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2017/0136 (COD)

Amendment of pending proposal

for a Regulation amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs (EMIR II Commission's proposal)

EXPLANATORY MEMORANDUM

On 13 June 2017, the Commission put forward a proposal for a Regulation amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs (EMIR II Commission's proposal [COM (2017) 331 final]).

The proposal aims at equipping the Capital Markets Union with a more effective and consistent supervisory system for CCPs, in the interest of further market integration, financial stability and a level-playing field. Among other things, the proposal intends to ensure closer cooperation between national competent authorities for the supervision of CCPs and central banks responsible for Union currencies. Accordingly, a new body is proposed to be established within the European Securities and Markets Authority (ESMA) ('CCP Executive Session') which will be responsible for handling tasks related to CCPs in general and supervising Union and third-country CCPs in particular. The CCP Executive Session is to be composed of permanent and CCP-specific members. Permanent members include the Head of the CCP Executive Session and two independent Directors, who act independently and objectively in the interest of the Union as a whole. Members specific to each CCP include a representative of the competent national authority of the Member States where the CCP is established, designated in accordance with Regulation (EU) No 648/2012, and a representative of the relevant central bank(s) of issue. That proposal also enhances ESMA's role in colleges, by providing that the permanent members of the CCP Executive Session shall participate in college meetings for CCPs under Regulation (EU) No 648/2012, with the Head of the CCP Executive Session chairing and managing those meetings.

The present document is put forward to supplement the EMIR II Commission's proposal. It forms part of a package of measures with the purpose of enhancing the supervision of EU financial markets by improving the operation of the system of European Supervisory Authorities (ESAs). The present document specifically envisages allocating an additional task to the CCP Executive Session. That addition is considered necessary in view of the effective setting up of the CCPs Executive Session prior to the upcoming ESAs reform.

In point 7 of the Commission's Proposal for a Regulation of the European Parliament and the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authorities) and amending Regulation (EU) No 648/2012 as regards the procedure and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs [COM(2017)331 final], the following point (-a) is to be inserted in paragraph 1 of Article 44b:

"(-a) taking decisions and actions on CCP matters with respect to Articles 17, 19, 29, 29a and 30 of this Regulation;"