European Securities and Markets Authority

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Statement on Recovery and Resolution of CCPs

Economic & Monetary Affairs Committee
European Parliament

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Chair

European Securities and Markets Authority (ESMA)

Dear Chairman, honourable Members of the European Parliament,

I would like to thank your Committee for hosting this public hearing on the important proposal to introduce a recovery and resolution regime for CCPs. I am very grateful for this opportunity to share my views on this key legislative draft, and also share some considerations inspired by ESMA's practical experiences in relation to CCPs' resilience.

Let me start with some general remarks. As you know, the scale and importance of CCPs in Europe and globally has been increasing rapidly in the past years, following implementation of G20 commitments, and CCPs were set up to reduce systemic risk stemming from bilateral relationships between market participants. As was confirmed in the first EU-wide stress exercise conducted by ESMA last year, CCPs are highly interconnected through clearing members. Therefore, the default of a CCP could further

propagate the effects of market shocks at a systemic level. The resilience of CCPs is thus a key objective for preserving financial stability.

In the past years, ESMA has strongly supported the consistent implementation of the European approach to foster CCP resilience taken in EMIR. We have promoted supervisory convergence though a number of measures (including opinions, guidelines, Q&As and peer reviews) and, more importantly, through an active participation in CCP supervisory colleges. In addition, with regard to the aforementioned EU-wide stress tests, we have been pioneers in developing supervisory stress test for CCPs and we are continuing to improve our methodological framework. Finally, let me also mention that we have also contributed to the prudential review of individual CCPs when validating significant changes to CCPs' risk models.

Although the current regulatory framework established with EMIR represent a successful story in terms of European integration, consistent application of rules and safety for the financial sector, it needs to be complemented with a recovery and resolution framework to ensure the viability of CCPs in crisis events beyond severe and plausible market conditions. I therefore very much welcome the European Commission's legislative proposal, which introduces a sound regime for CCPs recovery and resolution.

The proposal is overall balanced, proportionate and consistent with other existing relevant EU legislation, including EMIR and the Bank Recovery and Resolution Directive (BRRD), and with current international guidance provided by the CPMI-IOSCO (on recovery) and the FSB (on resolution).

I would like to express my appreciation for the key role that the legislative proposal assigns to ESMA, and for being recognised as the reference European Supervisory Authority for CCPs. I can confirm to you that ESMA stands ready to undertake the tasks assigned to it under the proposal. I disagree, however, with the conclusion in the proposal that these multiple tasks have no resource implications. Considering the risks included, we should avoid having insufficient resource to execute this important Regulation.

I would now like to turn to three key aspects of that proposal: recovery planning, resolution tools and governance of the resolution process.

Firstly, when talking about recovery planning, I would like to underline the primary responsibility of CCPs to develop an enforceable and comprehensive recovery plan under the supervision of its competent authorities and the CCP college. In addition to existing supervisory tools under EMIR, the proposal does introduce early intervention measures. In my view, the Commission's proposal could benefit from a more detailed technical outline, in particular in view of facilitating supervisory convergence within the EU and setting a benchmark for third country CCPs.

This could be achieved through more detailed provisions or supplementary measures, such as Regulatory Technical Standards or Guidelines.

Secondly, I would like to reflect upon the proposed resolution tools. In this regard it is absolutely essential to understand that while there are some parallels with the Bank Recovery and Resolution Directive, and resulting synergies worthy exploring, the underlying characteristics of financial

market infrastructure providers like CCPs are very different from those of banks and investment firms. I would therefore urge you to consider each and every resolution tool in that specific context and ensure applying them consistently with the EMIR framework. Having said that, let me also underline that a possibly broad choice of resolution tools in the legislative framework would allow resolution authorities to have the required degree of flexibility, depending also on particular market circumstances.

This point brings me to the third important feature of the proposal: The governance of resolution processes. As you know, CCPs are infrastructures operating cross-border and the cooperation and coordination among relevant authorities must be ensured at all times. While I acknowledge the challenge of creating an ideal governance process involving colleges of a large number of supervisory and resolution authorities, I would like to draw your attention to ESMA's practical experiences with colleges operating under EMIR. Specifically, so far ESMA has never been requested to launch a mediation process with respect to an EMIR college's opinion. The main reason for that is the requirement that a majority of 2/3 of college members need to express their support to refer a proposed decision to ESMA for mediation, which has proven to be very rare. It should also be noted that the larger composition of a resolution college compared to CCP colleges would make it even more difficult to reach such a majority. Thus the rights of the other authorities in the college, in particular those supervising the major clearing members, might not be adequately protected if a similar mechanism is introduced in the Recovery and Resolution proposal. You might want to keep this in mind when negotiating this particular provision of the Commission's proposal, which now stipulates that each member can

refer a proposed decision to ESMA for mediation. Personally, considering also our EMIR experience, I think it is appropriate to lower the hurdle for mediation compared with the arrangements in EMIR.

Finally, I would like to reinforce the point of consistency with the international standards. I trust that the legislative process on the European Regulation on CCPs Recovery and Resolution will also be able to capture any further guidance from the CPMI-IOSCO and the FSB in this field.

Concluding, I would like to reassure you on ESMA's ongoing commitment to financial stability in the area of financial market infrastructures. We stand ready to provide further advice and operational support to make this important piece of legislation a real success.

Thank you for your attention.