

# Capital markets union: Presidency and Parliament reach provisional deal on clearing house rules

The EU will soon have a new framework in place, setting out rules for clearing houses in the single market.

The Presidency and the Parliament reached today a provisional agreement on how **EU and third country clearing houses should be supervised** in the future, taking into particular account the effects of Brexit on the European financial system. The new rules will be implemented through a revision of the European market infrastructure regulation (EMIR) and a revision of the statute of the European system of central banks and the European Central Bank.

The provisional agreement will now need to be confirmed by EU ambassadors.

Clearing houses are a critical link in the financial chain. Today's agreement is essential to achieve legal certainty on the rules that will apply in the future, in particular as regards the way firms based outside the EU will be able to operate in the single market.

*Eugen Teodorovici, minister for finance of Romania*

Clearing houses or central counterparties (CCPs) facilitate the exchange of payments, securities and derivative transactions by centralising and standardising all the steps leading up to the payment. They also take on counterparty risk by stepping in between the seller and the buyer, thereby providing guarantees that the transaction can be completed.

There are currently **16 CCPs established and authorised in the EU**. An additional **32 third-country CCPs** have been recognised under EMIR's equivalence provisions, allowing them to offer their services in the EU. Following Brexit, the three CCPs based in the UK will de facto become third-country CCPs.

The aim of the reform is to strengthen the supervision of CCPs in order to take into account the growing size, complexity and cross-border dimension of clearing in Europe. It introduces a **unique mechanism within the European Securities and Markets Authority** to bring together expertise in the field of CCP supervision and ensure closer cooperation between supervisory authorities and central banks responsible for EU currency.

In particular, the agreed text establishes a **"CCP supervisory committee" within ESMA** composed of an independent Chair, competent authorities of member states with an authorised CCP as well as two independent members. Central banks of countries whose currency is used for the transaction can participate

in the committee on certain specific matters but do not have a voting right

The text also strengthens the existing system for **recognising and supervising third country clearing houses**. In particular, it introduces a “two tier” system differentiating between non-systemically important CCPs and systemically important CCPs (so-called “Tier 2” CCPs). ESMA would assess the systemic importance of CCPs according to specific criteria, among which the nature, size and complexity of the CCP’s business, its membership structure or the availability of alternative clearing services in the currency concerned.

**Tier 2 CCPs would be subject to stricter rules** in order for them to be recognised and authorised to operate in the EU, including:

- compliance with the necessary prudential requirements for EU-CCPs while taking into account third-country rules;
- confirmation from the relevant EU central banks that the CCP complies with any additional requirements set by those central banks;
- the agreement of a CCP to provide ESMA with all relevant information and to enable on-site inspections, as well as the necessary safeguards confirming that such arrangements are valid in the third country.

On the basis of a fully reasoned assessment, ESMA would also be able to recommend that a CCP or some of its clearing services are of such substantial systemic importance that the CCP should not be recognised. The Commission could decide, as a measure of last resort, that the CCP will need to establish itself in the EU. **The third country CCP would then need to establish itself in the EU in order to be able to operate.**

## **Next steps**

Pending technical finalisation of the text, the provisional agreement will be submitted for endorsement to EU ambassadors. It will then undergo a legal linguistic revision. Parliament and Council will be called on to adopt the proposed regulation at first reading.

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## **[Commission welcomes agreement on the cross-border mobility of companies](#)**

The European Parliament and the Member States reached today a provisional agreement on new rules to make it easier for companies to merge, divide or move within the Single Market, while providing for strong safeguards.

These rules will allow companies to be more competitive and to easily expand across the EU. They include strong safeguards for employees, minority shareholders and creditors, and ensure that these cross-border operations

cannot be misused for fraudulent or abusive purposes.

First Vice-President Frans **Timmermans** and Commissioner for Justice, Consumers and Gender Equality, Věra **Jourová** added: *“Our EU Single Market offers a lot of opportunities for companies to move and grow. However, so far companies have not been able to make the most of them in practice. The new rules on cross-border mobility will provide clear procedures for companies, which will cut costs and save time. The entrepreneurs will have the choice of where to do business and how to grow or re-organise their businesses. At the same time, the new rules will put in place strong safeguards to protect employees’ rights and, for the first time, to prevent operations done for fraudulent or abusive purposes.”*

This will make it possible for companies to benefit from a comprehensive set of European rules to move from one Member State to another or to divide into more entities on a cross-border basis.

At the same time, the new rules will allow national authorities to stop a cross-border operation in cases of abusive or fraudulent purposes leading or aiming to lead to the evasion or circumvention of national or EU law, or for criminal purposes.

Employees, especially as regards their information, consultation and participation rights, as well as minority shareholders and creditors will benefit from strong safeguards to protect their rights during cross-border operations. This will substantially improve the protection of these stakeholders, in comparison to the current situation with fragmented rules and lack of legal certainty.

### **Next steps**

The provisional agreement now has to be formally approved by the European Parliament and the Council of the EU.

### **Background**

The amendment to [the Directive relating to certain aspects of company law regarding cross-border conversions, mergers and divisions](#) is part of [the company law package](#) proposed by the European Commission in April 2018.

### **For more information**

All information on the Company law package is available [here](#).

The other part of the Company law package on the digitalisation of company law was already agreed upon on 5 February – see [statement](#)

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## [ESAs' Joint Board of Appeal decides on four appeals under the Credit Rating Agencies Regulation](#)

The Joint Board of Appeal (BoA) of the European Supervisory Authorities (ESAs – ESMA, EIOPA and EBA) issued [decisions](#) regarding four appeals it received by Svenska Handelsbanken AB, Skandinaviska Enskilda Banken (SEB) AB, Swedbank AB, and Nordea Bank Abp against decisions by the European Securities and Markets Authority (ESMA) regarding infringements of the Credit Rating Agencies Regulation (CRAR).

On 11 July 2018, ESMA decided to fine the five banks for negligently infringing the CRAR by issuing credit ratings without being registered. While the BoA confirmed the infringements found by ESMA, it accepted the appellants' claims of having acted non-negligently and remitted the case to ESMA's Board of Supervisors to adopt amended decisions based on the BoA findings. In the context of the proceedings, the BoA also dismissed an application by one appellant to suspend ESMA's decision addressed to it.

ESMA is currently studying the BoA's decisions, before deciding on the next steps. According to the ESMA Regulation, appeals against decisions of the BoA can be brought before the Court of Justice of the European Union.

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## [Speech by First Vice-President Timmermans on behalf of President Juncker at the Plenary Session of the European Parliament on the Preparation of the European Council meeting of 21-22 March 2019 and the UK's withdrawal from the EU](#)

Opening remarks

Thank you very much, Mister President.

So here we are. After another vote in the House of Commons, the Withdrawal Agreement has been voted down – regardless of the extra clarifications given, regardless of the tremendous effort by Michel Barnier and Jean-Claude Juncker to help Theresa May clarify the issues. Still, the Withdrawal Agreement was voted down.

So again, today, we will be waiting for the next vote in the House of Commons, because the only ones who can give us any direction on where we need to go from now are the Members of Parliament in the United Kingdom, in the House of Commons.

And I believe this House and the European Commission remain on the same line: to do as little harm as possible to Europeans, whether they live in the United Kingdom or on the continent. This is our duty, to think about our citizens, to think about our enterprises, to think about our interests, broadly, on both sides of the Channel.

And I say this because what we have tried to do – mainly Michel has tried to do – is to make sure that the red lines put on the table by the British government and the need for us to avoid a hard border on the island of Ireland and to maintain the integrity of the Internal Market are brought together. And I do not see any better solution than the Withdrawal Agreement with all the clarifications given.

So now, this is where we are. Of course we will remain in this position, to want to do as little harm as possible in a very harmful process, because Brexit is very harmful to the United Kingdom and to the European Union. But it is our duty on the basis of a vote of the British people to work towards a Brexit that does as little harm as possible. This position will not change. But today we are in the hands of the British political system. They should tell us where they want to go from now. The solution will have to come from London and we will take it from there.

And of course there are many other issues Europe has to deal with in the next couple of years and that is why the European Council also focuses on other issues.

Industrial policy. Our industry is strong and it is the engine of our economy. It employs 32 million people and directly accounts for more than two-thirds of our exports. It is one of the main reasons we have partners lining up at our door to secure free and fair trade agreements. But we must do more. We want to see strong European companies, boosted by fair competition at home, leading in the world and addressing major challenges such as climate change.

In particular, we urge the Member States to make the most of major common European projects that matter to us all, for instance in strategic areas such as next generation batteries to store clean energy or the work on artificial intelligence.

Most importantly, we want to make sure that as industry and technologies develop, we continue to defend our values. Because ultimately, we do all of this in the interest and the wellbeing of all Europeans. That is why we propose work-life balance, equal pay for equal work in the same place and the European Labour Authority, to name but a few. It is all part and parcel of our consistent efforts to make our Single Market of 500 million informed consumers and thriving businesses deeper and fairer. And it is high time to deliver on all its dimensions, particularly in services, digital, energy and also importantly the Capital Markets Union.

Ce Conseil européen sera aussi l'occasion de parler de notre relation avec la Chine, à quelques jours du sommet Union européenne – Chine.

La Chine est à la fois dans différents domaines politiques un partenaire de coopération, un partenaire de négociation, un concurrent économique, un rival systémique promouvant des modèles alternatifs de gouvernance. Les autorités chinoises ont exprimé à maintes reprises leur volonté de contribuer à un avenir qui soit celui d'une mondialisation économique plus ouverte et plus inclusive.

L'Union européenne, pour sa part, est l'une des économies les plus ouvertes au monde, mais ce n'est pas offert. Elle est un ardent défenseur du multilatéralisme sur la base de valeurs qui profitent à tous et de règles qui doivent être équitables pour tous. Sans pour autant être un adepte naïf du libre-échange. Et c'est la raison pour laquelle nous avons notamment proposé de mettre en place un instrument international sur les marchés publics, afin de promouvoir un accès ouvert aux marchés publics dans le monde entier.

C'est dans notre intérêt mutuel de faire en sorte qu'il y ait entre la Chine et l'Union européenne encore plus de confiance et plus de coopération; plus de réciprocité aussi afin que nos investisseurs et nos entreprises bénéficient en Chine des mêmes conditions d'ouverture que celles offertes aux investisseurs et entreprises de Chine en Europe. Malheureusement, aujourd'hui, ce n'est pas le cas.

Il va sans dire que nous avons l'obligation de défendre nos valeurs, nos intérêts stratégiques et de protéger nos industries, nos travailleurs et nos citoyens contre toute concurrence déloyale.

C'est pourquoi nous avons proposé d'établir un nouveau cadre pour le filtrage des investissements étrangers afin de préserver nos actifs stratégiques européens. Je tiens ici à saluer le travail remarquable du Parlement pour l'adoption de cette initiative en un temps record.

Il est tout aussi clair que nous avons intérêt non seulement à préserver mais aussi à améliorer le système multilatéral existant, notamment sur les questions des aides et des subventions d'état. La Chine doit aussi y assumer sa part de responsabilité.

Echte Souveränität kann die Europäische Union auch als weltweite Vorreiterin im Klimaschutz zeigen.

Bis zum Jahr 2050 können wir der erste große klimaneutrale Wirtschaftsraum der Welt werden und damit Leuchtturm für andere sein.

Verantwortung für die Klimaziele zu übernehmen, das heißt für die Kommission: ein Viertel des zukünftigen Mehrjährigen Finanzrahmens den Klimazielen zu widmen; unsere Energieeinfuhren bis 2050 mehr als zu halbieren und dafür in erneuerbare Energien zu investieren; niemandem die Existenzgrundlage zu entziehen – denn es ist möglich, Emissionen zu senken und gleichzeitig innovative, hochwertige Arbeitsplätze zu schaffen.

Ich danke diesem Hause für Ihre Unterstützung unserer Vorschläge für nachhaltige Investitionen, auf die wir stolz sein können: Europa übernimmt damit weltweit eine Führungsrolle, wenn es darum geht, private Investitionen so umzuorientieren, dass sie zur Verwirklichung der Ziele des Pariser Abkommens beitragen und damit einen klimaneutralen Wirtschaftsraum schaffen.

Es bewegt mich, dass viele junge Menschen wieder auf die Straße gehen, um für noch ambitioniertere Ziele zu kämpfen. Das ist wirklich ein Europa, das mir Mut für die Zukunft macht. Und ich danke wirklich Greta und allen anderen jungen Leute für diese Inspiration.

Mut brauchen wir auch, um eine der größten Herausforderungen für unsere Demokratien zu bewältigen: Die bewussten Versuche, unsere Debatten und unsere Wahlen zu manipulieren.

Unsere Botschaft ist: Europa bleibt offen. Die Meinungsfreiheit ist weiterhin unser höchstes Gut.

Aber wir sind nicht naiv. Wir sind uns bewusst, dass es Kräfte gibt, die unsere Demokratie unterbrechen und untergraben wollen. Und das wird im Wahlkampf eine große Herausforderung sein. Wir müssen darauf achten.

Ich begrüße daher, dass das Europäische Parlament und die Mitgliedstaaten die Maßnahmen der Europäischen Kommission unterstützen, um gegen Desinformation und Eingriffe in unsere Wahlen vorzugehen. Aber wir stehen erst am Anfang. Es gibt noch viel zu tun.

Denn souverän bleiben wir als Europäische Union nur, wenn wir kompromisslos für unsere Werte aufstehen – innerhalb der Europäischen Union und auch draußen.

Herzlichen Dank, Herr Präsident.

### **Closing remarks**

Thank you very much, Madame President.

Having listened very carefully to this Parliament, I come to the conclusion that there is very, very broad support in this Parliament for the way the Commission is negotiating on behalf on the European Union, its Member States and this Parliament to try and reach an agreement with the United Kingdom on a withdrawal that would do as little harm as possible to both sides. This has been the intention of the Commission from the start. This has been the way

Michel Barnier has been negotiating from the start and we feel strengthened in our approach by the debates here today.

Having listened to Mr Farage and his colleagues and seeing the hubris with which he stands here and the self-gratification of his position, I sometimes wonder: has he gone to Sunderland and talked to the workers at the Nissan plant and said to them 'It might cost you your job, but I will get my pipe dream of so-called sovereignty – but it might cost you your job, sorry, but I will get my pipe dream of so-called sovereignty' – has he done that? Has he gone to Oxford to the Mini plant and said 'I know what BMW are thinking if there is a no-deal Brexit, but I want it so badly, this no-deal Brexit, that I really do not care about your job' – has he done that? That would have been the honest thing to do, I suppose.

Has Dr Liam Fox ever said 'Well, I said it would be the easiest trade deal in human history, but on second thought, it is much more complicated than I promised before the referendum.' Has Boris Johnson gone to the doctors and nurses of the NHS and said 'I did promise you 350 million extra Pounds a week, but sorry, I cannot deliver on that promise.' Have they done that? I think frankly that we would need, if want to come out of this situation, a bit more modesty and honesty on all sides.

I also believe – I just refer to a report by the UK government published in November last year – where it said that if there is a no-deal Brexit, this would cost approximately 9.3% economic growth. Are you willing to pay that price, I ask the Brexiteers on this side? Are you willing to pay that price? Are you willing to sacrifice all those jobs for your pipe dream of so-called sovereignty. What is that sovereignty going to bring to you if you live that pipe dream?

[MEP Coburn: Freedom is essential! Chair: Mr Coburn, excuse me Vice-President Timmermans, can I just say – Mr Coburn, you and I have a special relationship. I am special and I do not know what you are. So please do not interrupt. And I know Ms Atkinson takes issue with me at occasion, please listen with respect. You may disagree, but I would urge you to listen, and maybe learn.]

Madame President, I did listen to Mr Coburn and he says liberty is more important. Then have the courage and go to Sunderland and talk to the workers in the Nissan plant. Talk to the workers in Oxford at the Mini plant and tell them 'My so-called liberty is more important than you jobs.' Have the courage to do that, Sir. And then also go to Ireland and go to a place where since 1998 peace reigns and violence has disappeared and tell the people there 'My pipe dream is more important than your peace and quiet. My pipe dream is more important, and I will accept a hard border, if that gives me my no-deal Brexit.' Have that courage!

And I always hear – do you know the number 16.1 million? I never hear it mentioned. I always hear 17.4 million. Yes, but 16.1 million are also British citizens who voted to stay. They have not disappeared. Is it not at the essence of European democracy that we also respect the position of minorities in our countries? Is it not in the essence of democracy that we try to build



bridges to find solutions that can be carried by most people in our society? Should that not be the next steps we take in this?

And to be very clear: Why does the Commission stand so firmly for the integrity of the Internal Market? Why do we not simply say, let us have open borders? I give you one example: If for some reason the United Kingdom would decide to have a trade deal with the United States on their terms, and chlorinated chicken would be coming into the United Kingdom, and we would not be able to check that at the European border, then we would not be able to say to European citizens 'We can protect you against something that you do not want.' We could never do that. That is why we always have to protect the integrity of the Internal Market.

And we have been bending over backwards and we have spared no effort – and I do pay tribute to Michel Barnier – we spared no effort to try and reconcile Madame May's red lines and her demands with our firm duty to protect the European Union and the integrity of the Internal Market. The Withdrawal Agreement is the best and only possible solution to that dilemma. And I hope this is something that will be well understood. This is a position the Commission defends on your behalf. The vast majority of this Parliament supports this. And we will continue to do that, to protect the interests of European citizens, whether they live on the continent or in the United Kingdom.

Thank you very much, Madame President.

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## **Statement by Michel Barnier at the European Parliament Plenary session**

Thank you, Mr. President.

Good morning to each and every one of you, on this particularly serious morning in the long process of negotiations.

My first words, Madame Minister, Mr. President, ladies and gentlemen, are to tell you again, on behalf of the team I am honoured to lead, with the trust of President Juncker, my gratitude – which is sincere and long lasting – for the trust that the Parliament has shown us, and has shown me. This trust does not fall from the sky, it is not artificial, it is not given like a blank cheque, but it is founded on dialogue and transparency, since the very first day. It will remain that way.

Last night's vote in the House of Commons prolongs and worsens the major uncertainty that was created almost three years ago now by the sovereign decision – which we respect but regret – of the United Kingdom to leave the European Union. This uncertainty affects, of course, the United Kingdom, and

Northern Ireland in particular, but also each of our countries and ourselves.

I would like to recall that the responsibility for taking the decision of Brexit lies solely with the United Kingdom. And today, it is the United Kingdom who has the biggest responsibility in finding a way out of the impasse in which we find this negotiation. This is what the President of the European Council, Donald Tusk, recalled clearly and forcefully last night immediately after the vote.

During this negotiation, we worked together to find solutions to each problem – of which there are many created by Brexit: human and social problems, technical and legal problems, economic and financial problems – and to manage all the consequences to ensure that the United Kingdom leaves in an orderly manner.

From the first day of this negotiation, the European Union's objective has indeed been to reduce this uncertainty by ensuring the United Kingdom's orderly withdrawal, and on the basis of trust created by this orderly withdrawal, taking the time – time which will be necessarily limited to between 21 months and 4 years – for another negotiation, which I've always said is more important, on the future relationship which we want to build with the United Kingdom, who will in all circumstances remain our friend, ally and partner.

That is what we did while negotiating over the past months – with and never against the British government – a Withdrawal Agreement that is in the interest of citizens, businesses, and all stakeholders on either side of the Channel and Irish Sea.

I would like to simply recall to everybody : if the United Kingdom still wants to leave the European Union and leave it in an orderly fashion, then this treaty that we negotiated with Theresa May's government over the past year and a half remains the only treaty available.

Once again, alongside this treaty, we have done a lot of work these last days at the request of the British government to explain, clarify, and to guarantee, through two documents on which we reached an agreement on Monday evening, Mr. President, here in the European Parliament, which welcomed us. Ms. May had also clarified that she wanted to publish a unilateral declaration on the UK side.

What was this final discussion between the EU and UK government about?

– To give the British Parliament new clarifications and assurances on the temporary nature of the backstop.

We went as far as we could to help the British government get the support of the House of Commons.

Our permanent worry, which I also expressed on your behalf, is to preserve in all scenarios peace and stability on the island of Ireland, to respect in all dimensions the Good Friday / Belfast Agreement. And to preserve the integrity of our Single Market, i.e. to preserve quality and safety, particularly in

food, which our consumers have a right to, to preserve national budgets and the European budget, which requires fiscal controls, and to preserve the safety of our businesses when it comes to the respect of rules and standards on imported products.

This is not a theoretical or dogmatic question, but an extremely practical question which affects peace in Ireland, which must be permanent, and the protection of the Single Market. Any product, or live animal, that enters Northern Ireland after Brexit, coming from Great Britain, also enters Poland, Slovenia, Belgium, Germany, in each of our countries. We therefore need to find the way to operationalise these controls for the three aspects I mentioned: consumers, budgets, businesses, obviously without recreating a hard border.

On last night's vote, I noted that certain MPs who want a second referendum or prefer a "no-deal" scenario both belittled the legal guarantees that we agreed on in our discussion with Theresa May. But these guarantees were significant and we agreed them with the support of the British government on Monday evening.

President Juncker also said it: there will be no additional assurances or interpretations. We can not go any further.

Ladies and gentlemen,

The votes announced by the Prime Minister on no deal and a possible extension of the negotiation will take place in the House of Commons tonight and tomorrow.

Following these votes, it will be for the British government to tell us – I hope positively – how it wishes to proceed, to finally bring together a constructive majority for a proposal. It is the UK's responsibility to tell us what it wants for our future relationship, what its choice is, what its clear line is.

We must now ask that question before asking about any possible extension. Extending the negotiation: for what reason? The Article 50 negotiation is now over. We have the treaty. It is here.

We are in a very serious moment because the risk of no deal has never been higher, including an accidental no deal. I recommend that nobody underestimates this risk or its consequences.

Together, we call on all persons concerned to prepare. And on our side, we are preparing.

We do not want this scenario, we have always worked for a deal and an orderly withdrawal, but the European Union is ready to deal with this situation.

I would like to recall that in the absence of an agreed solution, it will be a no deal situation, by the simple operation of the treaties.

As I am asked: "Are you disappointed by this vote?", our answer shall always

remain the same.

We remain respectful of the UK and its people.

We remain determined, calm and united.

And we will remain respectful, calm, determined and united until the end of this extraordinary negotiation.

We shall defend the Union's interests and that of all of its citizens.

This will remain the line of your negotiator.

Thank you very much.