPs and whilst providing the mechanisms triggering a review of the values of the clearing thresholds following significant price fluctuations in the underlying class of OTC derivatives to also review the scope of the hedging exemption and thresholds for the clearing obligation to apply. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union (TFEU) and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 14 Authorisation of a CCP

3. The authorisation referred to in paragraph 1 shall be granted for activities linked to clearing and shall specify the services or activities which the CCP is authorised to provide or perform, including the classes of financial instruments covered by such authorisation.

[An entity applying for authorisation as a CCP to clear financial instruments shall include in its application, in addition to the classes of financial instrument it applies to clear, the classes of non-financial instruments suitable for clearing that such CCP intends to clear.]

~~Where a CCP authorised pursuant to this Article intends to clear classes of non-financial instruments suitable for clearing, it shall apply for an extension of its authorisation pursuant to Article 15.~~

6. To ensure the consistent application of this Article, ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards specifying the list of required documents that shall accompany an application for authorisation pursuant referred to in paragraph 1 of this Article and specifying the information that such documents shall contain with a view to demonstrating that the applicant CCP complies with all relevant requirements of this Regulation.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO: please insert the date = 12 months after the date of entry into force of this Regulation]

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

7. ESMA shall develop draft implementing technical standards specifying the electronic format of the application for the authorisation referred to in paragraph 1 to be submitted to the central database referred to in Article 17c. ~~for authorisation referred to in paragraph 1.~~

ESMA shall submit those draft implementing technical standards to the Commission by ... [PO: please insert the date = 12 months after the date of entry into force of this Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 15 Extension of activities and services

1. A CCP wishing to extend its business to additional services or activities not covered by the existing authorisation shall submit a request for extension of that authorisation to the its CCP's competent authority [also including where an authorised CCP intends to clear classes of non-financial instruments suitable for central clearing.]. The offering of clearing services or activities for which the CCP has not already been authorised shall be considered to be an extension of that authorisation.

The extension of authorisation shall be made in accordance with either the procedure set out in Article 17 or, where the applicant CCP so requests, pursuant the procedure set out in Article 17a. ~~of the following:~~

~~(a) the procedure set out in Article 17;~~

~~(b) the procedure set out in Article 17a where the applicant CCP so requests pursuant to Article 17a(3).~~

3. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards specifying the lists of required documents that shall accompany an application for an extension of authorisation pursuant to paragraph 1 of this Article and specifying the information such documents shall contain. The lists of required documents and information shall be relevant and specific to the types of extension of authorisation sought by the CCP with a view to demonstrating that the CCP meets all relevant requirements of this Regulation.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO: please insert the date = 12 months after the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;

4. ESMA shall develop draft implementing technical standards specifying the electronic format of the application for an extension of the authorisation referred to in paragraph 1 to be submitted to the central database referred to in Article 17c. for an extension of the authorisation referred to in paragraph 1.

ESMA shall submit those draft implementing technical standards to the Commission by ... [PO: please insert the date = 12 months after the date of entry into force of this Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 17 Procedure for granting and refusing an application for authorisation or for an extension of authorisation

1. The applicant CCP shall submit an application for authorisation ~~as~~ referred to in Article 14(1) or an application for an extension of ~~its the~~ existing authorisation as referred to in Article 15(1) in an electronic format via the central database referred to in ~~Article 17c~~ paragraph 7. The applicant CCP shall provide all information necessary to demonstrate that it has established, at the time of authorisation, all the necessary arrangements to meet the requirements laid down in this Regulation. The application shall be immediately shared through that central database with the CCP's competent authority, ESMA and the college referred to in Article 18(1).

[The CCP's competent authority shall within ~~2~~ two working days after ~~such~~ an application referred to in the first subparagraph has been received acknowledge the receipt of ~~the that~~ application.] ~~-stating~~

2. The CCP's competent authority shall thereafter assess and confirm to the applicant CCP, whether ~~it~~ the application contains the documents and information required;

a) pursuant to Article 14(6) and (7), within 30 working days from the [acknowledgment of the receipt as referred to in the second subparagraph of paragraph 1/receipt of the application], where the applicant CCP has applied for an

authorisation pursuant to Article 14(1); or where the CCP has applied for an extension of its authorisation,

b) pursuant to Article 15(3) and (4), within 20 working days from the [acknowledgment of the receipt as referred to in the second subparagraph of paragraph 1/ receipt of the application], where the applicant CCP has applied for an extension of the existing authorisation pursuant to Article 15(1).

Where the CCP's competent authority determines that not all documents or information required ~~pursuant to Article 14(6) and (7) or Article 15(3) and (4)~~ have been submitted, ~~it shall reject the CCP's application~~ competent authority shall request the applicant CCP to submit additional documents or information it has identified as missing within a set deadline. The stated time referred to in point a and b may in that case be extended by a maximum of 15 working days. Where the CCP's competent authority concludes that the applicant CCP has failed to comply with any such request, the CCP's competent authority may reject the application and shall inform the CCP thereof.

~~2. The applicant CCP shall provide all information necessary to demonstrate that it has established, at the time of authorisation, all the necessary arrangements to meet the requirements laid down in this Regulation.~~

~~3. Within 40 working days of the end of the period set out in the second subparagraph of paragraph 1 (the risk assessment period) the CCP's competent authority, ESMA and the college shall each conduct a risk assessments of the CCP's compliance with the relevant requirements laid down in this Regulation ("the risk assessment period"), where an application is made under:~~

(a) Article 14(1), within 80 working days of the confirmation set out in point (a) of paragraph 2; and

(b) Article 15(1), within 60 working days of the confirmation set out in point (b) of paragraph 2

By the end of the risk assessment period ~~(a)~~ the CCP's competent authority shall transmit its draft decision and report to ESMA and the college; via the central database referred to in Article 17c.

Following receipt of the draft decision and report referred to in the second subparagraph, and on the basis of the findings therein:

~~(a)(b)~~ ESMA shall within 15 working days adopt an opinion determining whether the applicant CCP complies with all the requirements laid down in this Regulation, in accordance with Article 24a(7) and transmit it to the CCP's competent authority and the college.;

~~(b)(e)~~ the college shall within 20 working days adopt an opinion determining whether the applicant CCP complies with all the requirements laid down in this Regulation pursuant to Article 19 and transmit it to the CCP's competent authority and ESMA.

The adopted opinions by ESMA and the college shall be submitted in an electronic format via the central database referred to in Article 17c, to the respective recipients.

For the purposes of point ~~(a)(b)~~, ESMA may include in its opinion any conditions or recommendations it considers necessary to mitigate any shortcomings in the CCP's risk management, in ~~particular~~ relation to identified cross-border risks or risks to the financial stability of the Union.

For the purposes of point ~~(b)(e)~~, the college may include in its opinion any conditions or recommendations it considers necessary to mitigate any shortcomings in the CCP's risk management.

3a. During the risk assessment period referred to in paragraph 3 of this Article, the CCP's competent authority, ~~ESMA or any of the college members~~, through the central database referred to in Article 17c:

- (a) may submit questions ~~directly through~~ to, and request complementary information from, the applicant CCP; and
- (b) shall coordinate and submit questions to the applicant CCP on behalf of ESMA or any member of the college members.

Where the applicant CCP does not respond to ~~such the~~ questions referred to in points a and b within the time period set by the requesting CCP's competent authority, the CCP's competent authority, ~~ESMA or the college may shall~~, after consulting the requesting authority, either decide to, take a decision transmit its draft decision and report referred to in paragraph 3 in the absence of the CCP's response or may decide to extend the assessment period by a maximum of 10 working days in total, if, in its view, in their view, the questions ~~is~~ are material for the assessment.

3b. Within 10 working days of receipt of both the ESMA opinion and the college opinion, the CCP's competent authority shall adopt its decision and transmit it to ESMA and the college in an electronic format via the central database referred to in Article 17c. The CCP's competent authority shall also, within the same deadline, inform the applicant CCP in writing via the central database referred to Article 17c, with a fully reasoned explanation, whether the authorisation has been granted or refused.

Where the CCP's competent authority does not agree with an opinion of ESMA or the college, including any conditions or recommendations contained therein, its decision shall contain full reasons and an explanation of any significant deviation from that opinion or conditions or recommendations.

~~ESMA shall publish the fact that a competent authority~~ Where the CCP's competent authority does not comply or does not intend to comply with ~~its ESMA's~~ opinion ~~or the opinion of the college~~ or with any conditions or recommendations included therein, ~~ESMA shall inform the Board of Supervisors in accordance with Article 24a. The information shall also include the reasoning from the CCP's competent authority for not complying. may also decide, on a case by case basis, to publish the reasons provided by the competent authority for not complying with the ESMA opinion or the college opinion or any conditions or recommendations contained therein.~~

4. The CCP's competent authority shall, after duly considering the opinions of ESMA and the college referred to in paragraph 3 of this Article, including any conditions or recommendations contained therein, grant

authorisation as referred to in Articles 14 and Article 15(1), second subparagraph, ~~point (a)~~, only where it is fully satisfied that the applicant CCP:

- (a) complies with all the requirements laid down in this Regulation including, where applicable, for the provision of clearing services or activities for non-financial instruments; and
- (b) is notified as a system pursuant to Directive 98/26/EC.

The applicant CCP shall not be authorised where all the members of the college, excluding the authorities of the Member State where the applicant CCP is established, reach a joint opinion by mutual agreement, pursuant to Article 19(1), that the applicant CCP shall not be authorised. That opinion shall state in writing the full and detailed reasons why the college considers that the requirements laid down in this Regulation or other Union law are not met.

Where a joint opinion by mutual agreement as referred to in the second subparagraph of this paragraph has not been reached and a majority of two-thirds of the college have expressed a negative opinion, any of the competent authorities concerned, based on that majority of two-thirds of the college, may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

The referral decision shall state in writing the full and detailed reasons why the relevant members of the college consider that the requirements laid down in this Regulation or other parts of Union law are not met. In that case the CCP's competent authority shall defer its decision on authorisation and await any decision on authorisation that ESMA may take in accordance with Article 19(3) of Regulation (EU) No 1095/2010. The CCP's competent authority shall take its decision in conformity with ESMA's decision. The matter shall not be referred to ESMA after the end of the 30-day period referred to in the third subparagraph.

Where all the members of the college, excluding the authorities of the Member State where the applicant CCP is established, reach a joint opinion by mutual agreement, pursuant to Article 19(1), that the applicant CCP shall not be authorised, the CCP's competent authority may refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

The competent authority of the Member State where the CCP is established shall transmit the decision to the other competent authorities concerned.’;

~~7. ESMA shall maintain a central database providing access to the applicant CCP, CCP’s competent authority, ESMA, and the members of the college for that CCP (‘registered recipients’), to all documents registered within the database for that CCP. The CCP shall submit the application referred to in Article 14, Article 15(1), second subparagraph, point (a), Article 49 and Article 49a via that database.~~

~~The registered recipients shall upload promptly all documents they receive from the CCP in relation to an application pursuant to paragraph 1 and the central database shall automatically inform the registered recipients when changes have been made to its content. The central database shall contain all documents provided by an applicant CCP under paragraph 1 and all other documents relevant for the assessment by the CCP’s competent authority, ESMA and the college.~~

~~Members of the CCP Supervisory Committee shall also have access to the central database for the performance of their tasks pursuant to Article 24a(7). The Chair of the CCP Supervisory Committee may limit access to some of the documents for the members of the CCP Supervisory Committee referred to in Article 24a, paragraph 2, points (c) and (d)(ii), where justified based on confidentiality concerns.’;~~

Article 17a Non-objection Expedited procedure for granting a request for extension of the existing authorisation

~~1. The non-objection procedure shall apply to non-material changes to a CCP's existing authorisation in any of the following cases where the proposed additional clearing service or activity:~~

- ~~(a) fulfils all of the following the conditions:~~
 - ~~(i) the CCP intends to clear one or more financial instruments belonging to the same classes of financial instruments for which it has been authorised to clear under Articles 14 or 15;~~
 - ~~(ii) the financial instruments referred to in point (i) are traded on a trading venue for which the CCP already provides clearing services or performs activities; and~~
 - ~~(iii) the proposed additional clearing service or activity does not involve a payment in a new currency;~~
- ~~(b) adds a new Union currency in a class of financial instruments already covered by the CCP's authorisation; or~~
- ~~(c) adds one or more additional tenors to a class of financial instruments already covered by the CCP's authorisation provided that the maturity range is not significantly extended.~~

~~1.2. The expedited procedure CCP's competent authority may, after considering the input of the joint supervisory team set up for that CCP pursuant to Article 23b, also decide to apply to changes to a CCP's existing authorisation that do not significantly increases the CCP's risk profile nor the non-objection procedure of this Article where a CCP so requests and where the proposed additional clearing service or activity does not fulfil any of the following conditions:~~

- ~~(a) it results in the CCP needing to adapt significantly its operational structure;~~

- (b) it includes offering contracts that cannot be liquidated in the same manner ~~such as via direct offer or auction~~, or together with, contracts already cleared by the CCP;
- (c) it results in the CCP needing to take into account material new contract specifications, ~~such as significant extensions of the ranges of maturities or a new option exercise styles within a category of contracts;~~
- (d) it results in the introduction of material new risks, ~~linked to the different characteristics of the assets referenced;~~
- (e) it includes offering a new settlement or delivery mechanism or service which involves establishing links with a different securities settlement system, CSD or payment system which the CCP did not previously use.

~~3.2.~~ A CCP that ~~submits~~ applies a request for an extension of its existing authorisation requesting that the ~~non-objection expedited~~ procedure be applied, shall demonstrate why the proposed extension ~~of its business to additional clearing services or activities~~ qualifies under paragraphs 1 or 2 to be assessed under the ~~non-objection expedited~~ procedure and shall provide the documents and information as required pursuant to Article 15(3) and (4).

The CCP shall submit its application for the extension in an electronic format via the central database referred to in Article 17c ~~(7)~~ and shall provide all information necessary to demonstrate that it has established, at the time of authorisation, all the necessary arrangements to meet the relevant requirements laid down in this Regulation.

~~A CCP that applies for an extension of its authorisation requesting that the non-objection procedure be applied and the proposed additional clearing services or activities fall within the scope of paragraph 1, may start clearing such additional financial instruments or non-financial instruments suitable for clearing before a decision of the CCP's competent authority pursuant to paragraph 4.~~

~~4.3.~~ Within ~~10~~ 25 working days of receipt of an application pursuant to paragraph 2, the CCP's competent authority shall, [after considering the

~~input of the joint supervisory team set up for that CCP pursuant to Article 23b from ESMA]~~, decide whether the application ~~shall be~~ qualifies subject to be assessed under the non-objection expedited procedure set out in this Article ~~or and shall;~~

- i. where the CCP complies with this regulation, grant the authorisation; or,
- ii. where the CCP does not comply with this regulation, refuse the authorisation.

Where the competent authority concludes that the extension of authorisation does not qualify to be assessed under the expedited procedure, it shall reject the CCPs application.

~~if the CCP's competent authority has identified material risks as a result of the proposed extension of the CCP's business to additional clearing services or activities, that the procedure set out in Article 17 shall apply. The CCP's competent authority shall notify the applicant CCP of its decision. Where the CCP's competent authority has decided that the procedure set out in Article 17 shall apply, the CCP shall, within 5 working days after receipt of such notification, cease providing such clearing service or activity.~~

~~5. Where a CCP's competent authority, after considering the input of the joint supervisory team set up for that CCP pursuant to Article 23b, has not expressed its objection to the CCP's proposed additional services or activities within 10 working days of receipt of the application where paragraph 1 applies or of receipt of the notification referred to in paragraph 4, where that paragraph applies, confirming that the expedited procedure set out in this Article applies, the authorisation shall be deemed as granted.~~

~~6. The Commission is empowered to adopt delegated acts in accordance with Article 82 to supplement this Regulation by specifying any changes to the list of non-material changes listed under paragraph 1, where such a change would not bring an increased risk to the CCP.~~

4. The CCPs competent authority shall inform the applicant CCP in writing of its decision within the timeline stated in paragraph 3.

5. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards further specifying the conditions listed under paragraph 1. In specifying such conditions ESMA shall set the methodology to use and the parameters to apply for deciding when a condition is considered to have been met. ESMA shall also list and specify whether there are typical extension of services and activities that could be considered in principle to fall under the expedited procedure set out in this Article.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO: please insert the date = 12 months after the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 17b Procedure for seeking the opinion from ESMA and the college

1.A CCP's competent authority shall submit in electronic format via the central database referred to in Article 17c(7) a request for an opinion:

- (a) by ESMA pursuant to Article 23a(2), where the competent authority intends to adopt a decision, **report or other measure** in relation to Articles 7, 8, ~~20~~, 21, 29, 30, 31, 32, 33, 35, 36, 41, ~~and 54~~ **and Article 20, except where a decision is required urgently;**
- (b) by the college pursuant to Article 18, where the competent authority intends to adopt a decision, **report or other measure** in relation to Article ~~20~~, 21, 30, 31, 32, 35, 41, 49, 51, ~~and 54~~ **and Article 20, except where a decision is required urgently.**

That request for an opinion shall be shared immediately with the registered recipients.

2. Unless otherwise specified under the relevant Article, ~~ESMA and the college~~ **the CCP's competent authority** shall, ~~within 30 working days of~~

~~receipt from submitting the request referred to in paragraph 1~~ (~~the assessment period~~), assess the CCP's compliance with the respective requirements. By the end of the assessment ~~(a)~~ the CCP's competent authority shall transmit its draft decision ~~and~~, report or other measure to ESMA and the college.

Unless otherwise specified under the relevant Article, following the receipt of both the request for an opinion referred to in paragraph 1 of this Article and the draft decision, report or other measure referred to in paragraph 2 of this Article;

~~(a)(b)~~ ESMA shall adopt an opinion in accordance with Article 24a(7), first subparagraph, point (bc), assessing the CCP's compliance with the respective requirements, and transmit it to the CCP's competent authority and the college. ESMA may include in its opinion any conditions or recommendations it considers necessary to mitigate any shortcomings in the CCP's risk management, ~~in particular~~ in relation to identified cross-border risks or risks to the financial stability of the Union;

~~(b)(c)~~ the college shall adopt an opinion pursuant to Article 19, assessing the CCP's compliance with the respective requirements, and transmit it to ESMA and the CCP's competent authority. The college opinion may include conditions or recommendations it considers necessary to mitigate any shortcomings in the CCP's risk management.

ESMA and the college shall each adopt their opinion within the deadline provided by the CCP's competent authority, that shall be at least 20 working days following the receipt of the relevant documents referred to in the second subparagraph of paragraph 2 of this Article.

3. Within 10 working days, or within the relevant period if otherwise specified in this Regulation, of receipt of the ESMA opinion and, where required, the college opinion, the CCP's competent authority shall, after duly considering the opinions of ESMA and the college, including any conditions or recommendations contained therein, adopt its decision, where required, or take any other measures as required under the relevant Article and transmit it to ESMA and the college.

Where the CCP's competent authority does not agree with an opinion of ESMA or the college, including any conditions or recommendations contained therein, its decision shall contain full reasons and an explanation of any significant deviation from that opinion or conditions or recommendations.

~~ESMA shall publish the fact that a~~ **Where the CCP's** competent authority does not comply or does not intend to comply with ~~ESMA's~~ **its** opinion ~~or the opinion of the college~~ or with any conditions or recommendations included therein, ESMA **shall inform the Board of Supervisors in accordance with Article 24a. The information shall also include the reasoning from the CCP's competent authority for not complying. may also decide, on a case by case basis, to publish the reasons provided by the competent authority for not complying with the ESMA opinion or the college opinion or any conditions or recommendations contained therein.**

(NEW) Article 17c Central database

1. ESMA shall maintain a central database providing access to the applicant CCP, CCP's competent authority, ESMA, and the members of the college for that CCP ('registered recipients'), to all documents registered within the database for ~~that~~ **applicant** CCP. The **applicant** CCP shall submit the application referred to in Article 14, Article 15(1), second subparagraph, ~~point (a)~~, Article 49 and **Article 49a** via ~~the~~ database. **The competent authority shall submit their request for an opinion referred to in Article 17b via the database.**

The registered recipients shall upload promptly all documents they receive from the **applicant** CCP in relation to an application pursuant to paragraph 1 and the central database shall automatically inform the registered recipients when changes have been made to its content. The central database shall contain all documents provided by an applicant CCP under paragraph 1 and all other documents relevant for the assessment by the CCP's competent authority, ESMA and the college.

Members of the CCP Supervisory Committee shall also have access to the central database for the performance of their tasks pursuant to Article 24a(7). The Chair of the CCP Supervisory Committee may limit access to some of the documents for the members of the CCP Supervisory

Committee referred to in Article 24a, **paragraph 2**, points (c) and (d)(ii), where justified based on confidentiality concerns.

Article 18 College

1. Within 30 calendar days of the submission of a complete application in accordance with Article 17, the CCP's competent authority shall establish, **manage and chair** a college to facilitate the exercise of the tasks referred to in Articles 15, 17, 20, 21, 30, 31, 32, 35, 41, 49, 51 and 54.

2. (a) the Chair or any of the independent members of the CCP Supervisory Committee referred to in Article 24a(2), points (a) and (b), ~~who shall manage and chair the college;~~

Article 19 Opinion of the college

1. Where the college is required to give an opinion pursuant to this Regulation, it shall reach a joint opinion determining whether the CCP complies with all the requirements laid down in this Regulation.

Without prejudice to Article 17(4), third subparagraph, and if no joint opinion is reached in accordance with the first subparagraph, the college shall adopt a majority opinion within the same period;

paragraph 3, the fourth subparagraph is replaced by the following:

The members of the college referred to in Article 18(2), points **(a)** (ca) and (i), shall have no voting rights on the opinions of the college.

~~4. Without prejudice to the procedure prescribed in Article 17, the competent authority shall duly consider the opinion of the college reached in accordance with paragraph 1 of this Article, including any possible recommendations aimed at addressing shortcomings in the CCP's risk management and increasing its resilience. Where the CCP's competent authority does not agree with an opinion of the college, including any recommendations contained therein aimed at addressing shortcomings in the CCP's risk management procedures and increasing its resilience, its decision shall contain full reasons and an explanation of any significant deviation from that opinion or recommendations~~

Article 23a Supervisory cooperation between competent authorities and ESMA with regards to authorised CCPs.

1. ESMA shall fulfil a coordination role between competent authorities and across colleges to:

- (a) build a common supervisory culture and consistent supervisory practices;
- (b) ensure uniform procedures and consistent approaches;
- (c) strengthen consistency in supervisory outcomes, ~~in particular~~ **especially** with regards to supervisory areas which have a cross-border dimension or a possible cross-border impact;
- (d) strengthen coordination in emergency situations in accordance with Article 24;
- (e) assess risks when providing opinions to competent authorities pursuant to paragraph 2 on CCPs' compliance with the requirements of this Regulation, ~~in particular~~ in relation to identified cross-border risks or risks to the financial stability of the Union, and providing recommendations as to how a CCP shall mitigate those risks.

2. Competent authorities shall submit their draft decisions, **report or other measures** to ESMA for its opinion before adopting any act or measure pursuant to Articles 7, 8 and 14, Article 15(1), second subparagraph, ~~point (a) and Articles 20 and Article 21, Articles 29 to 33, and Articles 35, 36, 41, and 54 and Article 20, except where a decision is required urgently.~~

Competent authorities may also submit draft decisions to ESMA for its opinion before adopting any other act or measure in accordance with their duties under Article 22(1).

~~3. Within 20 working days of receipt of a draft decision submitted in accordance with paragraph 2 in relation to a specific Article ESMA shall provide an opinion on that draft decision to the competent authority where necessary to promote a consistent and coherent application of that Article.~~

~~Where the draft decision submitted to ESMA in accordance with paragraph 2 shows a lack of convergence or coherence in the application of this Regulation, ESMA shall issue guidelines or recommendations to promote~~

~~the necessary consistency or coherence in the application of this Regulation pursuant to Article 16 of Regulation (EU) No 1095/2010.~~

~~4. Where ESMA adopts an opinion in accordance with paragraph 3, the competent authority shall give it due consideration and shall inform ESMA of any subsequent action or inaction thereto. Where the competent authority does not agree with an opinion of ESMA, it shall provide comments to ESMA on any significant deviation from that opinion.~~

Article 23b Joint Supervisory Teams

~~1. A joint supervisory team shall be established for the supervision of each CCP authorised under Article 14. Each joint supervisory team shall be composed of staff members from the CCP's competent authority, ESMA and the members of the college referred to in Article 18 points (c), (g) and (h). Other members of the college may also request to participate in the joint supervisory team. Joint supervisory teams shall work under the coordination of a designated competent authority staff member.~~

~~2. The tasks of a joint supervisory team shall include, but are not limited to, all of the following:~~

- ~~(a) provide input to the competent authorities, ESMA and the colleges pursuant to Article 17a (2), (4) and (5) and Article 21(3);~~
- ~~(b) participate to on-site inspections pursuant to Article 21(3);~~
- ~~(c) liaise with competent authorities and members of the college, where relevant;~~
- ~~(d) where a CCP's competent authority so requests, provide assistance to that competent authority in assessing the CCP's compliance with the requirements of this Regulation.~~

~~3. The CCP's competent authority shall be in charge of the establishment of joint supervisory teams.~~

~~4. ESMA and authorities participating to the joint supervisory teams shall consult each other and agree on the use of resources with regard to the joint supervisory teams.~~

Article 24 Emergency situations

1. The CCP's competent authority or any other relevant authority shall inform ESMA, the college, the relevant members of the ESCB, ~~the Commission~~ and other relevant authorities without undue delay of any emergency situation relating to a CCP, including all of the following:

- (a) situations or events which impact, or are likely to impact, the prudential or financial soundness or the resilience of CCPs authorised in accordance with Article 14, their clearing members or clients;
- (b) where a CCP intends to activate its recovery plan pursuant to Article 9 of Regulation (EU) No 2021/23, a competent authority has taken an early intervention measure pursuant to Article 18 of that Regulation or a competent authority has required a total or partial removal of the senior management or board of the CCP pursuant to Article 19 of that Regulation;
- (c) where there are developments in financial markets, or other markets where the CCP provides clearing services, which may have an adverse effect on market liquidity, the transmission of monetary policy, the smooth operation of payment systems or the stability of the financial system in any of the Member States where the CCP or one of its clearing members are established.

Where information is required to be shared under Articles 9(8), 18(6) or 19(1) of Regulation (EU) 2021/23 and where that information:

(i) covers the same information as required to be shared under the first subparagraph of this Article; and

(ii) has the same recipients as under the first subparagraph of this Article,

the entity, subject to the obligation to share such information under this Article, shall only be obliged to provide such information under the Regulation (EU) 2021/23.

In an emergency situation, information should be provided and updated without undue delay, and enable the members of the college to analyse the impact of the emergency situation in particular on their clearing members and clients. College members may forward the information to the public bodies responsible for the financial stability of their markets. The obligation of professional secrecy in accordance with Article 83 shall apply to those bodies receiving that information.

2. In case of emergency situations where more than one CCP is likely to be affected, ESMA shall coordinate competent authorities, ~~the~~ resolution authority~~ies~~ designated pursuant to Article 3(1) of Regulation (EU) 2021/23 and colleges ~~to build a common in providing~~ responses to such emergency situations ~~and ensure the well functioning sharing of information.~~

3. In ~~an case of~~ emergency situations ~~covered by paragraph 2 of this Article,~~ except where a resolution authority is taking or has taken a resolution action in relation to a CCP pursuant to Article 21 of Regulation (EU) No 2021/23, ~~and to coordinate the responses of competent authorities, a ad hoc~~ meetings of the CCP Supervisory Committee to coordinate the responses:

- (a) may be convened by the Chair of the CCP Supervisory Committee;
- (b) shall be convened by the Chair of the CCP Supervisory Committee, upon the request of two members of the CCP Supervisory Committee.

4. Any of the following authorities ~~may shall~~ also be invited to the ad hoc meeting referred to in ~~the~~ paragraph 3, where relevant, considering the issues to be discussed at ~~thate~~ meeting:

- (a) the relevant central banks of issue;
- (b) the relevant competent authorities for the supervision of clearing members, including, where relevant, the ECB in the framework of the tasks concerning the prudential supervision of credit institutions within the single supervisory mechanism conferred upon it in accordance with Council Regulation (EU) No 1024/2013;

- (c) the relevant competent authorities for the supervision of trading venues;
- (d) the relevant competent authorities for the supervision of clients where they are known;
- (e) the relevant resolution authorities designated pursuant to Article 3(1) of Regulation (EU) 2021/23;
- (f) any member of the supervisory college of the CCP, that is not already covered by the points (a) to (d)

Where an ad hoc meeting referred to in paragraph 3 of the CCP Supervisory Committee is held pursuant to the first subparagraph, the Chair of the CCP Supervisory Committee shall inform EBA, EIOPA, the ESRB and the Commission thereof who shall also be invited to participate to that meeting upon their request.

~~5. ESMA may, by simple request, require authorised CCPs, their clearing members and clients, connected financial market infrastructures and related third parties to whom those CCPs have outsourced operational functions or activities to provide all necessary information to enable ESMA to carry out its coordination function under this Article.~~

5. ESMA may require relevant competent authorities to provide it with the necessary information to enable it to carry out its coordination function in accordance with this Article.

Where a relevant competent authority has the requested information, it shall forward it to ESMA without undue delay.

Where a relevant competent authority does not have the requested information, it shall require the authorised CCPs, their clearing members or clients, connected financial market infrastructures or related third parties to whom those CCPs have outsourced operational functions or activities, as relevant and applicable, to provide it with that information and shall forward it to ESMA without undue delay.

Instead of requiring the information referred to in the third subparagraph, the relevant competent authority may allow ESMA to require that information directly from the relevant entity. ESMA shall forward all information received from such entity to the relevant competent authority without undue delay.

6. Without prejudice to the right of the competent authority to adopt any decision it deems necessary, ESMA may, upon the proposal of the CCP Supervisory Committee, issue emergency recommendations pursuant to Article 16 of Regulation (EU) No 1095/2010 addressed to one or more competent authorities recommending them to adopt temporary or permanent supervisory decisions in line with the requirements set out in Article 16 and ~~in~~ Titles IV and V of this Regulation to avoid or mitigate significant adverse effects on the Union financial stability. ESMA may issue emergency recommendations only where more than one authorised CCP is affected ~~impacted~~ or where Union-wide events are destabilising cross-border cleared markets.

Article 24a CCP Supervisory Committee

2 (d)

(ii) where the CCP Supervisory Committee convenes in relation to CCPs authorised in accordance with Article 14, in the context of discussions pertaining to paragraph 7 of this Article, the central banks of issue of the Union currencies of the financial instruments cleared by authorised CCPs that have requested membership of the CCP Supervisory Committee, who shall be non-voting.

3. The Chair may invite as observers to the meetings of the CCP Supervisory Committee, where appropriate and necessary, members of the colleges referred to in Article 18, representatives from the relevant authorities of clients where they are known and from the relevant Union institutions and bodies.

7. In relation to CCPs authorised or applying for authorisation in accordance with Article 14, the CCP Supervisory Committee shall, for the purpose of Article 23a(2), prepare decisions and carry out the tasks entrusted to ESMA in the following points:

(ba) at least annually, discuss and identify supervisory priorities for CCPs authorised ~~under~~ in accordance with Article 14 in

order to feed in the preparation of the Union strategic supervisory priorities by ESMA in accordance with Article 29a of Regulation (EU) No 1095/2010;

(bb) consider, in cooperation with the EBA, EIOPA, and the ECB in carrying out its tasks within a single supervisory mechanism under Regulation (EU) No 1024/2013, any cross-border risks arising from CCPs' activities, including due to CCPs' interconnectedness, interlinkages and concentration risks due to such cross-border connections;

(bc) prepare draft opinions for adoption by the Board of Supervisors in accordance with Articles 17 and 17b, ~~and~~ draft validations ~~decisions~~ in accordance with Article 49 and draft conclusions in accordance with Article 49a;

(bd) [provide input to the competent authorities pursuant to Article 17a];

(be) inform the Board of Supervisors where a competent authority does not comply or does not intend to comply with ESMA's opinions or with any conditions or recommendations contained therein, including the reasoning from the NCA, in accordance with Article 17(3b) and Article 17b(4).

ESMA shall on a yearly basis report to the Commission on the cross-border risks arising from CCPs' activities referred to in point (bb) ~~of in~~ the first subparagraph.

Article 49 Review of models, stress testing and back testing

1. A CCP shall regularly review the models and parameters adopted to calculate its margin requirements, default fund contributions, collateral requirements and other risk control mechanisms. It shall subject the models to rigorous and frequent stress tests to assess their resilience in extreme but plausible market conditions and shall perform back tests to assess the reliability of the methodology adopted. The CCP shall obtain independent validation, shall inform its competent authority and ESMA of the results of the tests performed and shall obtain their validation in accordance with paragraphs 1a, to 1e before adopting any significant change to the models.

Where a CCP intends to adopt a change to the models and parameters referred to in the first subparagraph, it shall either apply for validation under this Article, where the proposed change to a CCPs models and parameters is likely to have an adverse effect on the overall risk to the CCP and is therefore considered a significant change and be subject to the assessment under this Article, or under Article 49a. All changes to models and parameters not assessed under Article 49a shall be assessed under this Article.

Amendments to parameters that results from applying the parameters that are part of a validated model, either due to external input or due to a regular review or calibration exercise, shall not be considered changes to models and parameters for the purpose of Article 49 and 49a of this Regulation. Amendments to models and parameters that results from applying the parameters that are part of a validated model, either due to external input or due to a regular review or calibration exercise, shall not be considered changes to models and parameters for the purpose of Article 49 and 49a of this Regulation.

The adopted models, including any significant change thereto, shall be subject to an opinion of the college in accordance with this Article.

ESMA shall ensure that information on the results of the stress tests is passed on to the ESAs, the ESCB and the Single Resolution Board to enable them to assess the exposure of financial undertakings to the default of CCPs.

1a. Where a CCP intends to adopt any significant change to the models and parameters referred to in paragraph 1, it shall ~~submit an application~~ apply for ~~authorisation~~ validation of such change in an electronic format

via the central database referred to in Article 17c where it shall be immediately shared with the CCP's competent authority, ESMA and the college. The CCP shall enclose an independent validation of the intended change to its application.

~~Where a CCP considers that the change to the models referred to in paragraph 1 it intends to adopt is not significant as referred to paragraph 1g, the CCP shall request that the application be subject to a expedited procedure under paragraph 1b. In that case, the CCP may start applying such change before the decision of the CCP's competent authority and ESMA pursuant to paragraph 1b.~~

~~[The CCP's competent authority shall, in cooperation with ESMA within 2 two working days after such application has been received, acknowledge receipt of the application.] confirming to the CCP that it contains the required documents. Where one of them concludes that the application does not contain the required documents, the application shall be rejected~~

1b. The CCP's competent authority and ESMA shall each assess, taking into account the the input from ESMA, wWithin 10 20 working days of the [reciept/acknowledge of reciept] of the application, whether the application contains the documents required and whether these documents contain all the information required, pursuant to Article 49(5). date referred to in the third subparagraph of paragraph 1a, the competent authority and ESMA shall assess if the proposed change qualifies as a significant change pursuant to paragraph 1g.

Where one of them concludes that the change meets one of the conditions referred to in paragraph 1g, the application shall be assessed under paragraphs 1c, 1d and 1e and the CCP's competent authority, in cooperation with ESMA, shall inform in writing the applicant CCP thereof not all documents or information required have been submitted, the CCP's competent authority shall ask the applicant CCP to submit additional documents or information it has identified as missing within a set deadline. The stated time in the first subparagraph of paragraph 1b may in that case be extended by a maximum of 15 working days. Where the CCP's competent authority or ESMA concludes that the CCP has failed to comply with any such

request, the CCP's competent authority may reject the application and shall inform the CCP thereof.

~~Where within 10 working days of the date referred to in the third subparagraph of paragraph 1a, the applicant CCP has not been informed in writing that its request for the expedited procedure to apply has been denied, that change shall be deemed as validated.~~

~~Where a request for the expedited procedure has been denied, the CCP shall, within 5 working days from the notification referred to in the first subparagraph, no longer use that model change. Within 10 working days from that notification, the CCP shall either withdraw the application or complement the application with the independent validation of the change and the CCP's competent authority shall request the opinion of the college in accordance with Articles 17b and 19.~~

1c. Within ~~30~~ **50** working days of the date referred to in ~~the third subparagraph of~~ paragraph 1**a**:

- (a) the competent authority shall conduct a risk assessment of the significant change and submit its report to ESMA and the college;
- (b) ESMA shall conduct a risk assessment of the significant change and submit its report to the CCP competent authority and the college.

Within 15 working days of the receipt of the reports referred to in point (a) and (b) of paragraph 1c, the college shall adopt an opinion pursuant to Article 19 and transmit it to ESMA and the competent authority. Notwithstanding a provisional adoption in accordance with paragraph 1f, the competent authority shall not adopt a decision granting or refusing the validation of significant changes to models and parameters until such an opinion has been adopted by the college, unless the college has not adopted that opinion within the deadline.

1d. Within ~~10~~ **15** working days of receipt of the ~~reports referred to in paragraph 1c, college opinion, or the deadline for the college opinion to be provided, whichever comes first, both~~ the CCP's competent authority and ESMA shall each;

~~1e. Within 5 working days of the decisions being adopted under paragraph 1d,~~

i) grant or refuse the validation ~~adopt a decision~~, taking into account such reports and opinions ~~and~~;

ii) inform the CCP and each other in writing, including a fully reasoned explanation, whether the validation has been granted or refused within the deadline referred to in paragraph 1d ~~of the decision taken~~.

~~Where one of them has not validated the change, the validation shall be refused.~~

~~1ef.~~ The CCP may not adopt any significant change to the models and parameters referred to in paragraph 1, before obtaining the validations by both its competent authority and ESMA. The competent authority, in agreement with ESMA, may allow for a provisional adoption of a significant change of those models and parameters prior to their validations where duly justified ~~due to an emergency situation under Article 24 of this Regulation~~. Such a temporary change to the models and parameters shall only be allowed for a certain period of time jointly specified by the CCP's competent authority and ESMA. After the expiry of this period, the CCP shall not be allowed to use such ~~model~~ change unless it has been approved pursuant to paragraphs 1a, 1b, 1c, and 1d ~~and 1e~~.

~~1g. A change shall be considered as significant where one of following conditions is met:~~

- ~~(a) — the change leads to a decrease or increase of the total pre-funded financial resources, including margin requirements, default fund and skin-in-the-game, greater than 15 %;~~
- ~~(b) — the structure, structural elements or the margin parameters of the margin model are changed or a margin module is introduced, removed, or amended in a manner which leads to a decrease or increase of this margin module greater than 15 % at the CCP level;~~
- ~~(c) — the methodology used to compute portfolio offsets is changed leading to a decrease or increase of the total~~

~~margin requirements for these financial instruments greater than 10 %;~~

- ~~(d) the methodology for defining and calibrating stress test scenarios for the purpose of determining default fund exposures, is changed, leading to a decrease or increase greater than 20 % of a default fund, or greater than 50 % of any individual default fund contribution;~~
- ~~(e) the methodology applied to assess liquidity risk and monitor concentration risk, is changed, leading to a decrease or increase of the estimated liquidity needs in any currency greater than 20 % or the total liquidity needs greater than 10 %;~~
- ~~(f) the methodology applied to value collateral, calibrate collateral haircut or set concentration limits, is changed, such that the total value of non-cash collateral decreases or increases by more than 10 %~~
- ~~(g) any other change to the models that could have a material effect on the overall risk of the CCP.”~~

5. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards specifying the lists of required documents that shall accompany an application for validation pursuant to paragraph 1a **and Article 49a. In addition, the draft regulatory technical standards** shall specify the information such documents shall contain to demonstrate that the CCP complies with all relevant requirements of this Regulation. **The required documents and level of information shall be proportionate to the type of model validation.**

ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO: please insert date =12 months after the date of entry into force of this Regulation]

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.

6. ESMA shall develop draft implementing technical standards specifying the electronic format of the application ~~for validation referred to in paragraph 1a~~ to be submitted to the central database ~~referred to in Article 17c for the validation referred to in paragraph 1a~~.

ESMA shall submit those draft implementing technical standards to the Commission by... [PO: please insert date = 12 months after the date of entry into force of this Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.;

(NEW) 7. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards further specifying the changes to models and parameters that are likely to have an adverse effect on the overall risk to the CCP and would therefore constitute a significant change.

In further specifying such changes ESMA shall set the methodology to use and the parameters to apply for deciding when a change to a model and parameter shall be considered as a significant change to a model or parameter.

In undertaking this work ESMA shall consider the following;

- a) **whether the change leads to a decrease or increase of the total pre-funded financial resources, including margin requirements, default fund and skin-in-the-game;**
- b) **whether the structure, structural elements or the margin parameters of the margin model are changed or a margin module is introduced, removed, or amended in a manner which leads to a decrease or increase of this margin module;**
- c) **whether the methodology used to compute portfolio offsets is changed leading to a decrease or increase of the total margin requirements for the financial instruments;**
- d) **whether the methodology for defining and calibrating stress test scenarios for the purpose of determining default fund exposures is changed;**

- e) whether the methodology applied to assess liquidity risk and monitor concentration risk is changed;
- f) whether the methodology applied to value collateral, calibrate collateral haircut or set concentration limits is changed;
- g) whether the proposed change to the model and parameters could lead to a material increase in risk of the CCP.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO: please insert the date = 12 months after the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

(NEW) Article 49a Expedited procedure for non-significant changes to the CCP's models and parameters

1. Without prejudice to the third subparagraph of Article 49(1), the expedited procedure shall apply to a proposed change to models and parameters where:

- a) the CCP has requested a validation change to be assessed under this Article; and
- b) the NCA and ESMA have each concluded that the proposed change is not significant

1a. The CCP shall submit its application including all documents and information required pursuant to Article 49(5), in an electronic format via the central database referred to in Article 17c. The CCP shall provide all information necessary to demonstrate why the proposed change shall be deemed non-significant and therefore qualifies to be assessed under the expedited procedure.

A CCP that applies for an expedited procedure set out in this Article may not start applying the proposed change before obtaining the validation by its competent authority. The competent authority, in agreement with ESMA, may allow for a provisional adoption of a proposed change of those models or parameters prior to their validations where duly justified.

2. Within 25 working days of receipt of an application pursuant to paragraph 1a, both the CCP's competent authority and ESMA shall individually conclude whether the proposed change is not significant

Where the competent authority and ESMA concludes that the change is not significant, the CCP's competent authority within the deadline stated in the first subparagraph of paragraph 2 shall:

- i) where the CCP complies with this regulation, grant the validation; or
- ii) where the CCP does not comply with this regulation, refuse the validation.

Where the competent authority or ESMA concludes that the change is significant, the validation according to this Article shall be refused.

3. The CCP's competent authority shall inform the applicant CCP in writing of its decision, including a fully reasoned explanation within the timeline stated in the first subparagraph of paragraph 2.