

Filters applied:

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

Download date: Tuesday, October 7, 2025 - 11:50



Title	Submission Date
ESMA_QA_2186	14-05-2024
ESMA_QA_2185	14-05-2024
ESMA_QA_2184	14-05-2024
ESMA_QA_2183	14-05-2024
ESMA_QA_2182	14-05-2024

ESMA_QA_2186

Submission Date

14/05/2024

Status: Answer Published

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 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.

ESMA_QA_2185

Submission Date

14/05/2024

Status: Answer Published

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

How should votes be distributed in the case of two or more authorities in a particular Member State sharing one of the roles specified in Article 4(2) of CCP RRR?

ESMA Answer

11-09-2024

Original language

Answer was provided by the European Commission

Where two or more authorities exercise the same role as referred to in Article 4(2) CCPRRR in relation to the same entity, such authorities are to be considered as a single member of the resolution college. Accordingly, they will express only one vote and would need to agree amongst themselves on the vote to cast.

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.

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ESMA_QA_2184

Submission Date

14/05/2024

Status: Forwarded to EC/Public Consultation/Other

Additional Information

Level 1 Regulation

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

Topic

CCP Resolution

Subject Matter

Resolution college membership

Question

Could the competent authority of the CCP's parent undertaking be invited to participate in the resolution college, if the parent undertaking is not a CCP and operates in a third country?

ESMA_QA_2183

Submission Date

14/05/2024

Status: Forwarded to EC/Public Consultation/Other

Additional Information

Level 1 Regulation

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

Topic

CCP Resolution

Subject Matter

Resolution colleges

Question

In accordance with Article 4(2)(c) of CCP RRR, competent authorities and resolution authorities of clearing members referred to in Article 18(2)(c) of EMIR should be voting members of the resolution college. Art. 18(2)(c) of EMIR refers to

the three Member States with the largest contributions to the default fund of the CCP. Where not all clearing members of the CCP are subject to supervision by competent authorities, should the calculation exclude default fund contributions from not supervised clearing members?

ESMA_QA_2182

Submission Date

14/05/2024

Status: Answer Published

Additional Information

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

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.

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