

CCP Strategic Objectives 2023-2025



1 Introduction

1. Since its establishment in January 2020, and the subsequent arrival of the Chair and Independent Members in December 2020, the CCP Supervisory Committee (CCP SC) acts as a centrepiece to support and coordinate ESMA's work with regard to:
 - the early identification of risks and vulnerabilities related to CCPs;
 - the promotion of supervisory convergence and consistency in supervisory outcomes among EU CCPs; and
 - the monitoring of third-country CCPs (TC-CCPs) and the supervision of the most systemically relevant amongst them (Tier 2 CCPs).
2. The work of the CCP SC is complemented by the CCP Policy Committee (CCP PC) which is tasked to maintain the EU CCP Single Rulebook up-to-date and by the soon-to-be-established Resolution Committee (CCP RC) focussing on resolution issues.
3. After two and a half years dedicated to setting up and operationalising the new regime and delivering on the most urgent outputs outlined in EU legislation, the purpose of this document is to identify the strategic objectives of ESMA over the next three years to ensure that ESMA and the CCP SC deepen and expand their work in the field of CCPs, but also to help prioritise tasks and allocation of staff under the current resource constraints.
4. The period of three years is aligned in part with the ESMA Strategy 2023-2028 to ensure greater coherence and consistency with other areas of work of ESMA. The period corresponds to the time by which the targeted review of the clearing framework in the EU should be agreed and adopted ahead of the expiration of the current temporary equivalence and recognition decisions for UK CCPs, in the light of which a review of priorities is likely warranted.
5. The CCP Strategic Objectives are aligned with the ESMA Strategy for 2023-2028 and provide CCP related specifications for a number of identified key priorities, in particular regarding effective financial markets and financial stability; supervision and supervisory convergence; and facilitating technological innovation and the increased use of data.
6. In a constantly changing and complex environment, these strategic objectives should help guide the actions of ESMA, its CCP Committees and the CCP Directorate and define concrete deliverables over the 2023-2025 period.

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7. Following the first two and half years focusing on delivering the most pressing mandates outlined under EMIR 2.2 and an intense build-up phase to set-up and resource the CCP Directorate, the strategic objectives of the 2023-2025 period will seek to build on the achievements of the previous period and deepen and expand the focal areas of work of ESMA in relation to CCPs.
8. The CCP SC has identified three strategic objectives for ESMA over the 2023-2025 period in relation to CCPs, in particular:
 - Deepening risk- and data-driven supervision;
 - Strengthening EU CCP resilience; and
 - Addressing third-country CCP cross-border risks.
9. The following sections further detail each strategic objective and outline the expected output per area of activity relating to CCPs over the upcoming three years.

3 Strategic Focus I – Deepening risk- and data-driven supervision

10. Risk identification and assessment is part of the core work of supervisory authorities. ESMA's success and credibility as a supervisor rests upon its ability to identify risks and vulnerabilities in a timely manner with a view to drive and adjust its regulatory and supervisory (convergence) activities.
11. ESMA will therefore continue to strengthen its capabilities to identify, understand and assess risks to CCPs and the broader clearing ecosystem in the EU, building further on available data sources, exploring new data sources, whilst at the same time aiming to improve the quality of the data collected. Where possible, synergies with ESMA's data strategy are sought.
12. ESMA will also continue to build on and complement the assessments of NCAs to ensure adequate supervisory responses by the CCP SC and NCAs, having specific regard to the required EU-wide and cross-CCP perspective.

3.1 Deepening understanding of the clearing industry structure

13. A key dimension of ESMA's work in the coming three years will be to ensure that ESMA has a deep and dynamic understanding of the clearing space to be able to identify emerging issues relevant for financial stability, sound markets but also foster the development of EU clearing capacities.
14. As part of this aim, ESMA continues developing a structured framework for stress-testing based on a multi-year plan to progressively challenge untested dimensions of CCP resilience. Building on the experience of the 2021-2022 stress-test which included for the first time a focus on operational risk linked to third-party providers, ESMA's CCP

stress-testing framework will progressively expand to other emerging risks such as cyberthreats and more complex and multi-faceted risks linked to climate change. ESMA will continue working with the ESRB to develop relevant stress narratives and seeking innovations in scenarios where possible. Liquidity stress testing is a key component and will be further developed to strengthen not only the CCPs' resilience against liquidity risks but also better understand liquidity stresses for the CCP ecosystem. The relevance of the latter has been evidenced by the past crises.

15. The work of ESMA regarding CCP stress-testing will be supported by a standing expert-level group of the CCP SC constituted of representatives from NCAs and CBIs to help pool relevant expertise. ESMA will also explore the feasibility of market-wide crisis tests in cooperation with other (EU and non-EU) authorities to enhance the readiness of authorities, CCPs and other stakeholders, to respond to crisis situations in a timely manner to effectively limit the potential negative impact on EU financial stability.
16. ESMA intends in particular to set up a dedicated workstream to identify potential risks and challenges stemming from innovative clearing models and services leveraging new technologies and provide views on whether there is a need to adapt the regulatory perimeter and its adequacy where necessary. ESMA believes a holistic view is necessary given the potential implications these services may have in terms of risk management practices, as well as market structure and will also seek to liaise with other EU authorities to help support a cross-sectoral response as appropriate.
17. ESMA will also strengthen its analytical capabilities to identify vulnerabilities in the EU financial system more broadly by leveraging the supervisory data it collects from CCPs as well as NCAs and other EU authorities to cover the wider clearing ecosystem (clearing members, clients, other connected FMIs). ESMA will seek to develop and deploy performing supervisory databases, possibly with the support of RegTech, to ensure that ESMA's supervisory approach is data-driven, but also proportionate to the risks identified. ESMA will also consider different options to improve data quality, data sharing and cooperation with the members of the CCP SC and other relevant stakeholders. ESMA intends to work closely together with the ESRB and the SSM in the analysis of the dependencies and interconnectedness of CCPs.
18. For TC-CCPs, and Tier 2 CCPs more specifically, ESMA believes it is important to base the required activities on an analytical framework to identify and assess risks to EU and Member State financial stability resulting from off-shore provision of CCP services. Building on ESMA's comprehensive assessment¹, having identified three clearing services of substantial systemic importance in the UK, it is essential that ESMA continues to deepen its understanding of the resulting interdependencies and potential propagation channels to ensure adequate supervisory responses. Following up on its high-level response² to the Commission's consultation on a potential EMIR review, ESMA will continue supporting EU and national authorities in developing an appropriate

¹ https://www.esma.europa.eu/sites/default/files/library/esma91-372-1913_statement_uk_ccp_article25_2c_assessment_2021.pdf

² https://www.esma.europa.eu/sites/default/files/library/esma91-372-2125_letter_chair_esma_response_to_ec_consultation_on_targeted_emir_review.pdf

response to mitigate and reduce over time the risks resulting from the exposures to these clearing services.

3.2 Lessons learned from recent crisis events

19. Over the last two years, which corresponds to the time of existence of the CCP SC, the COVID-19 pandemic and the unlawful Russian invasion of Ukraine have had major repercussions on financial markets with significant price corrections and volatility, in particular in energy and certain commodity markets.
20. As agreed within the CCP SC, ESMA will consider further the implications of these developments in commodity and energy markets for CCP risk management and whether the existing supervisory and regulatory framework may have shortcomings, e.g. as regards the degree of transparency needed. ESMA will seek to address, amongst others, the risks linked to the procyclicality of margin calls and liquidity strains in commodity markets, as well as the dependencies and interconnectedness between exchanges, CCPs, clearing members and clients but also the rest of the wider ecosystem (e.g. lack of transparency of uncleared OTC markets).
21. ESMA will also seek to improve the framework for EU CCP crisis management, by ensuring that it can help support and coordinate emergency actions by NCAs through the CCP SC, by maintaining up-to-date procedures and contact lists. The main elements of this crisis management framework are: (1) crisis procedures that include crisis management reporting; (2) risk definitions with early warning indicators for potential crisis events; (3) action plans, tools and templates taking into account crisis management powers; and (4) the testing of the framework through a fire drill, which may include a communication exercise, as well as a scenario testing exercise.
22. ESMA will consider how to develop this crisis management framework with NCAs and CBIs, in particular to test default management processes, and whether some activities could be done jointly with relevant authorities outside the EU.

3.3 Build up capacity as a centre of expertise for CCPs

23. ESMA aims to create a centre of expertise for CCPs in Europe by leveraging the knowledge and expertise of CCP SC and PC members. ESMA intends to dedicate more time to strategic or topical discussions in meetings and creating dedicated subgroups to tackle specific issues.
24. In addition, ESMA could help mediate discussions across EU and national authorities beyond CCPs – such as the impact of CCP requirements on linked participants or other FMIs – to ensure that a broader view of the clearing ecosystem is duly considered but also that interconnected matters beyond the mandate of the CCP SC/PC can be addressed in a consistent and coherent manner.
25. ESMA also intends to support research and the publication of research papers on CCP topics and (co-)organise dedicated conferences or seminars. ESMA could also consider

partnerships with academics to develop joint studies to increase the shared common public knowledge on CCPs and their markets.

3.4 Improving market intelligence, industry outreach and impact on global standard setter activities

26. ESMA will continue closely engaging with the industry and academia, i.a. by leveraging the Consultative Working Group of the CCP PC to collect stakeholder feedback and support its market intelligence gathering efforts. ESMA has also been successful in organising public hearings, workshops and webinars on topical issues (e.g. APC and margins, supervisory stress testing) and has found this a valuable way to keep apprised of market developments and to exchange views with relevant stakeholders.
27. ESMA will seek to cooperate more closely with international organisations and third-country jurisdictions on CCPs. ESMA recently organised a joint workshop with the World Bank dedicated to supervisors from jurisdictions which are in the process of building their regulatory and supervisory framework for CCPs and intends to support similar initiatives in the future.
28. ESMA will also aim at better leveraging its bilateral relationships with third-country jurisdictions, notably to share supervisory experience on global trends and emerging issues. This cooperation could be supported by the enhanced MoUs recently been negotiated with partner jurisdictions.
29. ESMA will seek to promote the EU perspective via appropriate representation within international standard setting groups of relevance to CCPs, in particular within CPMI, IOSCO and the FSB. ESMA will pro-actively engage to shape discussions by volunteering to new workstreams and support coherent position building with NCAs who also sit in these groups to ensure a stronger Union-view on common topics.

4 Strengthening EU CCP resilience

30. The growing systemic importance of CCPs and their inter-linkages to the financial system as a whole underline their critical nature for the financial stability of the Union. A default or disruption at a CCP can have substantial destabilizing effects on linked clearing members, their clients or on other financial market infrastructures (FMIs) established in one or more Member States and impair critical markets for the proper conduct of monetary policy in Union currencies.
31. Proper regulation and strong supervisory convergence supporting the resilience of EU CCPs are therefore essential to ensure orderly markets and safeguard financial stability in the Union.

4.1 Improving CCP resilience following recent crises

32. As highlighted in section 3, the recent turmoil and volatility on financial markets have called into question whether all aspects of the Union's CCP regulatory and supervisory

framework are fit-for-purpose and whether some need fine-tuning to increase the resilience of EU CCPs.

33. The CCP SC has already identified and agreed to focus on a few areas of work to continue increasing the resilience of EU CCPs.

4.1.1 Procyclicality risks

34. Anti-procyclicality (APC) measures have been under scrutiny since the 2008 global financial crisis, with renewed attention since the COVID-19 crisis in 2020. ESMA launched a consultation paper end of January 2022 to fine-tune the existing EMIR requirements to address certain diverging CCP APC practices in the EU, without proposing an overhaul of the APC tools to avoid pre-empting further work at the international level.
35. Recent market events following Russia's invasion of Ukraine have shown that margin requirements can increase substantially, creating in turn liquidity strains, in particular for non-financial counterparties active in commodity markets. ESMA is conducting additional research on the procyclicality of margin in commodity markets experienced during the crisis to ensure that the revised APC tools are adequate. ESMA through the CCP PC aims to adopt revised standards to improve the efficiency of APC margin measures and the consistency of their application.

4.1.2 Member due diligence and access by NFCs

36. The limits of the financial capacity of non-financial counterparties (NFCs) in commodities markets have been subject to increased attention during the crisis, with concerns that the observed liquidity strains on certain NFCs could trigger multiple defaults. ESMA had already decided to focus the 2022 Peer Review exercise on CCP participation requirements and will bring additional focus on NFCs, the criteria and arrangements of clearing members to allow their clients to access the services of the CCP, as well as on the additional obligations that CCPs may impose on NFCs to ensure they have sufficient liquidity provisions.

4.1.3 Concentration risks

37. The importance of managing concentration risk for commodities products was illustrated through the default of a clearing member at Nasdaq Clearing in 2018 and again more recently with the forced closure and partial tear-up of LME's nickel market. The 3rd and 4th ESMA CCP stress test exercise have shown that the concentration exposures for commodities products are significant and attract relatively low concentration add-ons. ESMA, in coordination with the CCP SC, will conduct a Peer Review in 2023-24 focusing on concentration risks including risks in relation to commodities derivatives and emission certificates. ESMA will follow up with individual NCAs to enquire whether the concentration add-ons of their CCPs sufficiently cover concentration risks, notably for commodities markets.

4.1.4 Other areas for further consideration

38. The recent incident at LME has also shown that one client can build a significant position that materially impacts the orderly functioning of a regulated market and its CCP. ESMA is assessing what type of improvements could be considered to enhance transparency of client positions, notably in the uncleared OTC space. The CCP PC is also discussing whether certain adjustments to existing collateral requirements in the level 2 measures could help assuage the observed liquidity risk concerns.

4.2 Fostering EU wide consistency and coherence

39. As in the past two years, ESMA, through the CCP SC, will continue reviewing NCA supervisory decisions and issuing, where necessary, opinions with recommendations to ensure greater supervisory coherence, as well as validating significant changes to risk models and parameters.
40. ESMA intends to make a greater use of all the supervisory convergence tools available to further develop a common supervisory culture for CCPs in the Union. To do so, ESMA will build a supervisory reference repertory of all opinions, validations and potential recommendations attached to promote greater consistency of future NCA decisions. ESMA will follow up on stress test findings with NCAs to discuss the results and seek strengthening of risk management frameworks where needed.
41. The development of this supervisory reference repertory should also help identify remaining areas of discrepancies in supervisory decisions by NCAs which could be addressed by the issuance of additional recommendations, guidelines, or opinions by the Board of Supervisors (BoS) or by adapting existing guidelines and Q&As to ensure a greater consistency across ESMA guidance.
42. In addition, ESMA will support deeper supervisory dialogues within the CCP SC by suggesting that NCAs present areas of their supervisory activities and promote supervisory case discussions. ESMA will also continue its efforts to share the conclusions of the CCP SC opinions prior to the adoption of college opinions to ensure a greater consistency across the CCP SC and the colleges.
43. ESMA is also the only member participating in all 14 colleges of CCPs authorised in the Union and will leverage this position to ensure that a more horizontal perspective across colleges is provided and support greater harmonisation of supervisory outcomes for EU CCPs.

4.3 Conducting focussed annual peer reviews

44. Peer Reviews are one of the key tools for ESMA to assess how NCAs supervise CCPs and promote supervisory convergence. The CCP SC discusses and selects topical issues following a risk-based assessment on a two-to-three-year basis to ensure predictability and proper management of resources.

45. As outlined above, the 2022-2023 Peer Review is focusing on CCP participations requirements and due diligence, while the 2023-2024 exercise will focus on concentration risk.
46. The CCP SC will also take stock of the progress made in achieving supervisory convergence by monitoring and following-up on the application of the recommendations of past Peer Reviews.

4.4 Implementation of the CCP recovery and resolution framework

47. After a very intense phase dedicated to drafting 19 pieces of Regulatory Technical Standards and Guidelines under the CCP Recovery and Resolution Regulation (CCPRRR), ESMA will over the next years focus on the implementation phase.
48. The CCP SC will support a common approval process for the recovery plans submitted to NCAs reflecting the requirements set out under CCPRRR in order to ensure supervisory convergence among all EU CCPs and their colleges.
49. ESMA will also support the CCP Resolution Committee for the purpose of preparing the decisions entrusted to ESMA under CCP RRR and to promote the drawing up and coordination of resolution plans and develop methods for the resolution of failing CCPs.
50. Given the novelty of the field, ESMA would like to promote as much as possible regular exchanges and discussions on recovery and resolution related issues to avoid diverging practices in the future. While supporting both the recovery and resolution work of NCAs, ESMA will ensure necessary institutional safeguards against conflicts between supervision (including recovery) and resolution.

5 Addressing third-country CCP cross-border risks

51. EMIR 2.2 has established a progressive and risk-driven approach to the recognition of third-country CCPs (TC-CCPs). It categorizes (tiers) TC-CCPs depending on the level of risks they pose to the financial stability of the Union or one or more of its Member States based on clear criteria and indicators.
52. TC-CCPs that qualify as non-systemically important (Tier 1 CCPs) are recognised on the basis of deference to their home authority supported by active monitoring of their EU related activities and regular reviews of recognition decisions, whereas TC-CCPs that qualify as systemically important (Tier 2 CCPs) are required to comply with EMIR requirements, either directly or via 'comparable compliance', and are subject to ESMA direct supervision.

5.1 Being an effective direct supervisor of Tier 2 CCPs

53. To cater for the additional risks posed by CCPs determined as Tier 2 CCPs, EMIR 2.2 has subjected the recognition of Tier 2 CCPs to their compliance with EMIR requirements (or comparable requirements should they request this possibility – see section 5.2) and to the direct supervision of ESMA.

54. In practice, this means that ESMA has direct access to Tier 2 CCPs to monitor risks and to be able to review key decisions of the CCPs, such as the extension of services or significant changes to risk models, supported by enhanced cooperation arrangements and enforcement powers.
55. ESMA, through the CCP SC, will strive to finalize the implementation of its Supervisory Approach for TC-CCPs by end-2023, based on a detailed roadmap of deliverables, of which Tier 2 CCP supervision is a key dimension.
56. Every year, ESMA will conduct an annual review focusing on different aspects of Tier 2 CCPs, in accordance with Article 25.2b of EMIR, which will form an integral part of ESMA's Supervisory Plan for TC-CCPs. ESMA will focus in particular on services of substantial systemic importance (in accordance with Article 25.2c) and areas of potential concern.
57. A key dimension of this supervision is inherently data driven and will rely largely on data submitted by the CCPs and the Bank of England, as well as additional market monitoring. ESMA will seek to deploy its database and enhance its analytical capabilities to support adequate risk-monitoring and supervision.
58. Based on its supervisory experience with Tier 2 CCPs, ESMA will also seek to develop a more in-depth supervisory handbook based on past experiences of extension/reduction of services or validations. ESMA will also look to standardize procedures with templates and processes for Tier 2 CCPs, in order to enhance consistency across decisions and predictability of supervisory outcomes.
59. ESMA will continue communicating directly with Tier 2 CCPs via monthly technical meetings and regular strategic exchanges at senior level. ESMA will make use of its powers to perform information requests, investigations and on-site inspections, if and where necessary.
60. ESMA will continue to support close cooperation with the Bank of England to ensure smooth supervisory processes and effective information sharing as outlined in the enhanced MoU.

5.2 Determining comparable compliance of Tier 2 CCPs

61. Under the current system, Tier 2 CCPs are required to comply at all times with EMIR requirements but may request that ESMA assess whether their compliance with the third-country framework may be deemed to satisfy compliance with the requirements set out in Article 16 and Titles IV and V of EMIR.
62. Prior to granting such requests, ESMA and the CCP SC will first define the supervisory expectations and information needs supported by the Memorandum of Understanding (MoU) with the Bank of England under this set-up in view of comparable compliance.

5.3 Effective recognition and monitoring of Tier 1 CCPs

63. After a very time-intensive initial period where ESMA was mandated to tier and review the recognition decisions of all the TC-CCPs recognised by ESMA and renegotiate the supporting MoUs, ESMA will be able to dedicate more time and efforts to the proper monitoring of Tier 1 CCPs, including active scrutiny depending on risks related to their EU activities.
64. Supporting qualifying MoUs will improve the notification and exchange of information on TC-CCPs, including on significant changes to the risk models and parameters, the extension of activities and services, changes in the client account structure and in the use of payment systems that substantially affect the Union.
65. ESMA will also monitor legal and regulatory and supervisory developments in third-country jurisdictions for which the European Commission has adopted equivalence decisions and submit confidential annual Reports to the European Commission and the third-country college.
66. The revised MoUs will also ensure that ESMA is promptly notified if the TC-CCP is in breach of local requirements or has been granted an authorisation to provide additional services to EU clearing members or clients, or of any emergency situations relating to the recognised CCP, including developments in financial markets, which may have an adverse effect on market liquidity and the stability of the financial system in the Union.
67. All these notifications and data need to be collected and analysed as part of ESMA Supervisory Approach for TC-CCPs to ensure that ESMA is able to respond swiftly and in an adequate manner to materializing risks, including via enhanced cooperation with the relevant authorities and, if necessary, fines.
68. As outlined above, ESMA's degree of scrutiny will increase with the size, riskiness, and importance of the Tier 1 CCP's EU activities for the financial stability of the EU, and in particular, for EU clearing members and Union currencies. This added degree of scrutiny and related work would need to be reflected in a review of the fee methodology for Tier 1 CCPs in the Delegated Act by the European Commission to ensure that the fees collected are proportionate to the turnover of the TC-CCP as required under Article 25d of EMIR.
69. Finally, ESMA will continue assessing the applications for recognition by TC-CCPs following the issuance of new equivalence decisions by the European Commission and negotiate new MoUs with relevant TC authorities based on an enhanced MoU template. It will also assess whether recognition decisions need to be reviewed following an extension or reduction of services or in any case at least every five years.
70. ESMA will improve its data-sharing capacity with the CCP SC and third-country college to ensure that the relevant parties have access to relevant information on TC-CCPs.

6 Upcoming reviews

71. The European Commission is expected to come forward by the end of 2022 with proposals³ to 1) build domestic capacity through measures to make the EU more attractive as a competitive and cost-efficient clearing hub, and thus incentivise an expansion of central clearing activities in the EU; and 2) strengthen supervision to ensure that the risks resulting from an increased clearing activity in the EU are appropriately managed.
72. ESMA published a high-level response to the consultation, agreeing with the two main objectives of the European Commission upcoming proposal, yet regretting the absence of measures to mitigate the risks remaining at UK Tier 2 CCPs, such as a revision of the comparable compliance framework, an expansion of ESMA's supervisory and crisis management tool including CCP RRR and a mandate to negotiate an enhanced MoU with the Bank of England.
73. This targeted review is expected to be completed by a General Review in 2024 as mandated in EMIR with a bigger focus on the overall functioning of the EU and TC-CCP framework with a view to make the current system more efficient and reactive to be able to address and manage the EU wide risk implications appropriately.
74. The review would also have to assess whether the targeted EMIR Review has delivered on its objectives and the level of risk exposures remaining at UK CCPs or other large Tier 1 CCPs decreased sufficiently. It should also consider deeper and long-term reflections as to how cross-border risks should be addressed in the Union.
75. Finally, both the targeted and general review should ensure that ESMA has sufficient resources and fee raising capacity to support adequate staffing and expertise in the CCP Directorate and to ensure appropriate supervision and safeguard financial stability in the EU.
76. ESMA will adopt a reviewed strategy for CCPs once the proposal by the Commission is agreed by the co-legislators and implemented before the end of the current equivalence and recognition decisions for UK CCPs.

³ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/2022-central-clearing-review-consultation-document_en.pdf