

ECON scrutiny hearing session on 3 February 2025

Opening statement

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Chair of the CCP Supervisory Committee

I would like to thank the Committee on Economic and Monetary Affairs (ECON) for its invitation to participate in your debate on the extension of the equivalence decision for UK CCPs.

ESMA / CCPSC role

As you know, ESMA has a mandate to strengthen the overall safety and efficiency of the clearing ecosystem supporting the EU financial markets. This includes addressing risks stemming from EU counterparties exposures to third-country CCPs.

As such, the ESMA CCP Supervisory Committee's remit covers today 14 EU CCPs and 38 TC-CCPs based in 21 countries. 3 TC CCPs are based in the UK, 2 of which are considered of systemic importance from an EU perspective (i.e. "Tier 2 CCPs"), and which are therefore directly supervised by ESMA: LCH Ltd and ICE Clear Europe ("ICEU").

In fact, the EU TC CCP regime provides EU banks with significant benefits to offer their customers the clearing of products safely and cost efficiently across almost all major CCPs globally.

Review of UK CCP recognitions

In light of the EU Commission's draft Equivalence Decision ("ED") that extends for a further three years the current equivalence decision, ESMA has now started to prepare for revisiting the recognition and tiering determination decisions in respect of the three recognised UK CCPs LCH Ltd, ICEU and LME.

The existing tiering and recognition decisions expire on 30 June 2025, which means that they would need to be revisited and approved by ESMA's Board of Supervisors ("BoS") by end of

March to provide the necessary clarity to EU clearing members and the CCPs concerned and avoid the triggering of termination notices for contracts.

The draft ED is time limited for 3 years, and it does not contain any conditions. This facilitates the process as it does not contain any element that could trigger a new substantive assessment or tiering process, nor review of the existing ones. In this regard, ESMA will follow a targeted process similar to the one followed in 2022. ESMA will prepare draft tiering and recognition decisions, adjusting the expiry dates of the existing decisions.

EMIR 3 work / AAR

Let me also briefly touch on the ongoing implementation work of ESMA concerning the so-called Active Account Requirement. Amongst the 28 implementing measures mandated to ESMA in EMIR3, ESMA has given priority to the measures addressing financial stability risks stemming from TC-CCPs of substantial systemic importance, namely the implementation of the “active account requirement” (AAR).

The AAR requires the most active EU participants to hold an operational and representative account at an EU CCP, to ensure that a proportion of the identified critical clearing services is moved to the Union, reducing overreliance on London.

ESMA has been tasked with developing a draft RTS specifying the conditions of the active account to be finalised within 6 month of entry into force of EMIR3. Already end of November, we have taken a major step with the publication of a consultation paper on the AAR conditions. The consultation ended on 27 January 2025 and drew the attention of a wide range of stakeholders.

We expect to deliver the Final Report and draft RTS to the European Commission before 25 June 2025. It will then be up to the Commission to endorse the draft RTS, and following the EP/Council non-objection procedure, we could reasonably expect entry into force before end 2025.

It is too early to make predictions about the expected impact of the AAR, or the level of reduction of exposures of EU participants towards the UK. However, we will monitor closely the impact, including through the new Joint Monitoring Mechanism (JMM), will give ESMA better tools to monitor the effectiveness of the AAR, and the evolution of EU dependencies with the two systemically important UK CCPs.

Our findings will be presented in a report on the effectiveness of the AAR, which has to be submitted by June 2026 to help informing the European Commission on any future decision regarding the equivalence of the UK framework.

Taking into account the progressive implementation of the Active account requirement, the 3-years extension will in fact give sufficient time for the active account requirement to fully take effect, as well as for ESMA and the Commission to assess its impact on the exposure of EU counterparties to Tier 2 CCPs.

Relationship with the recognition process

The equivalence extension has no direct impact on ESMA's work on the AAR and on the preparation of the draft RTS. ESMA will look at on ongoing compliance of the UK CCPs with EMIR as a procedurally separate matter through its on-going day-to-day supervision, its annual reports for the two T2 CCPs and through the review of its 2021 assessment of the systemic importance of the two Tier 2 CCPs.