

ESMA_QA_889

Status: Answer Published

Additional Information

Level 1 Regulation

Regulation 648/2012 - OTC derivatives, central counterparties and trade repositories (EMIR)
- CCPs

Topic

EU-CCPs

Additional Legal Reference

Article 28 of EMIR - old CCP question 20 dated 21/05/2014

Subject Matter

Risk Committee (old CCP question 20 dated 21/05/2014)

Question

Pursuant to Article 28(1) of EMIR, a CCP shall establish a risk committee, which shall be composed of representatives of its clearing members, independent members of the board, and representatives of its clients. Employees of the CCP, external independent experts and employees of competent authorities may attend in a non-voting capacity. None of the groups of representatives shall have a majority in the risk committee.

- a) Is it possible for representatives of other interests (for example trading venues served by the CCP) to be members of the risk committee?
- b) How broadly must an individual represent the interests of the CCP's clients in order to qualify as a representative of such clients on the risk committee?

ESMA Answer

21-05-2014

Original language

- a) The membership of the risk committee is prescribed in EMIR. An individual cannot be a member of the risk committee where they are neither a representative of the CCP's clearing members, an independent member of the board, or a representative of the CCP's clients. Such an individual might, however, be invited to attend risk committee meetings in a non-voting capacity.
- b) It is recalled in Recital 61 of EMIR that clients need to be adequately represented on the risk committee as decisions taken by the CCP may have an impact on them. A CCP therefore needs to ensure that the individuals appointed to the risk committee to represent the CCP's clients are sufficiently representative of the interests of the clients of the CCP. For example, the CCP should have balanced client representation on its risk committee in respect of the activities or services for which the CCP is authorised to provide or perform. Furthermore, the CCP should satisfy itself that the individuals appointed to the risk committee are not conflicted by other interests. For example, a CCP would need to take particular care where an individual appointed to the risk committee to represent the CCP's clients is from an entity which is in the same group as a clearing member of the CCP.