

# Decision of the Board of Supervisors

delegating to the Chair of the European Securities and Markets Authority the adoption of certain decisions related to validations of CCP's changes to models and parameters and to the issuance of ESMA's opinions

## The Board of Supervisors

**Having regard** to the Treaty on the Functioning of the European Union,

**Having regard** to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC<sup>1</sup> (the "Regulation" and "ESMA"), and in particular Articles 41(1) and 43(1) thereof,

**Having regard** to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories<sup>2</sup> ("EMIR"), and in particular Articles 17b, 49 and 49a thereof

## Whereas:

- (1) Regulation No 2024/2987 introduced several amendments to EMIR, including several changes to the procedures that ESMA shall follow for validating changes to a CCP's models and parameters, as well as to the procedure for issuing opinions on NCAs' draft decisions, reports and other measures. These consist, specifically, of: (i) new timelines and procedure under Article 17b of EMIR to be followed when issuing opinions on a widened range of NCAs' draft decisions, reports and other measures; (ii) a reduced timeline under Article 49 of EMIR for validating significant changes to models and parameters; (iii) a new accelerated procedure under Article 49a of EMIR for validating not significant changes to CCP's models and parameters.
- (2) Draft opinions and draft validation decisions are prepared by the CCP Supervisory Committee (CCPSC) in accordance with Article 24a of EMIR for the adoption by the Board of Supervisors (BoS) within 3 working days in accordance with Article 24d, second subparagraph of EMIR.
- (3) In order to ensure a timely, efficient and effective process for the adoption of such opinions and validation decisions within the restricted timeline, it seems advisable to delegate to the Chair of ESMA (the Chair) the power to adopt non-controversial draft opinions and validation decisions prepared and approved by the CCPSC.
- (4) The delegation should be exercised in accordance with the restrictions and conditions set out in this Decision.

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<sup>1</sup> OJ L 331, 15.12.2010, p. 84.

<sup>2</sup> OJ L 201, 27.7.2012, p. 1–59.

## **Has adopted this Decision:**

### **Article 1 – Delegation of powers related to Article 17b, 49 and 49a of EMIR**

- (1) The BoS delegates to the Chair the tasks to:
  - a. adopt on behalf of ESMA any non-controversial opinion on competent authorities' decisions, reports or other measures in relation to the provisions referred to in Article 17b of EMIR;
  - b. adopt on behalf of ESMA any non-controversial decision granting validation of significant changes to models and parameters pursuant to Article 49 of EMIR;
  - c. adopt on behalf of ESMA any non-controversial decision confirming that a change to models and parameters submitted for validation under Article 49a of EMIR is not significant and granting the validation pursuant to Article 49a of EMIR.
- (2) The Board of Supervisors retains the powers to adopt controversial opinions on competent authorities' decisions, reports or other measures in relation to the provisions referred to in Article 17b of EMIR, decisions determining that a change to models and parameters submitted for validation under Article 49a of EMIR is significant, and controversial decisions on the validation of changes to models and parameters pursuant to Articles 49 and 49a of EMIR.
- (3) For the purposes of this delegation, non-controversial opinions are those draft opinions prepared by the CCPSC which i) no Member of the CCP SC disagreed to and ii) support the decision, report or measure proposed by the competent authority requesting the opinion. The inclusion of conditions or recommendations does not affect the non-controversial nature of the opinion.
- (4) For the purposes of this delegation, non-controversial validation decision means those draft validation decisions prepared by the CCP SC which i) no Member of the CCP SC disagreed to and ii) grant the validation of the changes to risk model and parameter proposed by the CCP. The inclusion of conditions or recommendations does not affect the non-controversial nature of the validation decision.

### **Article 2 – Conditions for the delegation**

- (1) The powers delegated under Article 1 are conferred on the Chair of ESMA for an indeterminate period.
- (2) The Chair shall inform, at least annually, the BoS of the opinions and decisions issued under this Decision.
- (3) The BoS may request information in respect of any opinion and decision issued under this Decision.

### **Article 3 – Amendment and revocation**

The Board of Supervisors can reconsider and revoke at any time the delegation of powers established under this Decision (in full or partially).

#### **Article 4 – Taking effect and publication**

- (1) This Decision takes effect on the day of its adoption.
- (2) The Decision shall be published on ESMA's website.

Done at Paris on 12 December 2024

Verena Ross  
Chair  
For the Board of Supervisors