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## **Non-objection to a delegated act: value of the clearing threshold for positions held in OTC commodity derivative contracts and other OTC derivative contracts**

**European Parliament decision of 24 November 2022 to raise no objections to the Commission delegated regulation of 18 October 2022 amending the regulatory technical standards laid down in Delegated Regulation (EU) No 149/2013 as regards the value of the clearing threshold for positions held in OTC commodity derivative contracts and other OTC derivative contracts (C(2022)7413 — 2022/2899(DEA))**

(2023/C 167/38)

*The European Parliament,*

- having regard to the Commission delegated regulation (C(2022)7413),
  - having regard to the Commission's letter of 25 October 2022 asking Parliament to declare that it will raise no objections to the delegated regulation,
  - having regard to the letter from the Committee on Economic and Monetary Affairs to the Chair of the Conference of Committee Chairs of 17 November 2022,
  - having regard to Article 290 of the Treaty on the Functioning of the European Union,
  - 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>(1)</sup>, and in particular Article 10(4), third subparagraph, thereof,
  - having regard to the draft set of regulatory technical standards submitted by European Securities and Markets Authority (ESMA) on 3 June 2022 pursuant to Article 10(4), second subparagraph, of Regulation (EU) No 648/2012,
  - having regard to Rule 111(6) of its Rules of Procedure,
  - having regard to the recommendation for a decision of the Committee on Economic and Monetary Affairs,
- A. whereas Commission Delegated Regulation (EU) No 149/2013 <sup>(2)</sup> specifies, inter alia, the values of the clearing thresholds for the purpose of the clearing obligation; whereas according to Article 10(4), fourth subparagraph, of Regulation (EU) No 648/2012, the European Securities and Markets Authority (ESMA) reviews periodically the values of those clearing thresholds and proposes regulatory technical standards to amend them; whereas for some third-country jurisdictions, no equivalence decision has been adopted yet, therefore contracts executed on markets in those third-country jurisdictions are considered OTC and, although being cleared by recognised central counterparties (CCPs), count towards the clearing thresholds;
- B. whereas commodity prices have increased recently, significantly exacerbated by Russia's military aggression against Ukraine; whereas rising prices and extreme volatility on energy derivative markets have recently led to higher margin calls by CCPs for energy companies to cover the related exposures; whereas this situation has created liquidity strains for non-financial counterparties, such as energy companies, as collateral posted to Union CCPs is usually provided in cash; whereas energy companies which have often less liquid assets to meet margin requirements may be forced to either reduce their positions or leave them improperly hedged, thus exposing them to further price variations; whereas energy

<sup>(1)</sup> OJ L 201, 27.7.2012, p. 1.

<sup>(2)</sup> Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP (OJ L 52, 23.2.2013, p. 11).

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companies should maintain the financial ability and liquidity to secure supplies and purchases of energy commodities in the medium term — while preserving financial stability — in order to benefit Union households and businesses;

- C. whereas the Commission asked ESMA on 13 September 2022 (by letter Ares(2022)6980063) to consider whether Delegated Regulation (EU) No 149/2013 should be temporarily amended to alleviate some of these burdens; whereas ESMA replied on 22 September 2022 (by letter ESMA24-436-1414) indicating that it submitted its draft regulatory technical standards (ESMA70-451-114) on commodity clearing thresholds on 3 June 2022 to the Commission that proposed to increase the commodity clearing threshold by EUR 1 billion, bringing it to EUR 4 billion; whereas ESMA confirmed the appropriateness of the proposed increase and invited the Commission to adopt that measure as soon as possible;
- D. whereas the Commission has therefore adopted the delegated regulation which increases the clearing threshold value for positions held in OTC commodity derivatives stipulated in Delegated Regulation (EU) No 149/2013 from EUR 3 billion to EUR 4 billion;
- E. whereas the delegated regulation should enter into force as a matter of urgency in order to ease the increased liquidity pressure on energy companies;
1. Declares that it has no objections to the delegated regulation;
  2. Instructs its President to forward this decision to the Council and the Commission.
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