

**Submission Date**

14/05/2024

# ESMA\_QA\_2182

Status: Answer Published

## **Additional Information**

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### **Level 1 Regulation**

Regulation 2021/23 - recovery and resolution of central counterparties (CCPRRR)

### **Topic**

CCP Resolution

## **Subject Matter**

Resolution college membership

## **Question**

Should the banking national resolution authorities (BNRA) participate in the resolution college where the SRB also qualifies as resolution authority of the clearing members of the same Member State?

## ESMA Answer

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11-09-2024

Original language

### **Answer was provided by the European Commission**

Article 4(2)(c) CCPRRR provides that the resolution authorities of the clearing members referred to in point (c) of Article 18(2) of Regulation (EU) No 648/2012 (EMIR), including, where relevant, the Single Resolution Board (SRB) in its role as a resolution authority of credit institutions within the single resolution mechanism conferred upon it in accordance with Regulation (EU) No 806/2014 (SRMR), are members of the resolution college. The clearing members referred to in Article 18(2)(c) EMIR are the clearing members of the CCP which are established in the three Member States with the largest contributions to the default fund of the CCP. Therefore, Article 4(2)(c) CCPRRR should be interpreted in such a way that the resolution authorities of the CCP's clearing members which are established in the three Member States with the largest contributions to the CCP's default fund are members of the resolution college.

In the hypothetical situation where all the CCP's clearing members in one of these three Member States are within the SRB's remit, only the SRB will be member of the resolution college on this basis. In another hypothetical situation where all the CCP's clearing members in one of these three Member States are within the remit of the national bank resolution authority, only the national bank resolution authority will be member of the resolution college on this basis. Finally, if some of the CCP's clearing members in one of these three Member States are within the SRB's remit, while other clearing members of this CCP which are established in the same Member State are within the remit of the national bank resolution authority, both authorities will be member of the resolution college. Therefore, participation of bank resolution authorities to the resolution college depends on their authority over the CCP's clearing members.

Any interpretation provided in this Q&A is strictly limited to the CCPRRR and should not be construed as providing any guidance on or limitation to the application of any other EU legislation.

### **Disclaimer**

*The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.*