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Additional Information

Level 1 Regulation
Regulation 2021/23 - recovery and resolution of central counterparties (CCPRRR)

Topic
CCP Resolution

Subject Matter
Voting arrangements in resolution colleges

Question
Where one authority attends a resolution college in multiple roles pursuant to Article 4(2) of CCP RRR, would it have the corresponding number of votes?

ESMA Answer

11-09-2024

Original language

Answer was provided by the European Commission

Article 4(3), first sub-paragraph, of CCPRRR provides that ESMA, EBA and the authorities referred to in points (d), (e), (k) and (l) of paragraph 2 of that article are non-voting members. It follows that the authorities that qualify for membership of the resolution college in accordance with Article 4(2), points (a), (b), (c), (f), (g), (h), (i), (j) and (m), of CCPRRR are, instead, voting members.
Article 4(3), second sub-paragraph, of CCPRRR explicitly provides that the ECB can express two votes where it is a member of the college pursuant to both points (c) and (j) of paragraph 2 of the same Article. Therefore, the CCPRRR explicitly mentions the case where one member with voting rights has two votes in the resolution college. If the legislator's will had been to give more than one voting right to the members of the resolution college other than the ECB, the CCPRRR would have referred to this situation explicitly. In addition, the references to the simple majority of voting members in articles 11, 14 and 17 CCPRRR suggest that each voting member can express only one vote, unless explicitly provided otherwise by the CCPRRR.
Consequently, where the members of the resolution college qualify as members thereof pursuant to more than one point of Article 4(2) CCPRRR, these will have one voting right unless in situations explicitly referred to in that Regulation (i.e. ECB).
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

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