

Basic information	
<b>2023/3008(DEA)</b> DEA - Delegated acts procedure  Extension of temporary emergency measures on CCP collateral requirements  Supplementing <a href="#">2010/0250(COD)</a>  <b>Subject</b>  2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision	Procedure completed - delegated act enters into force

Key players			
European Parliament	<b>Committee responsible</b>	<b>Rapporteur</b>	<b>Appointed</b>
	<span style="border: 1px solid red; padding: 2px;">ECON</span> Economic and Monetary Affairs		

Key events			
Date	Event	Reference	Summary
28/11/2023	Non-legislative basic document published	<a href="#">C(2023)08114</a>	
28/11/2023	Initial period for examining delegated act 3.0 month(s)		
13/12/2023	Committee referral announced in Parliament		
18/12/2023	Delegated act not objected by Council		
07/03/2024	Delegated act not objected by Parliament		

Technical information	
<b>Procedure reference</b>	2023/3008(DEA)
<b>Procedure type</b>	DEA - Delegated acts procedure
<b>Procedure subtype</b>	Examination of delegated act
	Supplementing <a href="#">2010/0250(COD)</a>
<b>Stage reached in procedure</b>	Procedure completed - delegated act enters into force
<b>Committee dossier</b>	ECON/9/13781

Documentation gateway			
<b>European Commission</b>			
<b>Document type</b>	<b>Reference</b>	<b>Date</b>	<b>Summary</b>
Non-legislative basic document	<a href="#">C(2023)08114</a>	28/11/2023	

# Extension of temporary emergency measures on CCP collateral requirements

2023/3008(DEA) - 04/10/2011

The Council agreed a **general approach** on a draft regulation aimed at increasing transparency and reducing risk in the over-the-counter (OTC) derivatives market. The regulation is aimed at implementing commitments made by G-20 leaders in September 2009. It would apply from the end of 2012.

This all-inclusive agreement will enable the presidency, on behalf of the Council, to start negotiations with the European Parliament, with a view to reaching agreement at first reading.

The main elements of the proposed compromise are the following:

- **The obligation to report all derivative contracts to trade repositories** (i.e. central data centres) and the clearing of standardised OTC derivative contracts through central counterparties (CCPs) in order to reduce counterparty risk (i.e. the risk of default by one party to the contract).
- **If a contract is not eligible for clearing by a CCP**, the draft regulation would require the application of different risk management techniques, including, for instance, exchange of collateral and the holding of additional capital.
- **Trade repositories** would have to publish aggregate positions by class of derivatives, thereby offering market participants a clearer view of the OTC derivatives market. The European Securities and Markets Authority (ESMA) would be responsible for the surveillance of trade repositories and for granting and withdrawing their registration.
- The **venues of execution** shall have access to any CCP to clear OTC derivatives transactions and, subject to conditions, for CCPs to have access to the trade flows from trading venues.
- **ESMA would be responsible for the identification of contracts subject to the clearing obligation, while national competent authorities, in coordination with a college of supervisors**, would be responsible for authorising and supervising CCPs, except in the case of CCPs from third countries, which would have to be recognised by ESMA provided they meet certain conditions.
- **Authorisation of a CCP** would always require, as a first condition, that the national competent authority is fully satisfied that the applicant CCP meets all the necessary requirements. On the other hand, a positive opinion from the national competent authority could be overruled by the college of supervisors only if all of its members, excluding the authorities of the member state concerned, reach a mutual agreement that the CCP should not be authorised. Moreover, the draft proposal stipulates that no Member State can be discriminated as a venue for clearing services.
- **A CCP would be required to have a mutualised default fund** to which members of the CCP would have to contribute.
- The obligation to clear OTC derivatives contracts through a CCP and report them to trade repositories would apply to **financial firms**, while non-financial firms would only be subject to the rules if their OTC derivatives positions reach specified information and clearing thresholds, to be set by ESMA and the Commission, and are considered to be systemically important.
- **Pension schemes would be exempt** from the clearing obligation for a period of three years, extendable by another two years through a review clause.

The compromise proposed by the presidency allows room for further technical work, in the context of trilogue negotiations with the Parliament, on third country provisions.

# Extension of temporary emergency measures on CCP collateral requirements

2023/3008(DEA) - 20/06/2011

The Council held a policy debate on a draft regulation aimed at increasing transparency and reducing risk in the over-the-counter (OTC) derivatives market.

It asked the Permanent Representatives Committee to oversee further work on the proposal so as to enable the Council to reach agreement on a general approach as soon as possible.

The Council's debate focused on two issues:

- authorisation and supervision of CCPs, in particular the role played by ESMA;
- scope of the regulation, namely whether to also subject listed derivative contracts traded on regulated markets to clearing and reporting obligations.

# Extension of temporary emergency measures on CCP collateral requirements

2023/3008(DEA) - 24/01/2012

The Council adjusted its position in negotiations with the European Parliament on a draft regulation aimed at increasing transparency and reducing risk in the over-the-counter (OTC) derivatives market (i.e. a derivative not traded on an exchange but instead privately negotiated between two counterparties). This is designed to facilitate rapid agreement with the Parliament, so as to enable the regulation to be adopted at first reading.

The main change to a general approach agreed by the Council in October relates to the procedure for authorising central counterparties (CCPs), in particular to the powers of the CCP's "home" member state, i.e. the Member State of establishment, versus those of the college of supervisors and the [European Securities and Markets Authority \(ESMA\)](#).

A general approach agreed in October specified that a CCP authorisation by a Member State's competent authority could only be blocked by a negative opinion of the college supported by a "unanimity minus one" vote (i.e. all the members of the college, excluding the authorities of the "home" member state). However, in order to facilitate agreement with the Parliament, which is pushing for a stronger role for the college and for ESMA, the Council today approved a proposal by the presidency which would introduce **two additional safeguards**, whereby :

- following a negative opinion of the college, with "unanimity minus one", the "home" member state can refer the matter to ESMA for binding mediation.
- when a "sufficient" majority in the college opposes authorisation of a CCP, this "sufficient majority" may then decide to put the issue to ESMA for binding mediation. The Council's position defines a "sufficient" majority as two-thirds of college members, with votes in the college limited to two per member state for colleges of up to and including 12 members and three for colleges above that size.

Negotiations also produced compromises on the **following two issues**:

- **pension schemes** would be exempt from a clearing obligation for a period of three years, extendable by another two years plus one years, subject to reports justifying the deferrals.
- **CCPs from third countries** would only be recognised in the EU if the legal regime of the respective third country provides for an effective equivalent system for the recognition of CCPs authorised under foreign legal regimes. However, this approach would not constitute a precedent for other legislation on the supervision and oversight of financial market infrastructures.

## Extension of temporary emergency measures on CCP collateral requirements

2023/3008(DEA) - 21/02/2012

The Council was informed of the **outcome of a triilogue meeting** with the European Parliament and the Commission on 9 February, at which an agreement was reached on a draft regulation on over-the-counter derivative transactions, central counterparties and trade repositories.

It is expected that, once technical work has been completed, a letter will be sent to the Parliament to indicate that the Council can agree to the compromise text. The regulation will then be adopted by the Parliament in plenary session and by the Council without further discussion.