



2017/0136(COD)

13.4.2018

AMENDMENTS

107 - 368

Draft report
Danuta Maria Hübner
(PE616.8470v01-00)

on the proposal for a regulation of the European Parliament and of the Council 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

Proposal for a regulation
(COM(2017)0331 – C8-0191/2017 – 2017/0136(COD))

Amendment 107

Jörg Meuthen

Proposal for a regulation

Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **114** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **352** thereof,

Or. en

Justification

Granting even more incisive powers to ESMA that can replace the decisions of the competent Member State authority, without its consent, or which could substitute its inaction, cannot be based on the concept of ‘approximation of the provisions laid down by law, regulation or administrative action in Member States’ under Article 114 TFEU.

Amendment 108

Matt Carthy

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Regulation (EU) No 648/2012 of the European Parliament and of the Council⁴⁶ requires standardised OTC derivatives contracts to be cleared through a Central Counterparty (CCP) in line with similar requirements in other G20 countries. That Regulation also introduced strict prudential, organisational and business conduct requirements for CCPs and established arrangements for their prudential supervision in order to minimise risks to users of a CCP and underpin

Amendment

(1) Regulation (EU) No 648/2012 of the European Parliament and of the Council⁴⁶ requires standardised OTC derivatives contracts to be cleared through a Central Counterparty (CCP) in line with similar requirements in other G20 countries. That Regulation also introduced strict prudential, organisational and business conduct requirements for CCPs and established arrangements for their prudential supervision in order to minimise risks to users of a CCP and underpin

financial stability.

financial stability. *While the increase in central clearing is welcome in that it manages risks to the financial system more effectively than bilateral clearing, the CCP system presents new risks to the financial system. The massive amounts of funds involved, the extreme concentration of the clearing market, and its complexity and interconnectedness, combine to pose serious and systemic risks, while supervision, competition and recovery and resolution mechanisms have not kept up with the rapid pace of the market's development.*

⁴⁶ 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 (OJ L201, 27.7.2012, p.1).

⁴⁶ 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 (OJ L201, 27.7.2012, p.1).

Or. en

Amendment 109

Markus Ferber

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Regulation (EU) No 648/2012 of the European Parliament and of the Council⁴⁶ requires standardised OTC derivatives contracts to be cleared through a Central Counterparty (CCP) in line with similar requirements in other G20 countries. That Regulation also introduced strict prudential, organisational and business conduct requirements for CCPs and established arrangements for their prudential supervision in order to minimise risks to users of a CCP and underpin financial stability.

Amendment

(1) Regulation (EU) No 648/2012 of the European Parliament and of the Council⁴⁶ requires standardised OTC derivatives contracts to be cleared through a Central Counterparty (CCP) in line with similar requirements in other G20 countries. That Regulation also introduced strict prudential, organisational and business conduct requirements for CCPs and established arrangements for their prudential supervision in order to minimise risks to users of a CCP and underpin financial stability. *The G20 objectives set at the 2009 Pittsburgh summit should continue to be implemented in full in*

order to take full advantage of the benefits to financial stability.

⁴⁶ 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. OJ L 201, 27.7.2012, p. 1.

⁴⁶ 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. OJ L 201, 27.7.2012, p. 1.

Or. de

Amendment 110

Matt Carthy

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Since the adoption of Regulation (EU) No 648/2012, the volume of CCP activity in the Union and globally has grown rapidly in scale and in scope. The expansion in CCP activity is set to continue in the coming years with the introduction of additional clearing obligations and the rise in voluntary clearing by counterparties not subject to a clearing obligation. The Commission's proposal of 4 May 2017⁴⁷ to amend Regulation (EU) No 648/2012 in a targeted manner, to improve its effectiveness and proportionality, will create further incentives for CCPs to offer central clearing of derivatives to counterparties and facilitate access to clearing to small financial and non-financial counterparties. ***Deeper and more integrated capital markets resulting from the Capital Markets Union (CMU) will further increase the need for cross-border clearing in the Union, thus further increasing the importance and the interconnectedness of CCPs within the financial system.***

Amendment

(2) Since the adoption of Regulation (EU) No 648/2012, the volume of CCP activity in the Union and globally has grown rapidly in scale and in scope. The expansion in CCP activity is set to continue in the coming years with the introduction of additional clearing obligations and the rise in voluntary clearing by counterparties not subject to a clearing obligation. The Commission's proposal of 4 May 2017⁴⁷ to amend Regulation (EU) No 648/2012 in a targeted manner, to improve its effectiveness and proportionality, will create further incentives for CCPs to offer central clearing of derivatives to counterparties and facilitate access to clearing to small financial and non-financial counterparties. ***Managing and reducing the massive systemic risks posed to financial stability by OTC derivatives further increases the need for cross-border clearing in the Union.***

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories, COM/2017/0208 final.

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories, COM/2017/0208 final.

Or. en

Amendment 111

Thomas Mann

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Since the adoption of Regulation (EU) No 648/2012, the volume of CCP activity in the Union and globally has grown rapidly in scale and in scope. The expansion in CCP activity is set to continue in the coming years with the introduction of additional clearing obligations and the rise in voluntary clearing by counterparties not subject to a clearing obligation. The Commission's proposal of 4 May 2017⁴⁷ to amend Regulation (EU) No 648/2012 in a targeted manner, to improve its effectiveness and proportionality, will create further incentives for CCPs to offer central clearing of derivatives to counterparties and facilitate access to clearing to small financial and non-financial counterparties. Deeper and more integrated capital markets resulting from the Capital Markets Union (CMU) will further increase the need for cross-border clearing in the Union, thus further increasing the importance and the interconnectedness of CCPs within the

Amendment

(2) Since the adoption of Regulation (EU) No 648/2012, the volume of CCP activity in the Union and globally has grown rapidly in scale and in scope. The expansion in CCP activity, ***especially in the context of OTC equity derivatives and currency derivatives as asset classes in the original scope***, is set to continue in the coming years with the introduction of additional clearing obligations and the rise in voluntary clearing by counterparties not subject to a clearing obligation. The Commission's proposal of 4 May 2017⁴⁷ to amend Regulation (EU) No 648/2012 in a targeted manner, to improve its effectiveness and proportionality, will create further incentives for CCPs to offer central clearing of derivatives to counterparties and facilitate access to clearing to small financial and non-financial counterparties. ***These are the main elements that will ensure the G20 objectives are implemented in full for the sake of greater financial stability in the long term.*** Deeper and more integrated

financial system.

capital markets resulting from the Capital Markets Union (CMU) will further increase the need for cross-border clearing in the Union, thus further increasing the importance and the interconnectedness of CCPs within the financial system.

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories, COM/2017/0208 final.

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories, COM/2017/0208 final.

Or. de

Amendment 112

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 2

Text proposed by the Commission

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clearing to small financial and non-financial counterparties. Deeper and more integrated capital markets resulting from the Capital Markets Union (CMU) *will* further increase the need for cross-border clearing in the Union, thus further increasing the importance and the interconnectedness of CCPs within the financial system.

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories, COM/2017/0208 final.

clearing to small financial and non-financial counterparties. Deeper and more integrated capital markets resulting from the Capital Markets Union (CMU) *should* further increase the need for cross-border clearing in the Union, thus further increasing the importance and the interconnectedness of CCPs within the financial system.

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories, COM/2017/0208 final.

Or. en

Amendment 113

Bernard Monot

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Due in particular to the obligation to provide central clearing as a result of cross-sectoral G20 cooperation from 2008 onwards, and against a backdrop in which cross-border interoperability has been enforced on market infrastructures, market risks are being concentrated amongst CCPs more than ever before, and the way they are interconnected is increasing the risk of a domino effect and of the global financial system collapsing as the result of just one CCP going bankrupt.

Amendment 114**Kay Swinburne****Proposal for a regulation****Recital 2 a (new)***Text proposed by the Commission**Amendment*

(2a) CCPs established within the Union differ in terms of the nature of their business, legal and organisational structure as well as their risk profile, size and legal status. Regulation should reflect this diversity.

Or. en

Amendment 115**Matt Carthy****Proposal for a regulation****Recital 3***Text proposed by the Commission**Amendment*

(3) The number of CCPs currently established in the Union and authorised under Regulation (EU) No 648/2012 remains relatively limited, standing at 17 in June 2017. 28 third-country CCPs have been recognised under the equivalence provisions of that Regulation, allowing them also to offer their services to clearing members and trading venues established in the Union⁴⁸. Clearing markets are well integrated across the Union but highly concentrated in certain asset classes and highly interconnected. The concentration of risk makes the failure of a CCP a low-probability but a potentially extremely high-impact event. In line with the G20 consensus, the Commission adopted a proposal for a Regulation on CCP

(3) The number of CCPs currently established in the Union and authorised under Regulation (EU) No 648/2012 remains relatively limited, standing at 17 in June 2017. 28 third-country CCPs have been recognised under the equivalence provisions of that Regulation, allowing them also to offer their services to clearing members and trading venues established in the Union⁴⁸. Clearing markets are well integrated across the Union but highly concentrated in certain asset classes and highly interconnected. ***Euro clearing is highly concentrated in the City of London, where ever year British-based CCPs process around €1,300 billion of euro-denominated trades.*** The concentration of risk makes the failure of a

Recovery and Resolution⁴⁹ in November 2016 to ensure that authorities are appropriately prepared to address a failing CCP, safeguarding financial stability and limiting taxpayer costs.

CCP a low-probability but a potentially extremely high-impact event. In line with the G20 consensus, the Commission adopted a proposal for a Regulation on CCP Recovery and Resolution⁴⁹ in November 2016 to ensure that authorities are appropriately prepared to address a failing CCP, safeguarding financial stability and limiting taxpayer costs.

⁴⁸ In accordance with Regulation (EU) No 648/2012, ESMA provides a list of the third-country CCPs that have been recognised to offer services and activities in the Union. The third-country CCPs are established in 15 countries covered by CCP equivalence decisions adopted by the Commission, including Australia, Hong Kong, Singapore, Japan, Canada, Switzerland, South Korea, Mexico, South Africa and the US CFTC, Brazil, UAE, Dubai International Financial Centre (DIFC), India and New Zealand.

⁴⁸ In accordance with Regulation (EU) No 648/2012, ESMA provides a list of the third-country CCPs that have been recognised to offer services and activities in the Union. The third-country CCPs are established in 15 countries covered by CCP equivalence decisions adopted by the Commission, including Australia, Hong Kong, Singapore, Japan, Canada, Switzerland, South Korea, Mexico, South Africa and the US CFTC, Brazil, UAE, Dubai International Financial Centre (DIFC), India and New Zealand.

⁴⁹ Proposal for a Regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365. COM(2016) 856 final.

⁴⁹ Proposal for a Regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365. COM(2016) 856 final.

Or. en

Amendment 116

Kay Swinburne

Proposal for a regulation

Recital 3

Text proposed by the Commission

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been recognised under the equivalence provisions of that Regulation, *allowing them also* to offer their services to clearing members and trading venues established in the Union⁴⁸. Clearing markets are well integrated across the Union *but* highly concentrated in certain asset classes and highly interconnected. The concentration of risk makes the failure of a CCP a low-probability but a potentially extremely high-impact event. In line with the G20 consensus, the Commission adopted a proposal for a Regulation on CCP Recovery and Resolution⁴⁹ in November 2016 to ensure that authorities are appropriately prepared to address a failing CCP, safeguarding financial stability and limiting taxpayer costs.

⁴⁸ In accordance with Regulation (EU) No 648/2012, ESMA provides a list of the third-country CCPs that have been recognised to offer services and activities in the Union. The third-country CCPs are established in 15 countries covered by CCP equivalence decisions adopted by the Commission, including Australia, Hong Kong, Singapore, Japan, Canada, Switzerland, South Korea, Mexico, South Africa and the US CFTC, Brazil, UAE, Dubai International Financial Centre (DIFC), India and New Zealand.

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been recognised under the equivalence provisions of that Regulation, *authorising them* to offer their services to clearing members and trading venues established in the Union⁴⁸. Clearing markets are well integrated across the Union, *often* highly concentrated in certain asset classes and highly interconnected. The concentration of risk makes the failure of a CCP a low-probability but a potentially extremely high-impact event. In line with the G20 consensus, the Commission adopted a proposal for a Regulation on CCP Recovery and Resolution⁴⁹ in November 2016 to ensure that authorities are appropriately prepared to address a failing CCP, safeguarding financial stability and limiting taxpayer costs.

⁴⁸ In accordance with Regulation (EU) No 648/2012, ESMA provides a list of the third-country CCPs that have been recognised to offer services and activities in the Union. The third-country CCPs are established in 15 countries covered by CCP equivalence decisions adopted by the Commission, including Australia, Hong Kong, Singapore, Japan, Canada, Switzerland, South Korea, Mexico, South Africa and the US CFTC, Brazil, UAE, Dubai International Financial Centre (DIFC), India and New Zealand.

⁴⁹ Proposal for a Regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365. COM(2016) 856 final.

Or. en

Amendment 117

Kay Swinburne

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) *In line with the adoption of the forthcoming Regulation on CCP Recovery and Resolution, an appropriate mechanism needs to be developed in order to ensure that the supervisor taking the decision to put a CCP into resolution has access to ‘the lender of last resort’ resource.*

Or. en

Amendment 118
Danuta Maria Hübner

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) *The architecture for the supervision of CCP relies on the building of competences, expertise, capabilities, as well as cooperative relationships and exchanges with other institutions. Since all of those are processes that develop over time and following their own dynamic, the design of a functional, effective and efficient supervisory system for CCPs should take into account its potential evolution in the long term.*

Or. en

Amendment 119
Kay Swinburne

Proposal for a regulation
Recital 6

(6) The supervisory arrangements under Regulation (EU) No 648/2012 **rely mainly on** the home-country authority. CCPs established in the Union are currently authorised and supervised by colleges of national supervisors, the European Securities and Markets Authority (ESMA), relevant members of the European System of Central Banks (ESCB), and other relevant authorities. The colleges **rely on** coordination and information-sharing by the national competent authority which bears the responsibility to enforce the provisions laid out in Regulation (EU) No 648/2012. Diverging supervisory **practices for CCPs** across the Union **can** create risks of regulatory and supervisory arbitrage, **jeopardising financial stability and allowing for unhealthy competition**. The Commission has drawn attention to these emerging risks and the need for greater supervisory convergence in its Communication on CMU of September 2016⁵¹ and in the public consultation on the operations of the European Supervisory Authorities (ESAs)⁵².

⁵¹ Communication on the “State of the Union 2016: Completing the Capital Market Union – Commission accelerates reform”; 14 September 2016.

⁵² Public consultation on the operations of the European Supervisory Authorities”; 21/03/2017 – 16/05/2017.

(6) The supervisory arrangements under Regulation (EU) No 648/2012 **are primarily the responsibility of** the home-country authority. CCPs established in the Union are currently authorised and supervised by colleges of national supervisors, the European Securities and Markets Authority (ESMA), relevant members of the European System of Central Banks (ESCB), and other relevant authorities. The colleges **benefit from** coordination and information-sharing by the national competent authority which bears the responsibility to enforce the provisions laid out in Regulation (EU) No 648/2012. Diverging supervisory **practice** across the Union, **when not a reflection of the diverse nature of CCPs, could** create risks of regulatory and supervisory arbitrage. The Commission has drawn attention to these emerging risks and the need for greater supervisory convergence in its Communication on CMU of September 2016⁵¹ and in the public consultation on the operations of the European Supervisory Authorities (ESAs)⁵².

⁵¹ Communication on the “State of the Union 2016: Completing the Capital Market Union – Commission accelerates reform”; 14 September 2016.

⁵² Public consultation on the operations of the European Supervisory Authorities”; 21/03/2017 – 16/05/2017.

Or. en

Amendment 120
Kay Swinburne

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) This regulation should seek to support enhanced global supervisory cooperation, therefore once equivalence has been granted to a third country jurisdiction, the relevant authorities should seek to avoid duplication and allow supervisors to rely on and/or defer to each other's regulatory and supervisory frameworks.

Or. en

**Amendment 121
Danuta Maria Hübner**

**Proposal for a regulation
Recital 6 a (new)**

Text proposed by the Commission

Amendment

(6a) All CCPs have characteristics that make them systemic, to some degree, for the Union or for a Member State, but their size, business model and risk profile differ. The approach taken to the supervision of CCPs should be proportionate and a proper balance should be established between national and Union-wide supervision, taking into account the systemic nature of the CCPs concerned.

Or. en

**Amendment 122
Danuta Maria Hübner**

**Proposal for a regulation
Recital 6 b (new)**

Text proposed by the Commission

Amendment

(6b) In order to allow for a proportionate approach to the supervision of CCPs, a tiering system shall be established by ESMA, distinguishing between significant Union CCPs and less significant Union CCPs on the basis of the degree of systemic risk that the CCP presents to the financial stability of the Union. ESMA shall assess the degree of systemic risk on the basis of objective and transparent criteria set out in this Regulation. In order to properly involve ESMA in the setting of those criteria, they should be further specified through a Regulatory Technical Standard.

Or. en

Amendment 123
Danuta Maria Hübner

Proposal for a regulation
Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) This Regulation establishes new tasks to be carried out by ESMA relating to the supervision of significant Union CCPs. As regards the supervision of less significant Union CCPs, ESMA should be able to issue general instructions to national competent authorities, according to which their tasks are performed and supervisory decisions are adopted, as well as, where necessary to ensure consistent application of high supervisory standards, decide, at any time, on its own initiative after consulting with national competent authorities or upon request by a national competent authority, exercise directly itself any supervisory task over CCPs. Those powers over less significant Union CCPs should be additional and

complementary to other tasks and powers conferred to ESMA and already exercised over those CCPs under this Regulation or under Regulation 1095/2010.

Or. en

Amendment 124
Kay Swinburne

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The *basic* tasks to be carried out through the ESCB *include* the definition and implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Safe and efficient financial market infrastructures, in particular clearing systems, are essential for the fulfilment of these *basic* tasks, *and the pursuit of the ESCB's primary objective of maintaining price stability*. The relevant members of the ESCB, as central banks of issue of the currencies of the financial instruments cleared by CCPs, should be involved in CCP supervision, *due to the potential risks that the malfunctioning of a CCP could pose to the pursuit of those basic tasks and the primary objective, affecting the instruments and counterparties which are used to transmit monetary policy. As a result, the central banks of issue should be involved in the assessment of a CCP's risk management. In addition, while the mandates of central banks and supervisors may overlap, there is a potential for misalignment when supervisory actions impact on key responsibilities of central banks in areas such as price stability, monetary policy and the payment systems. In crisis situations, such misalignments can amplify the risks to financial stability if*

Amendment

(7) The tasks to be carried out through the ESCB *are* the definition and implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Safe and efficient financial market infrastructures, in particular clearing systems, are essential for the fulfilment of these tasks. The relevant members of the ESCB, as central banks of issue of the currencies of the financial instruments cleared by CCPs, should be involved in CCP supervision.

the assignment of responsibilities between authorities remains unclear.

Or. en

Amendment 125

Kay Swinburne

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) The Treaties have established an economic and monetary union whose currency is the euro, and the European Central Bank (ECB) as an Institution of the Union for this purpose. The Treaties also provide that the ESCB shall be governed by the decision-making bodies of the ECB, and the ECB alone may authorise the issue of the euro. ***The specific role of the ECB within the ESCB as the central bank of issue of the single currency of the Union should thus be acknowledged.***

Amendment

(8) The Treaties have established an economic and monetary union whose currency is the euro, and the European Central Bank (ECB) as an Institution of the Union for this purpose. The Treaties also provide that the ESCB shall be governed by the decision-making bodies of the ECB, and the ECB alone may authorise the issue of the euro. ***Attention should also be given to the Euro system, meaning those Union currencies that are not the Euro and their respective central banks of issue.***

Or. en

Amendment 126

Danuta Maria Hübner

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) The Treaties have established an economic and monetary union whose currency is the euro, and the European Central Bank (ECB) as an Institution of the Union ***for this purpose. The Treaties also provide that the ESCB shall be governed by the decision-making bodies of the ECB, and the ECB alone may authorise the issue of the euro. The specific role of the***

Amendment

(8) The Treaties have established an economic and monetary union whose currency is the euro, and the European Central Bank (ECB) as an Institution of the Union. The ECB, ***together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, conduct the monetary policy of the Union.*** The specific

ECB within the ESCB as the central bank of issue of the single currency of the Union should thus be acknowledged.

role of the **Eurosystem** as the central bank of issue of the single currency of the Union should thus be acknowledged.

Or. en

Amendment 127

Matt Carthy

Proposal for a regulation

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The potential high correlation between euro clearing activity and monetary policy means it is in the interests of the citizens of the EU and the Eurozone for euro-clearing to be primarily based in the eurosystem where it can be subject to full EU supervision. The striking down of the ECB's 'location policy' (which required CCPs with at least €5 billion in daily exposure to be located in the eurosystem) by the EU General Court was not based on an assessment of the substance of the policy, which aimed to manage systemic risk.

Or. en

Amendment 128

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Recital 9

Text proposed by the Commission

Amendment

(9) In view of the global nature of financial markets and of the need to address inconsistencies in the supervision of Union and third-country CCPs, ESMA's ability to promote convergence in the supervision of CCPs should be enhanced.

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In order to confer new roles and responsibilities on ESMA, **Regulation (EU) No 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (ESMA)**⁵³ should be **amended**.

In order to confer new roles and responsibilities on ESMA, **a new Supervisory Committee** should be **set up within the existing ESMA structure**.

⁵³ **Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p.84**

Or. en

Amendment 129 **Kay Swinburne**

Proposal for a regulation **Recital 9**

Text proposed by the Commission

(9) In view of the global nature of financial markets and of the need to address inconsistencies in the supervision of Union and third-country CCPs, ESMA's ability to promote convergence in the supervision of CCPs should be enhanced. In order to confer new roles and responsibilities on ESMA, Regulation (EU) No 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (ESMA)⁵³ should be amended.

⁵³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European

Amendment

(9) In view of the global nature of financial markets and of the need to address inconsistencies in the supervision of Union and third-country CCPs, ESMA's ability to promote convergence in the supervision of CCPs **that are similar in nature** should be enhanced. In order to confer new roles and responsibilities on ESMA, Regulation (EU) No 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (ESMA)⁵³ should be amended.

⁵³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European

Securities and Markets Authority),
amending Decision No 716/2009/EC and
repealing Commission Decision
2009/77/EC (OJ L 331, 15.12.2010, p.84

Securities and Markets Authority),
amending Decision No 716/2009/EC and
repealing Commission Decision
2009/77/EC (OJ L 331, 15.12.2010, p.84

Or. en

Amendment 130
Matt Carthy

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) In view of the global nature of financial markets and of the need to address inconsistencies in the supervision of Union and third-country CCPs, ESMA's ability to promote convergence in the supervision of CCPs should be enhanced. In order to confer new roles and responsibilities on ESMA, Regulation (EU) No 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (ESMA)⁵³ should be amended.

⁵³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p.84

Amendment

(9) In view of the global nature of financial markets and of the need to address inconsistencies in the supervision of Union and third-country CCPs, ESMA's **legally binding** ability to promote convergence in the supervision of CCPs should be enhanced. In order to confer new roles and responsibilities on ESMA, Regulation (EU) No 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (ESMA)⁵³ should be amended.

⁵³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p.84

Or. en

Amendment 131
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) A specific *Executive Session* (“*CCP Executive Session*”) should be created within *the Board of Supervisors of ESMA to handle tasks related to CCPs in general, and supervise Union and third-country CCPs in particular. In order to guarantee a smooth establishment of the CCP Executive Session, it is necessary to clarify its interactions with the Board of Supervisors of ESMA, its organisation and the tasks it should perform.*

deleted

Or. en

Amendment 132

Kay Swinburne

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) A specific *Executive Session* (“*CCP Executive Session*”) should be created within *the Board of Supervisors of ESMA to handle* tasks related to CCPs in general, and *supervise* Union and third-country CCPs in particular. In order to *guarantee a smooth establishment* of the *CCP Executive Session, it is necessary to clarify its interactions with* the Board of Supervisors of ESMA, *its organisation* and the *tasks it should perform.*

(10) A specific *committee* (“*CCP Supervisory Committee*”) should be created within ESMA *for the purposes of preparing decisions and carrying out the tasks relating to the supervision of CCPs, handling* tasks related to CCPs in general, and *supervising* Union and *the EU facing activity of* third-country CCPs in particular. *The CCP Supervisory Committee should be composed of authorities experienced in the supervision of CCPs.* In order to *ensure the smooth integration* of the *CCP Supervisory Committee within the structure of ESMA, while taking due account of the specific needs of CCP supervision, as well as to preserve a swift decision-making process, the CCP Supervisory Committee should be chaired by an independent chairperson with the help of two independent Vice Chairs, and its decisions should be subject to the non-objection of* the Board of Supervisors of

ESMA. *The appointment of the independent Chair and the two independent Vice Chairs should be based on merit, expertise and experience and should not be restricted to those of EU nationality given the highly specialised nature of those senior roles.*

Or. en

Amendment 133

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) A specific *Executive Session* (“*CCP Executive Session*”) should be created within *the Board of Supervisors of ESMA to handle* tasks related to CCPs in general, and *supervise* Union and third-country CCPs in particular. In order to *guarantee a smooth establishment* of the *CCP Executive Session, it is necessary to clarify its interactions with* the Board of Supervisors of ESMA, *its organisation and the tasks it should perform.*

Amendment

(10) A specific *ESMA internal committee* (“*CCP Supervisory Committee*”) should be created within ESMA *for the purposes of preparing decisions and carrying out the tasks relating to the supervision of CCPs, handling* tasks related to CCPs in general, and *supervising* Union and third-country CCPs in particular. *The CCP Supervisory Committee should be composed of authorities experienced in the supervision of CCPs.* In order to *ensure the smooth integration* of the *CCP Supervisory Committee within the structure of ESMA, while taking due account of the specific needs of CCP supervision, as well as to preserve a swift decision-making process. Its decisions should be subject to the non-objection of* the Board of Supervisors of ESMA *or as appropriate by the ESMA Executive Board.*

Or. en

Amendment 134

Matt Carthy

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) A specific Executive Session (“CCP Executive Session”) should be created within the Board of Supervisors of ESMA to handle tasks related to CCPs in general, and supervise Union and third-country CCPs in particular. In order to guarantee a smooth establishment of the CCP Executive Session, it is necessary to clarify its interactions with the Board of Supervisors of ESMA, its organisation and the tasks it should perform.

Amendment

(10) A specific Executive Session (“CCP Executive Session”) should be created within the Board of Supervisors of ESMA to handle tasks related to CCPs in general, and supervise Union and third-country CCPs in particular, ***including relocation decisions or requirements***. In order to guarantee a smooth establishment of the CCP Executive Session, it is necessary to clarify its interactions with the Board of Supervisors of ESMA, its organisation and the tasks it should perform.

Or. en

Amendment 135
Roberto Gualtieri

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) A specific ***Executive Session*** (“CCP ***Executive Session***”) should be ***created*** within the ***Board of Supervisors of*** ESMA to handle tasks related to CCPs in general, and supervise Union and third-country CCPs in particular. In order to guarantee a smooth establishment of the CCP ***Executive Session***, it is necessary to clarify its interactions with the Board of Supervisors of ESMA, its organisation and the tasks it should perform.

Amendment

(10) A specific ***ESMA internal committee*** (“CCP ***Supervisory Committee***”) should be ***established*** within the ESMA to handle tasks related to CCPs in general, and supervise Union and third-country CCPs in particular. In order to guarantee a smooth establishment of the CCP ***Supervisory Committee***, it is necessary to clarify its interactions with the Board of Supervisors of ESMA, its organisation and the tasks it should perform.

Or. en

Amendment 136
Kay Swinburne

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP **Executive Session** should be composed of permanent and CCP-specific members. **Permanent members should include the Head of the CCP Executive Session and two independent Directors, who** should act independently and objectively in the interest of the Union as a whole. **The Commission and the ECB should also appoint permanent members.** Members specific to each CCP should include a representative of the competent national authorities 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. The **Head of the CCP Executive Session** should be able to invite members of the supervisory college, **as well as** representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into account by the **CCP Executive Session**. While the permanent members should participate in all meetings of the **CCP Executive Session**, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of independent **permanent members** and CCP-specific members should ensure that decisions made in the **CCP Executive Session** are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved

Amendment

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP **Supervisory Committee** should be composed of **a permanent and independent Chair, two permanent and independent Vice Chairs** and CCP-specific members. **The Chairs of the CCP Supervisory Committee** should act independently and objectively in the interest of the Union as a whole. Members specific to each CCP should include a representative of the competent national authorities of the Member States where the CCP is established, designated in accordance with Regulation (EU) No648/2012, **representatives from the competent national authorities of the three largest clearing members of the CCP, representatives from the competent national authority of any relevant interoperable CCPs** and a representative of the relevant central bank(s) of issue. The **Chair of the CCP Supervisory Committee** should be able to invite members of the supervisory college **and should invite** representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into account by the **CCP Supervisory Committee**. While the permanent members should participate in all meetings of the **CCP Supervisory Committee**, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of **an independent Chair** and CCP-specific members should ensure that decisions made in the **CCP Supervisory**

in the decision-making on issues concerning a CCP established in a Member State.

Committee are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

Or. en

Amendment 137

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP *Executive Session* should be composed of permanent and CCP-specific members. Permanent *members should include the Head of the CCP Executive Session and two independent Directors, who* should act independently and objectively in the interest of the Union as a whole. The Commission and the ECB should also appoint permanent members. Members specific to each CCP should include a representative of the competent national authorities 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. The *Head* of the CCP *Executive Session* should be able to invite members of the supervisory college, as well as representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into account by the CCP *Executive Session*. While the permanent members should participate in

Amendment

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP *Supervisory Committee* should be composed of permanent and CCP-specific members, *with a board composed of two permanent and independent Vice Chairs and one permanent and independent Chair. The Chair of the CCP Supervisory Committee and the two Vice Chairs* should act independently and objectively in the interest of the Union as a whole. The Commission and the ECB should also appoint permanent members. Members specific to each CCP should include a representative of the competent national authorities 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. The *Chair* of the CCP *Supervisory Committee* should be able to invite members of the supervisory college, as well as representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into

all meetings of the CCP *Executive Session*, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of independent permanent members and CCP-specific members should ensure that decisions made in the CCP *Executive Session* are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

account by the CCP *Supervisory Committee*. While the permanent members should participate in all meetings of the CCP *Supervisory Committee*, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of independent permanent members and CCP-specific members should ensure that decisions made in the CCP *Supervisory Committee* are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

Or. en

Amendment 138
Roberto Gualtieri

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP *Executive Session* should be composed of permanent and CCP-specific members. Permanent members should include the *Head of the CCP Executive Session and two* independent Directors, who should act independently and objectively in the interest of the Union as a whole. The Commission and the ECB should also appoint permanent members. Members specific to each CCP should include a representative of the competent national authorities of the Member States where the CCP is established, designated in accordance with Regulation (EU) No

Amendment

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP *Supervisory Committee* should be composed of permanent and CCP-specific members. Permanent members should include the *Chair and Vice-Chair of the CCP Supervisory Committee and five* independent Directors, who should act independently and objectively in the interest of the Union as a whole. The Commission and the ECB should also appoint permanent members. Members specific to each CCP should include a representative of the competent national authorities of the Member States where the CCP is established, designated in

648/2012, and a representative of the relevant central bank(s) of issue. The **Head** of the CCP **Executive Session** should be able to invite members of the supervisory college, as well as representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into account by the CCP **Executive Session**. While the permanent members should participate in all meetings of the CCP **Executive Session**, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of independent **permanent members** and CCP-specific members should ensure that decisions made in the CCP **Executive Session** are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

accordance with Regulation (EU) No 648/2012, and a representative of the relevant central bank(s) of issue. The **Chair** of the CCP **Supervisory Committee** should be able to invite members of the supervisory college, as well as representatives of authorities of third-country CCPs recognised by ESMA as observers **on a case by case basis** to ensure that the views of the other relevant authorities are taken into account by the CCP **Supervisory Committee**. While the permanent members should participate in all meetings of the CCP **Supervisory Committee**, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of **an** independent **Chair** and CCP-specific members should ensure that decisions made in the CCP **Supervisory Committee** are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

Or. en

Amendment 139

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) In order to ensure a coherent supervisory approach and to reflect the mandates relevant authorities involved in the supervision of CCPs, the CCP **Executive Session** should be composed of permanent and **CCP-specific members**. **Permanent members should include the**

Amendment

(11) In order to ensure a coherent supervisory approach and to reflect the mandates **of** relevant authorities involved in the supervision of CCPs, the CCP **Supervisory Committee** should be composed of **two** permanent and independent **members, a head and a Vice-**

Head of the CCP Executive Session and two independent Directors, who should act independently and objectively in the interest of the Union as a whole. **The Commission and the ECB should also appoint permanent members.** Members specific to each CCP should include a representative of the competent national authorities 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. The Head of the CCP **Executive Session** should be able to invite members of the supervisory college, as well as representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into account by the CCP **Executive Session**. While the permanent members should participate in all meetings of the CCP **Executive Session**, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of independent **permanent** members and CCP-specific members should ensure that decisions made in the CCP **Executive Session** are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

Head. These members should act independently and objectively in the interest of the Union as a whole. Members specific to each CCP should include a representative of the competent national authorities 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. The Head of the CCP **Supervisory Committee** should be able to invite members of the supervisory college, as well as representatives of authorities of third-country CCPs recognised by ESMA as observers to ensure that the views of the other relevant authorities are taken into account by the CCP **Supervisory Committee**. While the permanent members should participate in all meetings of the CCP **Supervisory Committee**, CCP specific members and observers should participate only where necessary and appropriate for CCPs under their supervision. The presence of **two** independent members and **of** CCP-specific members should ensure that decisions made in the CCP **Supervisory Committee** are consistent, appropriate and proportionate across the Union and that the relevant national competent authorities, central banks of issue and observers are involved in the decision-making on issues concerning a CCP established in a Member State.

Or. en

Amendment 140
Kay Swinburne

Proposal for a regulation
Recital 11 a (new)

(11a) In order to ensure a coherent supervisory approach, ESMA shall, in addition to the stress tests as set out in this regulation, take note of the stress tests carried out by CCPs as part of their recovery and resolution arrangements. These stress tests, during which a CCP should consider its arrangements across the Union in terms of their aggregate effect on Union financial stability, should be included in crisis simulation exercises with respect to potential system-wide stress events.

Or. en

Amendment 141
Roberto Gualtieri

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) When deciding on issues concerning a CCP established within a Member State, the CCP ***Executive Session*** should convene and ensure that its permanent members and the relevant member(s) representing the competent national authorities designated by the Member State in accordance with Regulation (EU) No 648/2012 are involved in the decision-making process as well as observers appointed by the relevant central banks of issue. When deciding on a third-country CCP, only the permanent members, the relevant central bank(s) of issue and any relevant observers of the CCP ***Executive Session*** should participate in the decision-making process.

Amendment

(12) When deciding on issues concerning a CCP established within a Member State, the CCP ***Supervisory Committee*** should convene and ensure that its permanent members and the relevant member(s) representing the competent national authorities designated by the Member State in accordance with Regulation (EU) No 648/2012 are involved in the decision-making process as well as observers appointed by the relevant central banks of issue. When deciding on a third-country CCP, only the permanent members, the relevant central bank(s) of issue and any relevant observers of the CCP ***Supervisory Committee*** should participate in the decision-making process.

Or. en

Amendment 142

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) When deciding on issues concerning a CCP established within a Member State, the CCP *Executive Session* should convene and ensure that its permanent members and the relevant member(s) representing the competent national authorities designated by the Member State in accordance with Regulation (EU) No 648/2012 are involved in the decision-making process as well as observers appointed by the relevant central banks of issue. When deciding on a third-country CCP, only the permanent members, the relevant central bank(s) of issue and any relevant observers of the CCP *Executive Session* should participate in the decision-making process.

Amendment

(12) When deciding on issues concerning a CCP established within a Member State, the CCP *Supervisory Committee* should convene and ensure that its permanent members and the relevant member(s) representing the competent national authorities designated by the Member State in accordance with Regulation (EU) No 648/2012 are involved in the decision-making process as well as observers appointed by the relevant central banks of issue. When deciding on a third-country CCP, only the permanent members, the relevant central bank(s) of issue and any relevant observers of the CCP *Supervisory Committee* should participate in the decision-making process.

Or. en

Amendment 143

Roberto Gualtieri

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In order to ensure an appropriate, effective and swift decision-making process, the *Head, the two* Directors of the CCP *Executive Session*, and the representative of the competent authority of the Member State where the CCP is established should have voting rights. The representatives of the ECB, of the

Amendment

(13) In order to ensure an appropriate, effective and swift decision-making process, the *Chair, the Vice-Chair and the* Directors of the CCP *Supervisory Committee*, and the representative of the competent authority of the Member State where the CCP is established should have voting rights. The representatives of the

Commission and of the relevant central bank(s), as well as observers, should have no voting rights. The CCP *Executive Session* should take its decisions by a simple majority of its members, and the *Head* should have a casting vote in case of a tie.

ECB, of the Commission and of the relevant central bank(s), as well as observers, should have no voting rights. The CCP *Supervisory Committee* should take its decisions by a simple majority of its members, and the *Chair* should have a casting vote in case of a tie.

Or. en

Amendment 144

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In order to ensure an appropriate, effective and swift decision-making process, the Head, the *two Directors* of the CCP *Executive Session*, and the representative of the competent authority of the Member State where the CCP is established should have voting rights. The representatives of the ECB, of the Commission and of the relevant central bank(s), as well as observers, should have no voting rights. The CCP *Executive Session* should take its decisions by a simple majority of its members, and the Head should have a casting vote in case of a tie.

Amendment

(13) In order to ensure an appropriate, effective and swift decision-making process, the Head, the *Vice-Head* of the CCP *Supervisory Committee*, and the representative of the competent authority of the Member State where the CCP is established should have voting rights. The representatives of the ECB, of the Commission and of the relevant central bank(s), as well as observers, should have no voting rights. The CCP *Supervisory Committee* should take its decisions by a simple majority of its members, and the Head should have a casting vote in case of a tie.

Or. en

Amendment 145

Roberto Gualtieri

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) The CCP ***Executive Session*** should be responsible for specific tasks assigned to it pursuant to Regulation (EU) No 648/2012 to ensure the proper functioning of the internal market as well as the financial stability of the Union and its Member States.

(14) The CCP ***Supervisory Committee*** should be responsible for specific tasks assigned to it pursuant to Regulation (EU) No 648/2012 to ensure the proper functioning of the internal market as well as the financial stability of the Union and its Member States.

Or. en

Amendment 146

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) The CCP ***Executive Session*** should be responsible for specific tasks assigned to it pursuant to Regulation (EU) No 648/2012 to ensure the proper functioning of the internal market as well as the financial stability of the Union and its Member States.

(14) The CCP ***Supervisory Committee*** should be responsible for specific tasks assigned to it pursuant to Regulation (EU) No 648/2012 to ensure the proper functioning of the internal market as well as the financial stability of the Union and its Member States.

Or. en

Amendment 147

Kay Swinburne

Proposal for a regulation

Recital 15

Text proposed by the Commission

Amendment

(15) In order to ensure effective supervision, the CCP ***Executive Session*** ***should*** have a dedicated staff ***and*** adequate resources to guarantee its autonomy, independence and adequate functioning in

(15) In order to ensure effective supervision, ***it is necessary for*** the CCP ***Supervisory Committee*** to have a dedicated staff ***possessing sufficient knowledge, skills and experience and***

relation to its tasks. The budgetary impact needs to be considered in the statement made by ESMA in accordance with Regulation (EU) No 1095/2010.

should not be restricted to those of EU nationality given the highly specialised expertise required. It is also necessary for the CCP Supervisory Committee to have adequate resources to guarantee its autonomy, independence and adequate functioning in relation to its tasks. The budgetary impact of the supervisory powers over CCPs needs to be considered in the statement made by ESMA in accordance with Regulation (EU) No 1095/2010.

Or. en

Amendment 148
Roberto Gualtieri

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) In order to ensure effective supervision, the CCP *Executive Session* should have a dedicated staff and adequate resources to guarantee its autonomy, independence and adequate functioning in relation to its tasks. The budgetary impact needs to be considered in the statement made by ESMA in accordance with Regulation (EU) No 1095/2010.

Amendment

(15) In order to ensure effective supervision, the CCP *Supervisory Committee* should have a dedicated staff and adequate resources to guarantee its autonomy, independence and adequate functioning in relation to its tasks. The budgetary impact needs to be considered in the statement made by ESMA in accordance with Regulation (EU) No 1095/2010.

Or. en

Amendment 149
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) In order to ensure effective supervision, the CCP ***Executive Session*** should have a dedicated staff and adequate resources to guarantee its autonomy, independence and adequate functioning in relation to its tasks. The budgetary impact needs to be considered in the statement made by ESMA in accordance with Regulation (EU) No 1095/2010.

Amendment

(15) In order to ensure effective supervision, the CCP ***Supervisory Committee*** should have a dedicated staff and adequate resources to guarantee its autonomy, independence and adequate functioning in relation to its tasks. The budgetary impact needs to be considered in the statement made by ESMA in accordance with Regulation (EU) No 1095/2010.

Or. en

Amendment 150

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) To provide for an appropriate level of expertise and accountability, the Head and the ***two Directors*** of the CCP ***Executive Session*** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. ***They should be chosen on the basis of an open selection procedure. The Commission should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.***

Amendment

(16) To provide for an appropriate level of expertise and accountability, the Head and the ***Vice-Head*** of the CCP ***Supervisory Committee*** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs.

Or. en

Amendment 151

Markus Ferber

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) To provide for an appropriate level of expertise and accountability, the **Head and the two Directors** of the CCP **Executive Session** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. **They** should be chosen on the basis of an open selection procedure. The Commission should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Amendment

(16) To provide for an appropriate level of expertise and accountability, the **Chair** of the CCP **Supervisory Committee** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. **The Chair of the CCP Supervisory Committee** should be chosen on the basis of an open selection procedure. The Commission should, **in consultation with the national supervisory authorities**, submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Or. de

Amendment 152

Thomas Mann

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) To provide for an appropriate level of expertise and accountability, the **Head and the two Directors** of the CCP **Executive Session** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. **They** should be chosen on the basis of an open selection procedure. The **Commission**

Amendment

(16) To provide for an appropriate level of expertise and accountability, the **Chair** of the CCP **Supervisory Committee** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. **The Chair of the CCP Supervisory Committee** should be chosen on the basis of an open selection

should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

procedure. The *supervisory colleges* should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Or. de

Amendment 153
Roberto Gualtieri

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) To provide for an appropriate level of expertise and accountability, the **Head** and the **two** Directors of the CCP **Executive Session** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. They should be chosen on the basis of an open selection procedure. The Commission should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Amendment

(16) To provide for an appropriate level of expertise and accountability, the **Chair**, **the Vice-Chair** and the Directors of the CCP **Supervisory Committee** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. They should be chosen on the basis of an open selection procedure. The Commission should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Or. en

Amendment 154
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) To provide for an appropriate level of expertise and accountability, the **Head** and the two **Directors** of the CCP **Executive Session** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. They should be chosen on the basis of an open selection procedure. The Commission should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Amendment

(16) To provide for an appropriate level of expertise and accountability, the **Chair** and the two **Vice Chairs** of the CCP **Supervisory Committee** should be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, as well as experience relevant to the supervision and regulation of CCPs. They should be chosen on the basis of an open selection procedure. The Commission should submit a proposal for the appointment of candidates to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision.

Or. en

Amendment 155
Roberto Gualtieri

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the **Head** and the **two** Directors of the CCP **Executive Session** should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this Regulation.

Amendment

(17) In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the **Chair, the Vice-Chair** and the Directors of the CCP **Supervisory Committee** should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this Regulation.

Or. en

Amendment 156
Matt Carthy

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Head and the two Directors of the CCP Executive Session **should** be accountable to the European Parliament and to the Council for **any** decisions taken on the basis of this Regulation.

Amendment

(17) In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Head and the two Directors of the CCP Executive Session **shall** be accountable to the European Parliament and to the Council for **all** decisions taken on the basis of this Regulation.

Or. en

Amendment 157
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Head **and the two Directors** of the CCP **Executive Session** should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this Regulation.

Amendment

(17) In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Head of the CCP **Supervisory Committee** should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this Regulation.

Or. en

Amendment 158
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The Head and the *two Directors* of the CCP *Executive Session* should act independently and objectively in the interest of the Union. They should ensure that appropriate account is taken of the proper functioning of the internal market as well as financial stability in each Member State and in the Union.

Amendment

(18) The Head and the *Vice-Head* of the CCP *Supervisory Committee* should act independently and objectively in the interest of the Union. ***They should be full-time members of the ESMA Executive Board.*** They should ensure that appropriate account is taken of the proper functioning of the internal market as well as financial stability in each Member State and in the Union.

Or. en

Amendment 159
Roberto Gualtieri

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The *Head* and the *two* Directors of the CCP *Executive Session* should act independently and objectively in the interest of the Union. They should ensure that appropriate account is taken of the proper functioning of the internal market as well as financial stability in each Member State and in the Union.

Amendment

(18) The ***Chair, the Vice-Chair*** and the Directors of the CCP ***Supervisory Committee*** should act independently and objectively in the interest of the Union. They should ensure that appropriate account is taken of the proper functioning of the internal market as well as financial stability in each Member State and in the Union.

Or. en

Amendment 160
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) In order to promote consistency in

Amendment

(19) In order to promote consistency in

the supervision of Union and third-country CCPs across the Union, the **Head** of the CCP **Executive Session** should chair and manage colleges, and the permanent members of the CCP **Executive Session** should attend them. The ECB should, where relevant and in accordance with Council Regulation (EU) No 1024/2013, also join the colleges to be able to exercise its mandate in accordance with Article 127 of the TFEU.

the supervision of Union and third-country CCPs across the Union, the **Chair** of the CCP **Supervisory Committee** should chair and manage colleges, and the **Vice Chairs and** permanent members of the CCP **Supervisory Committee** should attend them. The ECB should, where relevant and in accordance with Council Regulation (EU) No 1024/2013, also join the colleges to be able to exercise its mandate in accordance with Article 127 of the TFEU.

Or. en

Amendment 161
Roberto Gualtieri

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) In order to promote consistency in the supervision of Union and third-country CCPs across the Union, the **Head** of the CCP **Executive Session** should chair and manage colleges, and the permanent members of the CCP **Executive Session** should attend them. The ECB should, where relevant and in accordance with Council Regulation (EU) No 1024/2013, also join the colleges to be able to exercise its mandate in accordance with Article 127 of the TFEU.

Amendment

(19) In order to promote consistency in the supervision of Union and third-country CCPs across the Union, the **Chair** of the CCP **Supervisory Committee** should chair and manage colleges, and the permanent members of the CCP **Supervisory Committee** should attend them. The ECB should, where relevant and in accordance with Council Regulation (EU) No 1024/2013, also join the colleges to be able to exercise its mandate in accordance with Article 127 of the TFEU.

Or. en

Amendment 162
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) In order to promote consistency in the supervision of Union and third-country CCPs across the Union, the Head of the CCP ***Executive Session*** should chair and manage colleges, and the permanent members of the CCP ***Executive Session*** should attend them. The ECB should, where relevant and in accordance with Council Regulation (EU) No 1024/2013, also join the colleges to be able to exercise its mandate in accordance with Article 127 of the TFEU.

Amendment

(19) In order to promote consistency in the supervision of Union and third-country CCPs across the Union, the Head of the CCP ***Supervisory Committee*** should chair and manage colleges, and the permanent members of the CCP ***Supervisory Committee*** should attend them. The ECB should, where relevant and in accordance with Council Regulation (EU) No 1024/2013, also join the colleges to be able to exercise its mandate in accordance with Article 127 of the TFEU.

Or. en

Amendment 163
Roberto Gualtieri

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) In order to ensure an appropriate and effective decision-making process, the ***permanent members*** of the CCP ***Executive Session*** should have one vote ***each*** in the colleges, ***with the exception of*** the representative of the Commission, ***who*** should be non-voting. The current members of the colleges should continue to exercise their current voting rights.

Amendment

(20) In order to ensure an appropriate and effective decision-making process, the ***Chair*** of the CCP ***Supervisory Committee*** should have one vote in the colleges, ***while the Vice-Chair, the Directors of the CCP Supervisory Committee and*** the representative of the Commission should be non-voting. The current members of the colleges should continue to exercise their current voting rights.

Or. en

Amendment 164
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) In order to ensure an appropriate and effective decision-making process, the permanent members of the CCP *Executive Session* should have one vote each in the colleges, with the exception of the representative of the Commission, who should be non-voting. The current members of the colleges should continue to exercise their current voting rights.

Amendment

(20) In order to ensure an appropriate and effective decision-making process, the permanent members of the CCP *Supervisory Committee* should have one vote each in the colleges, with the exception of the representative of the Commission, who should be non-voting. The current members of the colleges should continue to exercise their current voting rights.

Or. en

Amendment 165

Thomas Mann

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to *better* reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the prior consent of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it

Amendment

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, *in order to ensure the stability of the currency in question and of the financial sector*, there is a need to *clearly* reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the prior consent of the relevant central banks of issue should be required

relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

on certain decisions, *especially those of systemic importance that are critical to the market*, envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency. *Since some decisions will require both the consent of ESMA and of the central bank of issue, disagreements and deadlocks between those two entities should be avoided to the greatest extent possible. Therefore, ESMA and the central bank of issue should coordinate their analysis of the draft decisions proposed by national competent authorities and endeavour to reach a common position. They should avoid proposing mutually inconsistent or incompatible amendments to draft decisions. Where inconsistencies or disagreements nevertheless arise, ESMA and the central bank of issue should attempt to reconcile their views and reach a compromise position within the shortest possible timeframe.*

Or. de

Amendment 166 Jörg Meuthen

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) *While* national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, *the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of*

Amendment

(21) National competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012. National competent authorities *inform both ESMA and* the relevant central banks of issue *about their decisions as appropriate. Since some decisions will require the consent of both ESMA and of the central*

disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the prior consent of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

bank of issue, disagreements and deadlocks between those two entities should be avoided to the greatest extent possible. Therefore, ESMA and the central bank of issue should coordinate their analysis of the draft decisions proposed by national competent authorities and endeavour to reach a common position. They should avoid proposing mutually inconsistent or incompatible amendments to draft decisions. Where inconsistencies or disagreements nevertheless arise, ESMA and the central bank of issue should attempt to reconcile their views and reach a compromise position within the shortest possible timeframe.

Or. en

Amendment 167
Roberto Gualtieri

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could

Amendment

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could

pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the **prior consent** of the relevant central banks of issue should be required on certain decisions **envisaged by national competent authorities**, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the **consultation** of the relevant central banks of issue should be required on certain decisions, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency. **Upon conclusion of the period for consulting the central banks of issue, every effort should be made to comply with the amendments, proposed by them. In case, the draft decision doesn't include the amendments proposed by a central bank of issue, the central bank of issue shall be informed in writing with the full reasons and an explanation of any significant deviation from these amendments.**

Or. en

Amendment 168 **Kay Swinburne**

Proposal for a regulation **Recital 21**

Text proposed by the Commission

(21) **While** national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, **the prior consent of ESMA** should be **required** for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks

Amendment

(21) National competent authorities **should** continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, **agreement with ESMA** should be **sought** for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. **Since some decisions will require both the consent of the national competent authority and of ESMA, disagreements and deadlocks between those two entities should be avoided to the greatest extent**

that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, *the prior consent of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.*

possible. Therefore, the national competent authority and ESMA should coordinate their analysis and endeavour to reach a common position. Where inconsistencies or disagreements nevertheless arise, the national competent authority and ESMA should attempt to reconcile their views and reach a compromise position within the shortest possible timeframe. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, *an agreement with the relevant central banks of issue should be sought on decisions relating to monetary policy.*

Or. en

Amendment 169

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy

Amendment

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. *ESMA may also request any specific supervisory action as provided for in this Regulation within a specified timeframe.* A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to

responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the *prior consent* of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the *consultation* of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

Or. en

Amendment 170

Matt Carthy

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union. A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems.

Amendment

(21) While national competent authorities continue to exercise their current supervisory responsibilities under Regulation (EU) No 648/2012, the prior consent of ESMA should be required for certain decisions in order to promote consistency in the supervision of CCPs throughout the Union, ***and being conscious of the issue of interdependencies between the clearing system and the broader financial system.*** A specific mechanism is introduced for cases of disagreement between ESMA and the national competent authorities. Similarly, there is a need to better reflect the mandates of the central banks of issue concerning their monetary policy responsibilities, due to the potential risks that the malfunctioning of a CCP could

Therefore, the prior consent of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

pose to the implementation of the monetary policy of the Union and the promotion of the smooth operation of payment systems. Therefore, the prior consent of the relevant central banks of issue should be required on certain decisions envisaged by national competent authorities, in particular when it relates to a CCP's payment and settlement arrangements and related liquidity risk management procedures for the transactions denominated in that central bank of issue's currency.

Or. en

Amendment 171

Kay Swinburne

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) In order to enable ESMA to conduct its tasks with regards to CCPs effectively, both Union and third-country CCPs should pay supervisory fees for ESMA's supervisory and administrative tasks. These fees should cover *for* the applications for authorisation of Union CCPs, the applications for recognition of third-country CCPs, and the annual fees associated with the tasks under ESMA's responsibility. The Commission should specify further in a delegated act the types of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid by authorised and applicant Union CCPs recognised third-country CCPs.

Amendment

(22) In order to enable ESMA to conduct its tasks with regards to CCPs effectively, both Union and third-country CCPs should pay supervisory fees for ESMA's supervisory and administrative tasks. These fees should ***be proportionate to the turnover of the services the CCP provides in a Union currency to EU clearing members. These fees should*** cover the applications for authorisation of Union CCPs, the applications for recognition of third-country CCPs, and the annual fees associated with the tasks under ESMA's responsibility. The Commission should specify further in a delegated act the types of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid by authorised and applicant Union CCPs recognised third-country CCPs.

Or. en

Amendment 172
Thomas Mann

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) The Chair of the CCP Supervisory Committee shall be a full-time, independent professional. The Chair shall be appointed on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, and of experience relevant to CCP supervision and regulation. The Chair shall be chosen on the basis of an open selection procedure organised by the supervisory colleges, which shall respect the principles of gender balance, experience and qualification. The Chair shall not hold any other office at national, Union, or international level. The supervisory colleges shall provide to the European Parliament a shortlist of candidates for the position of Chair of the CCP Supervisory Committee and shall inform the Council and the Commission of the shortlist. The supervisory colleges shall submit a proposal for the appointment of the Chair of the CCP Supervisory Committee to the European Parliament for approval. Following the approval of that proposal, the Council shall adopt an implementing decision to appoint the Chair of the Supervisory Committee. The Council shall act by qualified majority. Where the Chair of the CCP Supervisory Committee no longer fulfils the conditions required for the performance of his or her duties or has been found guilty of serious misconduct, the Council, having received the consent of the supervisory colleges, may, on a proposal from the Commission which has been approved by the European Parliament, adopt an implementing decision to remove him or her from office. The Council shall act by qualified majority. The European

Parliament or the Council may inform the supervisory colleges that they consider the conditions for the removal of the Chair of the CCP Supervisory Committee to be fulfilled, to which the Commission shall respond.

Or. de

Amendment 173

Kay Swinburne

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The supervisory arrangements in this Regulation for third-country CCPs offering clearing services *within the* Union **also require revision**. Access to information, the ability to conduct on-site inspections **and the possibility to share** information on third-country CCPs between relevant Union and Member State authorities **needs to be improved to avoid important financial stability implications for Union entities**. **There is also a risk that changes to a third-country CCP rules or to a third-country regulatory framework cannot be taken into account and could negatively affect the regulatory or supervisory outcomes, leading to an unlevel playing field between Union and third-country CCPs.**

Amendment

(23) The supervisory arrangements in this Regulation for third-country CCPs offering clearing services **in a** Union **currency to EU clearing members, should ensure** access to **relevant** information, **provide** the ability to conduct **appropriate** on-site inspections **where necessary and allow the sharing of** information on third-country CCPs between relevant Union and Member State authorities.

Or. en

Amendment 174

Markus Ferber

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) A significant amount of financial instruments denominated in the currencies of the Member States are cleared by recognised third-country CCPs. This will increase substantially when the United Kingdom withdraws from the Union and the CCPs established there will no longer be governed by the requirements of this Regulation. Cooperation arrangements agreed in the supervisory colleges will no longer be subject to the safeguards and procedures of this Regulation, including the Court of Justice of the European Union. This implies significant challenges for Union and Member State authorities in safeguarding financial stability.

Amendment

(24) A significant amount of financial instruments denominated in the currencies of the Member States are cleared by recognised third-country CCPs. This will increase substantially when the United Kingdom withdraws from the Union and the CCPs established there will no longer be governed by the requirements of this Regulation. Cooperation arrangements agreed in the supervisory colleges will no longer be subject to the safeguards and procedures of this Regulation, including the Court of Justice of the European Union. This implies significant challenges for Union and Member State authorities in safeguarding financial stability.

Derivatives in EU currencies should thus be cleared within the EU, whilst derivatives in euros should be cleared in the Eurozone.

Or. de

Amendment 175

Matt Carthy

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) A significant amount of financial instruments denominated in the currencies of the Member States are cleared by recognised third-country CCPs. This will increase substantially when the United Kingdom withdraws from the Union and the CCPs established there will no longer be governed by the requirements of this Regulation. Cooperation arrangements agreed in the supervisory colleges will no longer be subject to the safeguards and procedures of this Regulation, including the Court of Justice of the European Union.

Amendment

(24) A significant amount of financial instruments denominated in the currencies of the Member States are cleared by recognised third-country CCPs. This will increase substantially when the United Kingdom withdraws from the Union and the CCPs established there will no longer be governed by the requirements of this Regulation. Cooperation arrangements agreed in the supervisory colleges will no longer be subject to the safeguards and procedures of this Regulation, including the Court of Justice of the European Union.

This implies significant challenges for Union and Member State authorities in safeguarding financial stability.

The withdrawal of Britain from the EU poses special and severe risks to the euro-clearing system due to the fact the overwhelming majority of euro-clearing takes place in the City of London. Removing EU supervision and oversight rights in this regard will significantly limit the ability of EU authorities to gain necessary information and take any required action, and requires a fundamental revision of current practice.

Or. en

Amendment 176
Kay Swinburne

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) As part of its commitment to integrated financial markets, the Commission should continue to determine by way of equivalence decisions that the legal and supervisory frameworks of third countries fulfil the requirements of Regulation (EU) No 648/2012. In order to enhance the implementation of the current equivalence regime in relation to CCPs, the Commission *should be able to, if necessary, specify further the criteria for assessing the equivalence of third-country CCP regimes. It is also necessary to* empower ESMA *with the supervision of* regulatory and supervisory developments in those third-country CCP regimes that have been deemed equivalent by the Commission. This is in order to ensure that the equivalence criteria and any specific conditions set for their use continue to be satisfied by third countries. ESMA should report its findings to the Commission on a confidential basis.

Amendment

(25) As part of its commitment to integrated financial markets, the Commission should continue to determine by way of equivalence decisions that the legal and supervisory frameworks of third countries fulfil the requirements of Regulation (EU) No 648/2012. In order to enhance the implementation of the current equivalence regime in relation to CCPs, the Commission *may* empower ESMA *to monitor* regulatory and supervisory developments in those third-country CCP regimes that have been deemed equivalent by the Commission. This is in order to ensure that the equivalence criteria and any specific conditions set for their use continue to be satisfied by third countries. ESMA should report its findings to the Commission *and the relevant third country supervisor* on a confidential basis.

Or. en

Amendment 177

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) As part of its commitment to integrated financial markets, the Commission should continue to determine by way of equivalence decisions that the legal and supervisory frameworks of third countries fulfil the requirements of Regulation (EU) No 648/2012. In order to enhance the implementation of the current equivalence regime in relation to CCPs, the Commission should be able to, if necessary, specify further the criteria for assessing the equivalence of third-country CCP regimes. It is also necessary to empower ESMA with the supervision of regulatory and supervisory developments in those third-country CCP regimes that have been deemed equivalent by the Commission. This is in order to ensure that the equivalence criteria and any specific conditions set for their use continue to be satisfied by third countries. ESMA should report its findings to the Commission on a confidential basis.

Amendment

(25) As part of its commitment to integrated financial markets, the Commission should continue to determine by way of equivalence decisions that the legal and supervisory frameworks of third countries fulfil the requirements of Regulation (EU) No 648/2012. In order to enhance the implementation of the current equivalence regime in relation to CCPs, the Commission should be able to, if necessary, specify further the criteria for assessing the equivalence of third-country CCP regimes. It is also necessary to empower ESMA with the supervision of regulatory and supervisory developments in those third-country CCP regimes that have been deemed equivalent by the Commission. This is in order to ensure that the equivalence criteria and any specific conditions set for their use continue to be satisfied by third countries. ESMA should report its findings to the Commission, *the European Parliament and the Council* on a confidential basis.

Or. en

Amendment 178

Matt Carthy

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) As part of its commitment to

Amendment

(25) As part of its commitment to

integrated financial markets, the Commission should continue to determine by way of equivalence decisions that the legal and supervisory frameworks of third countries fulfil the requirements of Regulation (EU) No 648/2012. In order to enhance the implementation of the current equivalence regime in relation to CCPs, the Commission should be able to, if necessary, specify further the criteria for assessing the equivalence of third-country CCP regimes. It is also necessary to empower ESMA with the supervision of regulatory and supervisory developments in those third-country CCP regimes that have been deemed equivalent by the Commission. This is in order to ensure that the equivalence criteria and any specific conditions set for their use continue to be satisfied by third countries. ESMA should report its findings to the Commission *on a confidential basis*.

integrated financial markets, the Commission should continue to determine by way of equivalence decisions that the legal and supervisory frameworks of third countries fulfil the requirements of Regulation (EU) No 648/2012. In order to enhance the implementation of the current equivalence regime in relation to CCPs, the Commission should be able to, if necessary, specify further the criteria for assessing the equivalence of third-country CCP regimes. It is also necessary to empower ESMA with the supervision of regulatory and supervisory developments in those third-country CCP regimes that have been deemed equivalent by the Commission. This is in order to ensure that the equivalence criteria and any specific conditions set for their use continue to be satisfied by third countries. ESMA should report its findings to the Commission.

Or. en

Amendment 179

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Current equivalence decisions take into account market specificities in third countries, including market sectors, which are deemed to be non-systemic to the Union. With the entry into force of this amending regulation, and particularly with regards to determining the need for onsite inspections and direct supervision, ESMA should strive to remain within the spirit of current equivalence decisions until such a time where non-EU facing market sectors become directly systemically important to

Amendment 180

Kay Swinburne

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) The Commission is currently able to amend, suspend, review or revoke an equivalence decision at any time, in particular where developments occur in a third country which materially affect the elements assessed in accordance with the equivalence requirements under this Regulation. Where a third country's relevant authorities no longer cooperate with ESMA or other Union supervisors in good faith or fail to comply on a continuous basis with the applicable equivalence requirements, the Commission is also able to, inter alia, put an authority of the third country on notice or publish a specific recommendation. Where the Commission decides at any time to revoke a third country's equivalence, it is able to delay the date of application of that decision in order to address the risks to financial stability or of market disruptions. ***In addition to those powers currently available, the Commission should also be able to set specific conditions to ensure that the equivalence criteria continue to be fulfilled on an ongoing basis by the third country to which an equivalence decision relates. The Commission should also be able to set conditions ensuring that ESMA is able to effectively exercise its responsibilities in relation to third-country CCPs recognised under this Regulation or in relation to monitoring of regulatory and supervisory developments in third countries that are of relevance for adopted***

Amendment

(26) The Commission is currently able to amend, suspend, review or revoke an equivalence decision at any time, in particular where developments occur in a third country which materially affect the elements assessed in accordance with the equivalence requirements under this Regulation. Where a third country's relevant authorities no longer cooperate with ESMA or other Union supervisors in good faith or fail to comply on a continuous basis with the applicable equivalence requirements, the Commission is also able to, inter alia, put an authority of the third country on notice or publish a specific recommendation. Where the Commission decides at any time to revoke a third country's equivalence, it is able to delay the date of application of that decision in order to address the risks to financial stability or of market disruptions. The Commission should be able to set conditions ensuring that ESMA is able to effectively exercise its responsibilities in relation to third-country CCPs recognised under this Regulation or in relation to monitoring of regulatory and supervisory developments in third countries that are of relevance for adopted equivalence decisions.

equivalence decisions.

Or. en

Amendment 181

Matt Carthy

Proposal for a regulation

Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) Should voluntary or mandatory relocation of clearing houses take place in future as a result of this revision, further steps must be taken to ensure that competition is guaranteed in the clearing system so that a new EU-based concentration of CCPs does not result from this change.

Or. en

Amendment 182

Kay Swinburne

Proposal for a regulation

Recital 27

Text proposed by the Commission

Amendment

(27) In view of the **growing** cross-border **dimension of** CCPs and of the interlinkages in the Union financial system, it is necessary to improve the ability of the Union to identify, monitor and mitigate the potential risks related to third-country CCPs. The role of ESMA should therefore be enhanced to effectively supervise third-country CCPs that apply for recognition to provide clearing **services in the** Union. The involvement of the Union central banks of issue in the recognition and supervision of third-country CCPs **that are active** in the currency they issue should also be

(27) In view of the **often** cross-border **nature of systemically relevant** CCPs and of the interlinkages in the Union financial system, it is necessary to improve the ability of the Union to identify, monitor and mitigate the potential risks related to **those systemically relevant** third-country CCPs **offering a clearing service in a Union currency to EU clearing members**. The role of ESMA should therefore be enhanced to effectively supervise **how** third-country CCPs that apply for recognition to provide clearing **in a Union currency to EU clearing members provide**

improved. Therefore, Union central banks of issue should be consulted on *certain* aspects affecting their monetary policy responsibilities *in relation to financial instruments denominated in Union currencies which are cleared to a significant extent in CCPs located outside the Union*.

that service. This supervision must be done in conjuncture with the relevant third country authority. The involvement of the Union central banks of issue in the recognition and supervision of third-country CCPs *offering clearing services to EU clearing members and* in the currency they issue, should also be improved. Therefore, Union central banks of issue should be consulted on *those* aspects affecting their monetary policy responsibilities.

Or. en

Amendment 183
Matt Carthy

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) Once the Commission has determined the legal and supervisory framework of a third country as equivalent to the Union framework, the process to recognise CCPs from that third country should take into account the risks those CCPs present for the financial stability of the Union or for the Member State.

Amendment

(28) Once the Commission has determined the legal and supervisory framework of a third country as equivalent to the Union framework, the process to recognise CCPs from that third country should take into account the risks those CCPs present for the financial stability of the Union or for the Member State. *If the risk posed to the EU financial system is high, based on a defined and transparent criteria, then recognition should be denied.*

Or. en

Amendment 184
Kay Swinburne

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) Once the Commission has determined the legal and supervisory framework of a third country as equivalent to the Union framework, the process to recognise CCPs from that third country should take into account the risks those CCPs present for the financial stability of the Union or for the Member State.

Amendment

(28) Once the Commission has determined the legal and supervisory framework of a third country as equivalent to the Union framework, the process to recognise CCPs ***and related services*** from that third country should take into account the risks those CCPs present for the financial stability of the Union or for the Member State.

Or. en

Amendment 185
Roberto Gualtieri

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) When considering the application of a third-country CCP for recognition, ESMA should assess the degree of systemic risk that the CCP presents to the financial stability of the Union on the basis of objective and transparent criteria set out in this Regulation. A Commission delegated act should further specify these criteria.

Amendment

(29) When considering the application of a third-country CCP for recognition, ESMA should assess the degree of systemic risk that the CCP presents to the financial stability of the Union ***or of one or more of its Member States*** on the basis of objective and transparent criteria set out in this Regulation. A Commission delegated act should further specify these criteria. ***In this regard, specific features concerning certain agricultural derivative contracts listed and executed on regulated markets in third countries, which relate to markets that largely serve domestic non-financial counterparties in that third country who manage their commercial risks through those contracts, may pose a negligible risk to clearing members and trading venues in the Union as they have a low degree of systemic interconnectedness with the rest of the financial system.***

Or. en

Amendment 186
Kay Swinburne

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) When considering the application of a third-country CCP for recognition, ESMA should assess the degree of systemic risk that the CCP presents to the financial stability of the Union on the basis of objective and transparent criteria set out in this Regulation. A Commission delegated act should further specify these criteria.

Amendment

(29) When considering the application of a third-country CCP for recognition, ESMA should assess the degree of systemic risk that the CCP ***or CCP's clearing service offered in a Union currency and provided to EU clearing members***, presents to the financial stability of the Union on the basis of objective and transparent criteria set out in this Regulation. A Commission delegated act should further specify these criteria.

Or. en

Amendment 187
Kay Swinburne

Proposal for a regulation
Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) When determining whether or not a CCP or one or more clearing service offered by the CCP is systemically important for the financial stability of the Union, ESMA should only take into account the nature, size and complexity of a CCP's business in the EU. A non- EU CCP should not be considered to be systemically important if its EU business is not significant, regardless of the size of its global business.

Or. en

Amendment 188
Kay Swinburne

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) CCPs that are not systemically important to the financial stability of the Union or one of its Member States should be considered as ‘Tier 1’ CCPs. CCPs that are systemically important, or likely to become systemically important, to the financial stability of the Union or one of its Member States should be considered as ‘Tier 2’ CCPs. Where ESMA determines that a third-country CCP is not systemically important to the financial stability of the Union, the existing recognition conditions under Regulation (EU) No 648/2012 should apply to that CCP. Where ESMA determines that a third-country CCP is systemically important, additional requirements proportionate to the degree of risk presented by that CCP should be established. ESMA should only recognise such a CCP where that CCP complies with these requirements.

Amendment

(30) CCPs that are not systemically important to the financial stability of the Union or one of its Member States should be considered as ‘Tier 1’ CCPs. CCPs ***offering a clearing service in a Union currency to EU clearing members*** that are systemically important, or likely to become systemically important, to the financial stability of the Union or one of its Member States should be considered as ‘Tier 2’ CCPs, ***or ‘Tier 2’ service lines***. Where ESMA determines that a third-country CCP, ***or clearing service offered in a Union currency to EU clearing members*** is not systemically important to the financial stability of the Union, the existing recognition conditions under Regulation (EU) No 648/2012 should apply to that CCP ***or clearing service***. Where ESMA determines that a third-country CCP, ***or a CCP’s clearing service offered in a Union currency to EU clearing members***, is systemically important, additional requirements proportionate to the degree of risk presented by that CCP, ***or clearing service thereof***, should be established. ESMA should only recognise such a CCP, ***or one or more of the clearing service lines provided***, where that CCP complies with these requirements.

Or. en

Amendment 189
Roberto Gualtieri

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) CCPs that are not systemically important to the financial stability of the Union or **one** of its Member States should be considered as ‘Tier 1’ CCPs. CCPs that are systemically important, or likely to become systemically important, to the financial stability of the Union or **one** of its Member States should be considered as ‘Tier 2’ CCPs. Where ESMA determines that a third-country CCP is not systemically important to the financial stability of the Union, the existing recognition conditions under Regulation (EU) No 648/2012 should apply to that CCP. Where ESMA determines that a third-country CCP is systemically important, additional requirements **proportionate to the degree of risk presented by that CCP should be established**. ESMA should only recognise such a CCP where that CCP complies with these requirements.

Amendment

(30) CCPs that are not systemically important to the financial stability of the Union or **of one or more** of its Member States should be considered as ‘Tier 1’ CCPs. CCPs that are systemically important, or likely to become systemically important, to the financial stability of the Union or **of one or more of its Member States**, the existing recognition conditions under Regulation (EU) No 648/2012 should apply to that CCP. Where ESMA determines that a third-country CCP is systemically important, **the CCP should comply with** additional requirements. ESMA should only recognise such a CCP where that CCP complies with these requirements.

Or. en

Amendment 190
Kay Swinburne

Proposal for a regulation
Recital 31

Text proposed by the Commission

(31) The additional requirements should include certain prudential requirements set out in Regulation (EU) No 648/2012 that aim to increase the safety and efficiency of **a CCP**. ESMA should be directly responsible for **ensuring that** a systemically-important third-country CCP complies with those requirements. Related requirements should also enable ESMA to carry full and effective supervision of **that CCP**.

Amendment

(31) The additional requirements should include certain prudential requirements set out in Regulation (EU) No 648/2012 that aim to increase the safety and efficiency of **how a CCP’s clearing service in a Union currency is provided to EU clearing members**. ESMA should be directly responsible for **assessing whether** a systemically-important third-country CCP complies with those requirements. Related requirements should also enable ESMA to

carry full and effective supervision of *how clearing services in a Union currency are offered by the CCP to EU clearing members*.

Or. en

Amendment 191

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil *any additional* requirements that the central bank(s) of issue consider necessary. The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with *any* additional requirements *as quickly as possible and in any case 180 days from* the CCP's application *to ESMA*.

Amendment

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil *relevant* requirements that the central bank(s) of issue consider necessary. *Such requirements could relate to stress testing, reporting requirements, liquidity or collateral requirements, the right for the central bank of issue to participate in on-site inspections and the requirement for the CCP to open a cash account at a central bank before ESMA's decision to recognize that CCP or, where this is not possible, a commitment to do so within a set timeframe following the recognition of that CCP*. The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with *those* additional requirements *in due time before the deadline for ESMA to reply to* the CCP's application.

Or. en

Amendment 192

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil **any additional** requirements that the central bank(s) of issue consider necessary. The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with **any** additional requirements as quickly as possible and in any case **180 days from** the CCP's application **to ESMA**.

Amendment

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil **the relevant** requirements that the central bank(s) of issue consider necessary **for carrying out of their monetary policy tasks. Such requirements should be limited to requirements relating to stress testing, reporting requirements, liquidity or collateral requirements, the right for the central bank of issue to participate in on-site inspections and the requirement for the CCP to obtain a banking licence and open a cash account at a central bank.** The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with **those** additional requirements as quickly as possible and in any case **in due time before the deadline for ESMA to reply to the CCP's** application.

Or. en

Amendment 193
Kay Swinburne

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil any additional requirements that the central bank(s) of issue **consider necessary**. The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with any additional requirements

Amendment

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil any additional requirements that the central bank(s) of issue **can justify as required to support their monetary policy responsibilities**. The central bank(s) of issue should provide ESMA with confirmation whether or not

as quickly as possible and in any case 180 days from the CCP's application to ESMA.

the CCP complies with any additional requirements as quickly as possible and in any case 180 days from the CCP's application to ESMA.

Or. en

Amendment 194
Burkhard Balz

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil any additional requirements that the central bank(s) of issue consider necessary. The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with any additional requirements as quickly as possible and in any case 180 days from the CCP's application to ESMA.

Amendment

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil any additional requirements that the central bank(s) of issue consider necessary ***as provided for in this Regulation***. The central bank(s) of issue should provide ESMA with confirmation whether or not the CCP complies with any additional requirements as quickly as possible and in any case 180 days from the CCP's application to ESMA.

Or. en

Amendment 195
Roberto Gualtieri

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil ***any*** additional requirements that the central bank(s) of issue consider necessary. The central bank(s) of issue should provide ESMA

Amendment

(32) In order to ensure the proper involvement of the central bank(s) of issue, the systemically important third-country CCP should also fulfil additional requirements that the central bank(s) of issue consider necessary ***according to this Regulation***. The central bank(s) of issue

with confirmation whether or not the CCP complies *with any additional requirements as quickly as possible and in any case 180 days from the CCP's application to ESMA.*

should provide ESMA with confirmation whether or not the CCP complies *within the deadline to respond to the consultation in the framework of the recognition of a third-country CCP.*

Or. en

Amendment 196
Olle Ludvigsson

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. *Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.*

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union.

Or. en

Amendment 197
Kay Swinburne

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA **and the relevant central bank(s) of issue conclude** that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. ***The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.***

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA **concludes** that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised.

Or. en

Amendment 198
Markus Ferber

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. ***If there is no effective cooperation agreement between the EU supervisory authorities and the supervisory authorities of the third country, and between the European Central Bank and the central bank of the third country, or*** where ESMA

recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP, *or a clearing service thereof*, should be established in the Union and authorised as such to provide clearing services in the Union.

Or. de

Amendment 199

Jakob von Weizsäcker, Jonás Fernández, Paul Tang

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. ***In its recommendation, ESMA should assess the net benefits of such a move with regards to safeguarding the interests of EU taxpayers and financial stability.*** The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide

clearing services in the Union.

Or. en

Amendment 200
Pervenche Berès

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union. ***Following a recommendation by ESMA, the Commission should be able to impose any additional requirement that it deems necessary to safeguard the financial stability of the EU to the systemically-important third-country CCPs.***

Or. en

Justification

This amendment, which is reflected by another amendment in an Article, broadens the powers of ESMA and the Commission as regards 'Tier 2 CCPs', in order to allow them to maintain EU's financial stability, notably in times of crisis.

Amendment 201
Roberto Gualtieri

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA **and** the relevant central bank(s) of issue **conclude** that a third-country CCP is of such systemic importance that additional requirements **will not ensure** the financial stability **of** the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt **an implementing** act declaring that the third-country CCP should be established in **the Union** and authorised as such to provide clearing services in the Union.

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA, **in agreement with** the relevant central bank(s) of issue, **concludes** that a third-country CCP is of such systemic importance that **compliance with the** additional requirements **set out in this Regulation does not sufficiently address** the financial stability **risk for** the Union **or for one or more of its Member States**, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt **a delegated** act declaring that the third-country CCP should be established in **any Member State** and authorised as such to provide clearing services in the Union.

Or. en

Amendment 202
Petr Ježek, Wolf Klinz, Caroline Nagtegaal

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union

varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA and the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. ***On the basis of that recommendation***, the Commission should be able to adopt an implementing act declaring that ***one or more clearing services of*** the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

Or. en

Amendment 203

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA ***and*** the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be able to adopt an

Amendment

(33) The degree of risk posed by a systemically-important CCP to the financial system and stability of the Union varies. The requirements for systemically-important CCPs should therefore be applied in a manner proportionate to the risks that the CCP may present to the Union. Where ESMA ***or*** the relevant central bank(s) of issue conclude that a third-country CCP is of such systemic importance that additional requirements will not ensure the financial stability of the Union, ESMA ***or the relevant central bank(s)*** should be able to recommend to the Commission that that CCP should not be recognised. The Commission should be

implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

able to adopt an implementing act declaring that the third-country CCP should be established in the Union and authorised as such to provide clearing services in the Union.

Or. en

Amendment 204
Thierry Cornillet

Proposal for a regulation
Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) The Commission and ESMA should also be able to impose all the additional requirements they deem necessary to guarantee the financial stability of the EU on the CCP of a third country of systemic importance.

Or. fr

Amendment 205
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation
Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) The Commission and ESMA should also be able to impose to the systemically important third-country CCP any additional requirements that they consider necessary to guarantee the EU financial stability.

Or. en

Justification

Tier 2 CCPs are by definition systemic for the EU and then may pose a risk for the EU financial stability, especially in times of crisis. It seems necessary that the Commission and ESMA could impose by themselves additional requirements to Tier 2 CCPs in order to protect the EU financial stability.

Amendment 206

Kay Swinburne

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) ESMA should regularly review the recognition of third-country CCPs as well as their classification as Tier 1 or Tier 2 CCPs. In this regard, ESMA should consider amongst others, the changes in the nature, size and complexity of *the* third-country CCP's *business*. Such reviews should take place at least every two years and more frequently where necessary.

Amendment

(34) ESMA should regularly review the recognition of third-country CCPs as well as their classification as Tier 1 or Tier 2 CCPs. In this regard, ESMA should consider amongst others, the changes in the nature, size and complexity of *how* third-country CCP's *clearing services are offered in a Union currency to EU clearing members*. Such reviews should take place at least every two years and more frequently where necessary. *Further to such reviews, ESMA should be able to reclassify a CCP, or clearing service offered in a Union currency to EU clearing members, from Tier 1 to Tier 2 or vice versa. An adaptation period should be allowed if reclassification occurs.*

Or. en

Amendment 207

Roberto Gualtieri

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) ESMA should regularly review the recognition of third-country CCPs as well

Amendment

(34) ESMA should regularly review the recognition of third-country CCPs as well

as their classification as Tier 1 or Tier 2 CCPs. In this regard, ESMA should consider amongst others, the changes in the nature, size and complexity of the third-country CCP's business. ***Such reviews should take place at least every two years and more frequently where necessary.***

as their classification as Tier 1 or Tier 2 CCPs. In this regard, ESMA should consider amongst others, the changes in the nature, size and complexity of the third-country CCP's business.

Or. en

Amendment 208
Roberto Gualtieri

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) ESMA should also be able to take into account the extent to which the compliance of a systemically-important third-country CCP with the requirements applicable in that third country can be compared to the compliance of that CCP with the requirements of Regulation (EU) No 648/2012. The Commission should adopt a delegated act specifying further the modalities and conditions to assess such comparable compliance

Amendment

(35) ESMA should also be able to take into account the extent to which the compliance of a systemically-important third-country CCP with the requirements applicable in that third country can be compared to the compliance of that CCP with the requirements of Regulation (EU) No 648/2012. ***When conducting this assessment, ESMA should take into account, where relevant, whether the Commission has adopted an implementing acts determining that the legal and supervisory arrangements of the third country where the CCP is established are equivalent to those of this Regulation and any conditions which the application of that implementing act may be subject to. When conducting this assessment, to ensure proportionality, ESMA should also consider the extent to which the financial instruments cleared by the CCP are denominated in Union currencies.*** The Commission should adopt a delegated act specifying further the modalities and conditions to assess such comparable compliance.

Or. en

Amendment 209
Danuta Maria Hübner

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) ESMA should also be able to take into account the extent to which the compliance of a systemically-important third-country CCP with the requirements applicable in that third country can be compared to the compliance of that CCP with the requirements of Regulation (EU) No 648/2012. The Commission should adopt a delegated act specifying further the modalities and conditions to assess such comparable compliance

Amendment

(35) ESMA should also be able to take into account the extent to which the compliance of a systemically-important third-country CCP with the requirements applicable in that third country can be compared to the compliance of that CCP with the requirements of Regulation (EU) No 648/2012. ***In carrying out its assessment under this paragraph, ESMA should take into account the implementing acts adopted in accordance with Article 25(6) of this Regulation.*** The Commission should adopt a delegated act specifying further the modalities and conditions to assess such comparable compliance

Or. en

Amendment 210
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) ESMA should also be able to take into account the extent to which the compliance of a systemically-important third-country CCP with the requirements applicable in that third country can be compared to the compliance of that CCP with the requirements of Regulation (EU) No 648/2012. The Commission should adopt a delegated act specifying further the

Amendment

(35) ESMA should also be able to take into account the extent to which the compliance of a systemically-important third-country CCP with the requirements applicable in that third country can be compared to the compliance of that CCP with the requirements of Regulation (EU) No 648/2012. The Commission should adopt a delegated act specifying further the

modalities and conditions to assess such comparable compliance

modalities and conditions to assess such comparable compliance *as well as a delegated act for specifying the criteria for considering that a CCP is of substantial systemic importance.*

Or. en

Amendment 211
Roberto Gualtieri

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, *ESMA's decisions should be subject to the prior consent of the relevant* central bank(s) of issue.

Amendment

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, *the* central bank(s) of issue *shall be consulted on those aspects of the draft decision which relate to the currency it issues. Upon conclusion of the period for consulting the central banks of issue, every effort shall be made to comply with the amendments proposed by them. In case the decision doesn't include the amendments proposed by a central bank of issue, the central bank of issue shall be informed in writing with the full reasons and an explanation of any significant deviation from these amendments.*

Or. en

Amendment 212
Kay Swinburne

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In ***certain*** areas, ESMA's decisions should be subject to the ***prior consent*** of the relevant central bank(s) of issue.

Amendment

(36) ESMA should have all the powers necessary to supervise ***the clearing services provided in a Union currency to EU clearing members of*** recognised third-country CCPs, ***so as*** to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In areas ***relating to monetary policy***, ESMA's decisions should be subject to the ***agreement*** of the relevant central bank(s) of issue.

Or. en

Amendment 213
Burkhard Balz

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, ***ESMA's decisions*** should ***be subject to the prior consent of*** the relevant central bank(s) of issue.

Amendment

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, ***ESMA*** should ***consult*** the relevant central bank(s) of issue.

Or. en

Amendment 214
Werner Langen

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) ESMA should have all the powers

Amendment

(36) ESMA should have all the powers

necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, *ESMA's decisions* should ***be subject to the prior consent*** of the relevant central bank(s) of issue.

necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, *ESMA* should ***consult*** the relevant central bank(s) of issue.

Or. en

Amendment 215

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, ESMA's decisions should ***be subject to the prior consent*** of the relevant central bank(s) of issue.

Amendment

(36) ESMA should have all the powers necessary to supervise recognised third-country CCPs to ensure their ongoing compliance with the requirements of Regulation (EU) No 648/2012. In certain areas, ESMA's decisions should ***consult*** the relevant central bank(s) of issue.

Or. en

Amendment 216

Kay Swinburne

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) ***ESMA should be able to impose fines on third-country CCPs where it finds that they have committed, intentionally or negligently, an infringement of this Regulation by providing incorrect or misleading information to ESMA. In addition, ESMA***

Amendment

deleted

should be able to impose fines on systemically-important CCPs where it finds that they have committed, intentionally or negligently, an infringement of the additional requirements applicable to them in this Regulation.

Or. en

Amendment 217

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Recital 37

Text proposed by the Commission

Amendment

(37) ESMA should be able to impose fines on third-country CCPs where it finds that they have committed, intentionally or negligently, an infringement of this Regulation by providing incorrect or misleading information to ESMA. In addition, ESMA should be able to impose fines on systemically-important CCPs where it finds that they have committed, intentionally or negligently, an infringement of the additional requirements applicable to them in this Regulation.

deleted

Or. en

Justification

This recital seems redundant given almost identical wording to recital 39. Therefore, this recital should be deleted in order to streamline the text.

Amendment 218

Kay Swinburne

Proposal for a regulation
Recital 39

Text proposed by the Commission

Amendment

(39) ESMA should be able to impose fines on both Tier 1 and Tier 2 CCPs where it finds that they have committed, intentionally or negligently, an infringement of this Regulation by providing incorrect or misleading information to ESMA. In addition, ESMA should be able to impose fines on Tier 2 CCPs where it finds that they have committed, intentionally or negligently, an infringement of the additional requirements applicable to them in this Regulation.

deleted

Or. en

Amendment 219
Matt Carthy

Proposal for a regulation
Recital 39

Text proposed by the Commission

Amendment

(39) ESMA should be able to impose fines on both Tier 1 and Tier 2 CCPs where it finds that they have committed, intentionally or negligently, an infringement of this Regulation by providing incorrect or misleading information to ESMA. In addition, ESMA should be able to impose fines on Tier 2 CCPs where it finds that they have committed, intentionally or negligently, an infringement of the additional requirements applicable to them in this Regulation.

(39) ESMA should be able to impose fines on both Tier 1 and Tier 2 CCPs where it finds that they have committed, intentionally or negligently, an infringement of this Regulation by providing incorrect or misleading information to ESMA. In addition, ESMA should be able to impose fines on Tier 2 CCPs where it finds that they have committed, intentionally or negligently, an infringement of the additional requirements applicable to them in this Regulation, **and to withdraw recognition from Tier 2 CCPs in the case of more than one infringement.**

Or. en

Amendment 220
Kay Swinburne

Proposal for a regulation
Recital 40

Text proposed by the Commission

Amendment

(40) Fines should be imposed according to the level of seriousness of the infringement. Infringements should be divided into different groups for which specific fines should be allocated. In order to calculate the fine relating to a particular infringement, ESMA should apply a two-step methodology consisting of setting a basic amount and adjusting that basic amount, if necessary, by certain coefficients. The basic amount should be established by taking into account the annual turnover of the third-country CCPs concerned and the adjustments should be made by increasing or decreasing the basic amount through the application of the relevant coefficients in accordance with this Regulation.

deleted

Or. en

Amendment 221
Kay Swinburne

Proposal for a regulation
Recital 41

Text proposed by the Commission

Amendment

(41) This Regulation should establish coefficients linked to aggravating and mitigating circumstances in order to give the necessary tools to ESMA to decide on a fine which is proportionate to the seriousness of the infringement committed by a third country CCP, taking into account the circumstances under

deleted

which that infringement has been committed.

Or. en

Amendment 222

Kay Swinburne

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) The decision to impose *fin***es or** periodic penalty payments should be based on an independent investigation.

Amendment

(42) The decision to impose periodic penalty payments should be based on an independent investigation.

Or. en

Amendment 223

Kay Swinburne

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) Before deciding whether to impose *fin***es or** periodic penalty payments, ESMA should give the persons subject to the proceedings the opportunity to be heard in order to respect their rights of defence.

Amendment

(43) Before deciding whether to impose periodic penalty payments, ESMA should give the persons subject to the proceedings the opportunity to be heard in order to respect their rights of defence.

Or. en

Amendment 224

Kay Swinburne

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) ESMA should refrain from imposing *fin*es or periodic penalty payments where a prior acquittal or conviction arising from identical facts, or from facts which are substantially the same, has acquired the force of res judicata as a result of criminal proceedings under national law.

Amendment

(44) ESMA should refrain from imposing periodic penalty payments where a prior acquittal or conviction arising from identical facts, or from facts which are substantially the same, has acquired the force of res judicata as a result of criminal proceedings under national law.

Or. en

Amendment 225

Kay Swinburne

Proposal for a regulation

Recital 45

Text proposed by the Commission

(45) ESMA's decisions imposing *fin*es and periodic penalty payments should be enforceable and their enforcement should be subject to the rules of civil procedure which are in force in the State in the territory of which it is carried out. Rules of civil procedure should not include criminal procedural rules but could include administrative procedural rules.

Amendment

(45) ESMA's decisions imposing periodic penalty payments should be enforceable and their enforcement should be subject to the rules of civil procedure which are in force in the State in the territory of which it is carried out. Rules of civil procedure should not include criminal procedural rules but could include administrative procedural rules.

Or. en

Amendment 226

Roberto Gualtieri

Proposal for a regulation

Recital 47

Text proposed by the Commission

(47) *The validation of significant changes to models and parameters adopted to calculate a CCP's margin*

Amendment

deleted

requirements, default fund contributions, collateral requirements, and other risk-control mechanisms should be aligned with the new requirement of a prior consent of ESMA with certain decisions of the national competent authority with regard to CCPs established in the Union. To simplify the model validation proceedings, one validation by the national competent authority that is subject to ESMA's prior consent should replace the two validations that national competent authority and ESMA were required to conduct independently. In addition, the interplay of that validation and the college decision should be clarified. The preliminary adoption of a significant change to that models or parameters should be possible where needed, especially where their swift change is necessary to ensure the soundness of the CCP's risk management.

Or. en

Amendment 227
Kay Swinburne

Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The validation of significant changes to models and parameters adopted to calculate a CCP's margin requirements, default fund contributions, collateral requirements, and other risk-control mechanisms should be aligned with ***the new requirement of a prior consent of ESMA with certain decisions of the national competent authority with regard to CCPs established in the Union. To simplify the model validation proceedings, one validation by the national competent authority that is subject to ESMA's prior consent should replace the two validations***

Amendment

(47) The validation of significant changes to models and parameters adopted to calculate a CCP's margin requirements, default fund contributions, collateral requirements, and other risk-control mechanisms should be aligned with ***a requirement to reach agreement with ESMA and*** the national competent authority with regard to CCPs established in the Union. In addition, the interplay of that validation and the college decision should be clarified. The preliminary adoption of a significant change to that models or parameters should be possible

that national competent authority and ESMA were required to conduct independently. In addition, the interplay of that validation and the college decision should be clarified. The preliminary adoption of a significant change to that models or parameters should be possible where needed, especially where their swift change is necessary to ensure the soundness of the CCP's risk management.

where needed, especially where their swift change is necessary to ensure the soundness of the CCP's risk management.

Or. en

Amendment 228

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the further specification of the type of fees, the matters for which fees are due, the amount of the fees to be paid and the manner in which they are to be paid; specifying the conditions under which the criteria are specified to determine if a third-country CCP is, or is likely to become, systemically important for financial stability of the Union or for one or more of its Member States; the further specification of the criteria to be used in its equivalence assessments of third countries; specify how and under what conditions certain requirements shall be complied with by third-country CCPs; further rules of procedure relating to the imposition of fines or periodic penalty payments, including provisions on the rights of defence, time limits, the collection of fines or periodic penalty payments and the limitation periods for the imposition and

Amendment

(48) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the further specification of the type of fees, the matters for which fees are due, the amount of the fees to be paid and the manner in which they are to be paid; specifying the conditions under which the criteria are specified to determine if a third-country CCP is, or is likely to become, systemically important for financial stability of the Union or for one or more of its Member States ***as well as for specifying the criteria for considering that a CCP is of substantial systemic importance***; the further specification of the criteria to be used in its equivalence assessments of third countries; specify how and under what conditions certain requirements shall be complied with by third-country CCPs; further rules of procedure relating to the imposition of fines or periodic penalty payments, including provisions on the rights of defence, time limits, the collection

enforcement of penalty payments or fines; measures to amend Annex IV in order to take account of developments in the financial markets.

of fines or periodic penalty payments and the limitation periods for the imposition and enforcement of penalty payments or fines; measures to amend Annex IV in order to take account of developments in the financial markets.

Or. en

Amendment 229

Kay Swinburne

Proposal for a regulation

Recital 50

Text proposed by the Commission

Amendment

(50) Since the objectives of this Regulation, namely to increase the safety and efficiency of CCPs by laying down uniform requirements for their activities, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

deleted

Or. en

Amendment 230

Markus Ferber

Proposal for a regulation

Recital 52 a (new)

Text proposed by the Commission

Amendment

(52a) For the sake of financial stability

and to ensure the principle of liability is enforced, derivatives in EU currencies should be cleared within the European Union. Deviation from this basic rule is only permitted if there are no effective agreements between the competent supervisory authority and the central bank of the third country in question that ensure European standards are enforced on the supervision of the CCP in question, and which ensure the competent European supervisory authority is given full rights of access in times of crisis.

Or. de

Amendment 231
Markus Ferber

Proposal for a regulation
Recital 52 b (new)

Text proposed by the Commission

Amendment

(52b) If there is no effective agreement between the EU supervisory authority and the competent supervisory authority, and between the European Central Bank and the central bank of the third country in question that guarantees effective supervision for the clearing of derivatives in EU currencies, the European Commission is authorised, after consultation with ESMA, to adopt an implementing act in which it states that a third-country CCP or a clearing service thereof must set up a branch within the Union.

Or. de

Amendment 232
Markus Ferber

Proposal for a regulation
Recital 52 c (new)

Text proposed by the Commission

Amendment

(52c) To ensure the existing cooperation agreements are effective and to ensure European legislation is enforced on the supervision of CCPs, the third country in question must accept the jurisdiction of the European Court of Justice in matters of CCP supervision.

Or. de

Amendment 233
Burkhard Balz

Proposal for a regulation
Article 1

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

With regard to EU CCPs, the national competent authorities of the Member State where the CCP is located should remain to be responsible for the supervision of the relevant CCPs. Issues in relation to a potential involvement of ESMA in the supervision of EU CCPs and the adequacy of the ESMA governance should be decided in the ESA review.

Amendment 234
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) No 1095/2010
Article 6 – point 1 a

Text proposed by the Commission

Amendment

2. In Article 6, the following point (1a) is inserted: *deleted*

‘(1a) a Board of Supervisors in Executive Session for CCPs (CCP Executive Session), which shall exercise the tasks set out in Article 44b; ‘

Or. en

Amendment 235
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) No 1095/2010
Article 6 – point 1 a

Text proposed by the Commission

Amendment

2. In Article 6, the following point (1a) is inserted: *deleted*

‘(1a) a Board of Supervisors in Executive Session for CCPs (CCP Executive Session), which shall exercise the tasks set out in Article 44b; ‘

Or. en

Amendment 236
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) No 1095/2010
Article 6 – point 1 a

Text proposed by the Commission

Amendment

2. In Article 6, the following point (1a) is inserted: *deleted*

‘(1a) a Board of Supervisors in Executive Session for CCPs (CCP Executive Session), which shall exercise the tasks set out in Article 44b; ‘

Or. en

Amendment 237

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) No 1095/2010

Article 35 – paragraph 6 – introductory part

Text proposed by the Commission

Where complete or accurate information is not available or is not made available in a timely fashion under paragraph 1 or 5, the Authority may request information, by way of a duly justified and reasoned request, directly from:

Amendment

Where complete or accurate information is not available or is not made available in a timely fashion under paragraph 1 or 5, the Authority may request information, by way of a duly justified and reasoned request *directly to the relevant financial market participants or*, directly from:

Or. en

Amendment 238

Kay Swinburne

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EU) No 1095/2010

Article 40 – paragraph 1 – point f

Text proposed by the Commission

4. In Article 40(1), the following point (f) is added:

‘(f) the permanent members of the CCP Executive Session, referred to in point (i) of Article 44a(1)(a), who shall be non-voting. ‘

Amendment

deleted

Amendment 239
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation 1095/2010
Article 40 – paragraph 1 – point f

Text proposed by the Commission

Amendment

4. In Article 40(1), the following point (f) is added: *deleted*

‘ (f) the permanent members of the CCP Executive Session, referred to in point (i) of Article 44a(1)(a), who shall be non-voting. ‘

Or. en

Amendment 240
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) No 1095/2010
Article 40 – paragraph 1 – point f

Text proposed by the Commission

Amendment

4. In Article 40(1), the following point (f) is added: *deleted*

‘ (f) the permanent members of the CCP Executive Session, referred to in point (i) of Article 44a(1)(a), who shall be non-voting. ‘

Or. en

Amendment 241
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EU) No 1095/2010
Article 42 – subparagraph 1

Text proposed by the Commission

Amendment

5. *In Article 42, the first subparagraph is replaced by the following:* *deleted*

‘When carrying out the tasks conferred upon it by this Regulation, the Chairperson, the voting permanent members and the voting members specific to each CCP of the CCP Executive Session referred to in point (i) of Article 44a(1)(a) and the voting members of the Board of Supervisors shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government of a Member State or from any other public or private body. ‘

Or. en

Amendment 242
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EU) No 1095/2010
Article 42 – subparagraph 1

Text proposed by the Commission

Amendment

5. *In Article 42, the first subparagraph is replaced by the following:* *deleted*

‘When carrying out the tasks conferred upon it by this Regulation, the

Chairperson, the voting permanent members and the voting members specific to each CCP of the CCP Executive Session referred to in point (i) of Article 44a(1)(a) and the voting members of the Board of Supervisors shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government of a Member State or from any other public or private body. ‘

Or. en

Amendment 243
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EU) No 1095/2010
Article 42 – subparagraph 1

Text proposed by the Commission

Amendment

5. In Article 42, the first subparagraph is replaced by the following:

deleted

‘When carrying out the tasks conferred upon it by this Regulation, the Chairperson, the voting permanent members and the voting members specific to each CCP of the CCP Executive Session referred to in point (i) of Article 44a(1)(a) and the voting members of the Board of Supervisors shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government of a Member State or from any other public or private body. ‘

Or. en

Amendment 244
Kay Swinburne

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) No 1095/2010

Article 43 – paragraphs 1 and 8

Text proposed by the Commission

Amendment

6. Article 43 is amended as follows: *deleted*

(a) paragraph 1 is replaced by the following:

‘1. The Board of Supervisors shall give guidance to the work of the Authority. It shall be responsible for the tasks referred to in Chapter II, except for those tasks for which the CCP Executive Session is responsible pursuant to Article 44b(1). ‘

(b) paragraph 8 is replaced by the following:

‘8. The Board of Supervisors shall exercise disciplinary authority over the Chairperson and may remove him or her from office in accordance with Article 48(5). The Board of Supervisors, in agreement with the CCP Executive Session, shall exercise disciplinary authority over the Executive Director and may remove him or her from office in accordance with Article 51(5). ‘

Or. en

Amendment 245

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) No 1095/2010

Article 43 – paragraphs 1 and 8

Text proposed by the Commission

Amendment

6. Article 43 is amended as follows: *deleted*

(a) paragraph 1 is replaced by the following:

‘1. The Board of Supervisors shall give guidance to the work of the Authority. It shall be responsible for the tasks referred to in Chapter II, except for those tasks for which the CCP Executive Session is responsible pursuant to Article 44b(1). ‘

(b) paragraph 8 is replaced by the following:

‘8. The Board of Supervisors shall exercise disciplinary authority over the Chairperson and may remove him or her from office in accordance with Article 48(5). The Board of Supervisors, in agreement with the CCP Executive Session, shall exercise disciplinary authority over the Executive Director and may remove him or her from office in accordance with Article 51(5). ‘

Or. en

Amendment 246
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EU) No 1095/2010
Article 43 – paragraphs 1 and 8

Text proposed by the Commission

Amendment

6. Article 43 is amended as follows: *deleted*

(a) paragraph 1 is replaced by the following:

‘1. The Board of Supervisors shall give guidance to the work of the Authority. It shall be responsible for the

tasks referred to in Chapter II, except for those tasks for which the CCP Executive Session is responsible pursuant to Article 44b(1). ‘

(b) paragraph 8 is replaced by the following:

‘8. The Board of Supervisors shall exercise disciplinary authority over the Chairperson and may remove him or her from office in accordance with Article 48(5). The Board of Supervisors, in agreement with the CCP Executive Session, shall exercise disciplinary authority over the Executive Director and may remove him or her from office in accordance with Article 51(5). ‘

Or. en

Amendment 247

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 1095/2010

Chapter III – section 1A

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 248

Roberto Gualtieri

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 1095/2010

Chapter III – section 1A

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 249

Kay Swinburne

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 1095/2010

Chapter III – section 1A

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 250

Jakob von Weizsäcker, Jonás Fernández, Paul Tang

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 1095/2010

Article 44b – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) tasks, actions, and decisions for the supervision of systemically important CCPs established in the Union pursuant to Article 22g of Regulation (EU) 648/2012.

Or. en

Amendment 251

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) No 1095/2010
Chapter III – Section 3 – title

Text proposed by the Commission

Amendment

8. The title of Section 3 of Chapter III is replaced by the following:
‘Chairperson, Head and Directors’ *deleted*

Or. en

Amendment 252
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) No 1095/2010
Chapter III – Section 3 – title

Text proposed by the Commission

Amendment

8. The title of Section 3 of Chapter III is replaced by the following:
‘Chairperson, Head and Directors’ *deleted*

Or. en

Amendment 253
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) No 1095/2010
Chapter III – Section 3 – title

Text proposed by the Commission

Amendment

8. The title of Section 3 of Chapter III is replaced by the following:
‘Chairperson, Head and Directors’ *deleted*

Or. en

Amendment 254
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 9
Regulation (EU) No 1095/2010
Article 48 a

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 255
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 9
Regulation (EU) No 1095/2010
Article 48 a

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 256
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 9
Regulation (EU) No 1095/2010
Article 48 a

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 257

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) No 1095/2010

Article 49

Text proposed by the Commission

Amendment

10. Article 49 is replaced by the following:

deleted

‘Without prejudice to the role of the Board of Supervisors, in relation to the tasks of the Head of the CCP Executive Session and the Directors referred to in point (i) of Article 44a(1)(a) and Chairperson, shall neither seek or take instructions from the Union institutions or bodies, from any government of a Member State or from any other public or private body.

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Head of the CCP Executive Session and the Directors referred to in point (i) of Article 44a(1)(a) or the Chairperson in the performance of his or her tasks.

In accordance with the Staff Regulations referred to in Article 68, the Chairperson, the Head of the CCP Executive Session and the Directors referred to in point (i) of 44a(1)(a) shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. ‘

Or. en

Amendment 258
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 10
Regulation (EU) No 1095/2010
Article 49

Text proposed by the Commission

Amendment

10. Article 49 is replaced by the following: **deleted**

‘Without prejudice to the role of the Board of Supervisors, in relation to the tasks of the Head of the CCP Executive Session and the Directors referred to in point (i) of Article 44a(1)(a) and Chairperson, shall neither seek or take instructions from the Union institutions or bodies, from any government of a Member State or from any other public or private body.

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Head of the CCP Executive Session and the Directors referred to in point (i) of Article 44a(1)(a) or the Chairperson in the performance of his or her tasks.

In accordance with the Staff Regulations referred to in Article 68, the Chairperson, the Head of the CCP Executive Session and the Directors referred to in point (i) of 44a(1)(a) shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. ‘

Or. en

Amendment 259
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 10
Regulation (EU) No 1095/2010
Article 49

Text proposed by the Commission

Amendment

10. Article 49 is replaced by the following: *deleted*

‘Without prejudice to the role of the Board of Supervisors, in relation to the tasks of the Head of the CCP Executive Session and the Directors referred to in point (i) of Article 44a(1)(a) and Chairperson, shall neither seek or take instructions from the Union institutions or bodies, from any government of a Member State or from any other public or private body.

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Head of the CCP Executive Session and the Directors referred to in point (i) of Article 44a(1)(a) or the Chairperson in the performance of his or her tasks.

In accordance with the Staff Regulations referred to in Article 68, the Chairperson, the Head of the CCP Executive Session and the Directors referred to in point (i) of 44a(1)(a) shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. ‘

Or. en

Amendment 260
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 11

Text proposed by the Commission

Amendment

11. Article 50 is replaced by the following: *deleted*

‘1. The European Parliament or the Council may invite the Chairperson or his alternate, or the Head of the CCP Executive Session, to make a statement while fully respecting their independence. The Chairperson or the Head shall make a statement before the European Parliament and answer any questions put by its members, whenever so requested.

2. The Chairperson or the Head of the CCP Executive Session shall report in writing on the main activities of Board of Supervisors and of the CCP Executive Session, respectively, to the European Parliament where requested and at least 15 days before making the statement referred to in paragraph 1.

3. In addition to the information referred to in Articles 11 to 18 and Articles 20 and 33, the Chairperson shall report any relevant information requested by the European Parliament on an ad-hoc basis.

In addition to the information referred to in Article 33, the Head of the CCP Executive Session shall report any relevant information requested by the European Parliament on an ad-hoc basis.’

Or. en

**Amendment 261
Kay Swinburne**

**Proposal for a regulation
Article 1 – paragraph 1 – point 11**

Text proposed by the Commission

Amendment

11. Article 50 is replaced by the following: *deleted*

‘1. The European Parliament or the Council may invite the Chairperson or his alternate, or the Head of the CCP Executive Session, to make a statement while fully respecting their independence. The Chairperson or the Head shall make a statement before the European Parliament and answer any questions put by its members, whenever so requested.

2. The Chairperson or the Head of the CCP Executive Session shall report in writing on the main activities of Board of Supervisors and of the CCP Executive Session, respectively, to the European Parliament where requested and at least 15 days before making the statement referred to in paragraph 1.

3. In addition to the information referred to in Articles 11 to 18 and Articles 20 and 33, the Chairperson shall report any relevant information requested by the European Parliament on an ad-hoc basis.

In addition to the information referred to in Article 33, the Head of the CCP Executive Session shall report any relevant information requested by the European Parliament on an ad-hoc basis.’

Or. en

**Amendment 262
Roberto Gualtieri**

**Proposal for a regulation
Article 1 – paragraph 1 – point 11**

Text proposed by the Commission

Amendment

11. Article 50 is replaced by the following: *deleted*

‘1. The European Parliament or the Council may invite the Chairperson or his alternate, or the Head of the CCP Executive Session, to make a statement while fully respecting their independence. The Chairperson or the Head shall make a statement before the European Parliament and answer any questions put by its members, whenever so requested.

2. The Chairperson or the Head of the CCP Executive Session shall report in writing on the main activities of Board of Supervisors and of the CCP Executive Session, respectively, to the European Parliament where requested and at least 15 days before making the statement referred to in paragraph 1.

3. In addition to the information referred to in Articles 11 to 18 and Articles 20 and 33, the Chairperson shall report any relevant information requested by the European Parliament on an ad-hoc basis.

In addition to the information referred to in Article 33, the Head of the CCP Executive Session shall report any relevant information requested by the European Parliament on an ad-hoc basis.

Or. en

Amendment 263

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Text proposed by the Commission

Amendment

12. Article 53 is amended as follows: *deleted*

(a) Paragraph 2 is replaced by the following:

‘2. The Executive Director shall be responsible for implementing the annual work programme of the Authority under the guidance of the Board of Supervisors and the CCP Executive Session and under the control of the Management Board. ‘

(b) Paragraph 4 is replaced by the following:

‘4. The Executive Director shall prepare a multi-annual work programme, as referred to in Article 47(2). For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP Executive Session prior to submitting it to the Management Board. ‘

(c) Paragraph 7 is replaced by the following:

‘7. Each year the Executive Director shall prepare a draft report with a section on the regulatory and supervisory activities of the Authority and a section on financial and administrative matters.

For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP Executive Session prior to submitting it to the Management Board. ‘

Or. en

**Amendment 264
Kay Swinburne**

**Proposal for a regulation
Article 1 – paragraph 1 – point 12**

Text proposed by the Commission

Amendment

12. Article 53 is amended as follows: *deleted*

(a) Paragraph 2 is replaced by the following:

‘2. The Executive Director shall be responsible for implementing the annual work programme of the Authority under the guidance of the Board of Supervisors and the CCP Executive Session and under the control of the Management Board. ‘

(b) Paragraph 4 is replaced by the following:

‘4. The Executive Director shall prepare a multi-annual work programme, as referred to in Article 47(2). For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP Executive Session prior to submitting it to the Management Board. ‘

(c) Paragraph 7 is replaced by the following:

‘7. Each year the Executive Director shall prepare a draft report with a section on the regulatory and supervisory activities of the Authority and a section on financial and administrative matters.

For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP Executive Session prior to submitting it to the Management Board. ‘

Or. en

**Amendment 265
Roberto Gualtieri**

**Proposal for a regulation
Article 1 – paragraph 1 – point 12**

Text proposed by the Commission

Amendment

12. Article 53 is amended as follows: *deleted*

(a) Paragraph 2 is replaced by the following:

‘2. The Executive Director shall be responsible for implementing the annual work programme of the Authority under the guidance of the Board of Supervisors and the CCP Executive Session and under the control of the Management Board. ‘

(b) Paragraph 4 is replaced by the following:

‘4. The Executive Director shall prepare a multi-annual work programme, as referred to in Article 47(2). For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP Executive Session prior to submitting it to the Management Board. ‘

(c) Paragraph 7 is replaced by the following:

‘7. Each year the Executive Director shall prepare a draft report with a section on the regulatory and supervisory activities of the Authority and a section on financial and administrative matters.

For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP Executive Session prior to submitting it to the Management Board. ‘

Or. en

**Amendment 266
Roberto Gualtieri**

**Proposal for a regulation
Article 1 – paragraph 1 – point 12 – point a**

Text proposed by the Commission

2. The Executive Director shall be responsible for implementing the annual work programme of the Authority under the guidance of the Board of Supervisors and the CCP *Executive Session* and under the control of the Management Board.

Amendment

2. The Executive Director shall be responsible for implementing the annual work programme of the Authority under the guidance of the Board of Supervisors and the CCP *Supervisory Committee* and under the control of the Management Board.

Or. en

Amendment 267
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 12 – point b
Regulation (EU) No 1095/2010
Article 53 – paragraph 4

Text proposed by the Commission

4. The Executive Director shall prepare a multi-annual work programme, as referred to in Article 47(2). For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP *Executive Session* prior to submitting it to the Management Board.

Amendment

4. The Executive Director shall prepare a multi-annual work programme, as referred to in Article 47(2). For the tasks and powers referred to in Article 44b(1), the Executive Director shall obtain the consent of the CCP *Supervisory Committee* prior to submitting it to the Management Board.

Or. en

Amendment 268
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 13
Regulation (EU) No 1095/2010
Article 63 – paragraph 1 a

Text proposed by the Commission

Amendment

13. In Article 63, the following paragraph 1a is inserted: *deleted*

‘1a. ESMA’s expenditure and fees relating to the tasks and powers referred to in Article 44b (1) shall be separately identifiable within the statement of estimates referred to in paragraph 1. Prior to the adoption of that statement of estimates, the draft prepared by the Executive Director relating to such expenditure and fees shall be approved by the CCP Executive Session.

The annual accounts of ESMA drawn up and published in accordance with Article 64(6) shall include the income and expenses related to the tasks referred to in Article 44b(1). ‘

Or. en

Amendment 269

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) No 1095/2010

Article 63 – paragraph 1 a

Text proposed by the Commission

Amendment

13. In Article 63, the following paragraph 1a is inserted: *deleted*

‘1a. ESMA’s expenditure and fees relating to the tasks and powers referred to in Article 44b (1) shall be separately identifiable within the statement of estimates referred to in paragraph 1. Prior to the adoption of that statement of estimates, the draft prepared by the Executive Director relating to such expenditure and fees shall be approved by

the CCP Executive Session.

The annual accounts of ESMA drawn up and published in accordance with Article 64(6) shall include the income and expenses related to the tasks referred to in Article 44b(1). ‘

Or. en

Amendment 270
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 13
Regulation (EU) No 1095/2010
Article 63 – paragraph 1 a

Text proposed by the Commission

Amendment

13. In Article 63, the following paragraph 1a is inserted: *deleted*

‘1a. ESMA’s expenditure and fees relating to the tasks and powers referred to in Article 44b (1) shall be separately identifiable within the statement of estimates referred to in paragraph 1. Prior to the adoption of that statement of estimates, the draft prepared by the Executive Director relating to such expenditure and fees shall be approved by the CCP Executive Session.

The annual accounts of ESMA drawn up and published in accordance with Article 64(6) shall include the income and expenses related to the tasks referred to in Article 44b(1). ‘

Or. en

Amendment 271
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

14. In Article 70, paragraph 1 is replaced by the following: *deleted*

‘1. Members of the Board of Supervisors, the CCP Executive Session and the Management Board, the Executive Director, and members of the staff of the Authority, including officials seconded by Member States on a temporary basis and all other persons carrying out tasks for the Authority on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and the relevant provisions in Union legislation, even after their duties have ceased. ‘

Or. en

Amendment 272
Kay Swinburne

Proposal for a regulation
Article 1 – paragraph 1 – point 14
Regulation (EU) No 1095/2010
Article 70 – paragraph 1

Text proposed by the Commission

Amendment

14. In Article 70, paragraph 1 is replaced by the following: *deleted*

‘1. Members of the Board of Supervisors, the CCP Executive Session and the Management Board, the Executive Director, and members of the staff of the Authority, including officials seconded by Member States on a temporary basis and all other persons carrying out tasks for the Authority on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and the

*relevant provisions in Union legislation,
even after their duties have ceased. ‘*

Or. en

Amendment 273

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EU) No 1095/2010

Article 70 – paragraph 1

Text proposed by the Commission

Amendment

**14. In Article 70, paragraph 1 is
replaced by the following:**

deleted

‘1. Members of the Board of Supervisors, the CCP Executive Session and the Management Board, the Executive Director, and members of the staff of the Authority, including officials seconded by Member States on a temporary basis and all other persons carrying out tasks for the Authority on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and the relevant provisions in Union legislation, even after their duties have ceased. ‘

Or. en

Amendment 274

Kay Swinburne

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EU) No 1095/2010

Article 76 – paragraph 2 a

Text proposed by the Commission

Amendment

15. In Article 76, the following paragraph 2a is inserted: *deleted*

‘2a. Until such time as the Head of the CCP Executive Session and the Directors of the CCP Executive Session referred to in Article 44a(1) take up their duties following their appointment in accordance with Article 48a, the functions of the CCP Executive Session shall be carried out by the Board of Supervisors. ‘

Or. en

Amendment 275
Roberto Gualtieri

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EU) No 1095/2010
Article 76 – paragraph 2 a

Text proposed by the Commission

Amendment

15. In Article 76, the following paragraph 2a is inserted: *deleted*

‘2a. Until such time as the Head of the CCP Executive Session and the Directors of the CCP Executive Session referred to in Article 44a(1) take up their duties following their appointment in accordance with Article 48a, the functions of the CCP Executive Session shall be carried out by the Board of Supervisors. ‘

Or. en

Amendment 276
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EU) No 1095/2010
Article 76 – paragraph 2 a

Text proposed by the Commission

Amendment

15. In Article 76, the following paragraph 2a is inserted: *deleted*

‘2a. Until such time as the Head of the CCP Executive Session and the Directors of the CCP Executive Session referred to in Article 44a(1) take up their duties following their appointment in accordance with Article 48a, the functions of the CCP Executive Session shall be carried out by the Board of Supervisors. ‘

Or. en

Amendment 277
Neena Gill

Proposal for a regulation
Article 2 – paragraph 1 – point -1 (new)
Regulation (EU) No 648/2012
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

(-1) In Article 2, the following point (1a) is inserted:

“(1a) ‘CCP service’ means the CCP activities or services relating to a specific class of financial instruments as set out by point 15 of Article 4 of Directive 2014/65/EU or a specific class of derivatives as defined by point 6;”

Or. en

Amendment 278
Anne Sander

Proposal for a regulation

Article 2 – paragraph 1 – point -1 (new)

Regulation (EU) No 648/2012

Article 2 – paragraph 1 – point 29 a (new)

Text proposed by the Commission

Amendment

(-1) In Article 2, the following point (29a) is added:

“(29a) ‘Non-EU Group’ means, for the purposes of Article 4, a group as defined in Article 2(11) of Directive 2013/34/EU.”

Or. en

Amendment 279

Anne Sander

Proposal for a regulation

Article 2 – paragraph 1 – point -1 a (new)

Regulation (EU) No 648/2012

Article 4 – paragraph 1 – point a – point v a (new)

Text proposed by the Commission

Amendment

(-1a) In Article 4, paragraph 1, point (a), point (va) is added as follows:

(va) between (a) entities established in a third country, belonging to the same non-EU Group comprising at least one entity that would be subject to the clearing obligation as per one of the paragraphs (i) to (v) above if it were established in the Union, and taking positions in euro denominated OTC derivatives contracts and, (b) a financial counterparty, or a non-financial counterparty that meet the conditions referred to in article 10(1)(b), or an entity established in a third country that would be subject to the clearing obligation as per one of the paragraphs (i) to (v) above if it were established in the Union.

Each non-EU Group shall calculate annually, its aggregate month-end average position over 30 working days by

including all OTC derivative contracts entered into by all entities within its non-EU Group. When such positions exceed the clearing thresholds, any entity within the non-EU Group shall immediately notify ESMA and the relevant competent authority thereof and all entities of the same non-EU Group shall become subject to the clearing obligation as specified above.

Or. en

Amendment 280
Markus Ferber

Proposal for a regulation
Article 2 – paragraph 1 – point -1 (new)
Regulation (EU) No 648/2012
Article 4 a (new)

Text proposed by the Commission

Amendment

(-1) a new Article 4a is inserted:

Article 4a

Clearing obligation for derivatives in EU currencies

Derivatives in an EU currency shall be cleared within the European Union. CCPs clearing derivatives in an EU currency that are not based in the EU shall be deleted from the public register in accordance with Article 6 (2) b of this Regulation.

By way of derogation from paragraph 1, an exception is only permitted if all of the following conditions are met:

(a) There is an effective agreement between the EU supervisory authority and the competent supervisory authority of the third country that ensures European standards are enforced on the supervision of the CCP in question, and which ensures the competent European supervisory authority is given full rights

of access in times of crisis.

(b) There is an effective agreement between the European Central Bank and the central bank of the third country that regulates the provision of emergency liquidity and all the obligations involved.

Or. de

Amendment 281
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 1 a (new)
Regulation (EU) No 648/2012
Article 6 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(1a) In Article 6, paragraph 2, point (ba) is inserted:

(ba) the Tier of the third-country CCP, where applicable;

Or. en

Amendment 282
Pervenche Berès

Proposal for a regulation
Article 2 – paragraph 1 – point 2 a (new)
Regulation (EU) 648/2012
Article 17 – paragraph 4 – subparagraph 4

Present text

Amendment

Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a majority of *two-thirds of* the college *have* expressed a negative opinion, any of the competent

2a. In Article 17, the fourth subparagraph of paragraph 4 is replaced by the following:

*‘Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a **simple** majority of the college **has** expressed a negative opinion, any of the*

authorities concerned, **based on that majority of two-thirds of the college**, may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

competent authorities concerned may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation(EU) No 1095/2010. ‘

Or. en

Justification

This amendment aims at reinforcing the convergence of supervisory practices by lowering the quorum needed to request a binding mediation by ESMA.

Amendment 283

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 2 a (new)

Regulation (EU) No 648/2012

Article 17 – paragraph 4 – subparagraph 4

Present text

Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a majority of **two-thirds of the college** **have** expressed a negative opinion, any of the competent authorities concerned, **based on that majority of two-thirds of the college**, may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

Amendment

2a. In Article 17, the fourth subparagraph of paragraph 4 is replaced by the following:

‘Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a **simple** majority of the college **has** expressed a negative opinion, any of the competent authorities concerned may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation(EU) No 1095/2010.’

Or. en

Justification

Simple majority instead of the two thirds (as in the future resolution colleges) in order to improve the effectiveness of the procedures.

Amendment 284
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 2 a (new)
Regulation (EU) 648/2012
Article 17 – paragraph 4 – subparagraph 4

Present text

Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a majority *of two-thirds* of the college have expressed a negative opinion, any of the competent authorities concerned, *based on that majority of two-thirds of the college*, may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

Amendment

(2a) In Article 17(4), the fourth subparagraph is replaced by the following:

Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a *simple* majority of the college have expressed a negative opinion, any of the competent authorities concerned may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

Or. fr

Justification

This amendment aims to reduce the quorum required to ask for binding mediation from ESMA from 2/3 to a simple majority. This will increase ESMA's involvement within the colleges and will help it contribute more towards standardising supervision practices.

Amendment 285
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation
Article 2 – paragraph 1 – point 2 a (new)
Regulation (EU) No 648/2012
Article 17 – paragraph 4 – subparagraph 4

Present text

Amendment

(2a) In Article 17, the fourth

Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a majority *of two-thirds* of the college *have* expressed a negative opinion, any of the competent authorities concerned, *based on that majority of two-thirds of the college*, may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

subparagraph of paragraph 4 is replaced by the following:

“Where a joint opinion by mutual agreement as referred to in the third subparagraph has not been reached and a *simple* majority of the college *has* expressed a negative opinion, any of the competent authorities concerned may, within 30 calendar days of the adoption of that negative opinion, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.”

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0648>)

Justification

This amendment aims at reducing the quorum to request the binding mediation of ESMA from 2/3 to a simple majority. This would allow for a stronger involvement of ESMA within the colleges, then strengthening its role in the convergence of supervisory practices.

Amendment 286 **Burkhard Balz**

Proposal for a regulation
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 648/2012
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

(a) paragraph 1 is replaced by the following:

deleted

‘1. Within 30 calendar days of the submission of a complete application in accordance with Article 17, the CCP’s competent authority shall establish a college to facilitate the exercise of the tasks referred to in Articles 15, 17, 49, 51 and 54.

The Head of the CCP Executive Session referred to in Article 48a of Regulation (EU) No 1095/2010 shall chair and manage the college. ‘

Or. en

Amendment 287

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point a

Regulation (EU) No 648/2012

Article 18 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Head of the CCP ***Executive Session referred to in Article 48a of Regulation (EU) No 1095/2010*** shall chair and manage the college.

Amendment

The Head of the CCP ***Supervisory Committee*** shall chair and manage the college.”

Or. en

Amendment 288

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point a

Regulation (EU) No 648/2012

Article 18 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The ***Head*** of the CCP ***Executive Session*** referred to in Article ***48a of Regulation (EU) No 1095/2010*** shall chair and manage the college.

Amendment

The ***Chair*** of the CCP ***Supervisory Committee*** referred to in Article ***22a*** shall chair and manage the college.

Or. en

Amendment 289
Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 648/2012
Article 18 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The **Head** of the CCP **Executive Session** referred to in Article **48a of Regulation (EU) No 1095/2010** shall chair and manage the college.

Amendment

The **Chair** of the CCP **Supervisory Committee** referred to in Article **22b** shall chair and manage the college.

Or. en

Amendment 290
Burkhard Balz

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point b
Regulation (EU) No 648/2012
Article 18 – paragraph 2 – point a

Text proposed by the Commission

(b) *in paragraph 2, point (a) is replaced by the following:*

‘(a) the permanent members of the CCP Executive Session referred to in Article 44a of Regulation (EU) No 1095/2010; ‘

Amendment

deleted

Or. en

Amendment 291
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point b
Regulation (EU) No 648/2012
Article 18 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(b) *in paragraph 2, point (a) is replaced by the following:* **deleted**

‘(a) the permanent members of the CCP Executive Session referred to in Article 44a of Regulation (EU) No 1095/2010; ‘

Or. en

Amendment 292

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point b

Regulation (EU) No 648/2012

Article 18 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the permanent members of the CCP Executive Session referred to in Article 44a of Regulation (EU) No 1095/2010;

(a) the permanent members of the CCP Supervisory Committee referred to in Article 22a;

Or. en

Amendment 293

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point b

Regulation (EU) No 648/2012

Article 18 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the permanent members of the CCP Executive Session referred to in Article 44a of Regulation (EU) No 1095/2010;

(a) the permanent members of the CCP Supervisory Committee referred to in Article 22a;

Or. en

Justification

To ensure consistency with the new supervisory framework within ESMA

Amendment 294
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 3 – point b
Regulation (EU) No 648/2012
Article 18 – paragraph 2 – point a

Text proposed by the Commission

(a) the permanent members of the CCP
Executive Session referred to in Article
44a of Regulation (EU) No 1095/2010;

Amendment

(a) the permanent members of the CCP
Supervisory Committee referred to in
Article *22b*;

Or. en

Amendment 295
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 3 – point c a (new)
Regulation (EU) No 648/2012
Article 18 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

*(ca) in paragraph 2, point (ca) is
inserted:*

*(ca) the central banks of issue of the
most relevant currencies of the financial
instruments cleared.*

Or. en

Amendment 296
Stanisław Ożóg

Proposal for a regulation
Article 2 – paragraph 1 – point 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) In Article 18, paragraph 2, point (ha) is inserted:

(ha) the central banks of issue, other than the ones referred to in paragraph 2(g) and paragraph 2(h), of Union currencies where the CCP clears the majority of all OTC derivatives subject to the clearing obligation which are denominated in those currencies, subject to the consent of the CCP's competent authority. The central bank shall request the consent of the CCP's competent authority to participate in the college, justifying the request based on its assessment of the impact a CCP's financial distress may have on financial stability of the local market of its currency of issue. In case of the refusal, the CCP's competent authority shall provide full and detailed reasons in writing.

Or. en

Justification

Financial distress of a CCP, both EU-based and third-country, may have a systemic impact on financial stability in a given EU Member State – through the tensions in financial markets (especially the money market) and the large value payment system operated by the relevant member of the ESCB. Yet, that central bank of issue, being outside the supervisory body, may have no information whatsoever on the CCP's risk management procedures (in particular the framework for managing liquidity risk in its currency of issue) or financial conditions, not to mention being able to voice its concerns in a timely fashion. Hence, the Article 18(2) of EMIR should be supplemented with a new point (i) which would make it possible to participate (with voting rights) in a supervisory college for a given CCP for a CBI of an EU currency for which that CCP is systemically important, in case that central bank is not eligible to participate in that college under 18(2)(g) or 18(2)(h).

Amendment 297
Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point c a (new)

Regulation (EU) No 648/2012

Article 18 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) in paragraph 4, point (ca) is inserted:

(ca) the preparation of an opinion to the CCP Supervisory Committee where that committee is required to provide its consent or is consulted in accordance with Article 21a.

Or. en

Amendment 298

Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point c a (new)

Regulation (EU) No 648/2012

Article 18 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(ca) In paragraph 4, the following subparagraphs are added:

To make ESMA's supervisory role easier and ensure members of the colleges play an active part in this role, if a college member believes, based on the information shared in accordance with (b), that the risk management practices of a CCP do not meet all the requirements stipulated in this regulation, or that they might jeopardise their resilience, this member may submit a recommendation to the competent authority and the college to rectify the situation and to improve the CCP's resilience.

The college may adopt the recommendation by a simple majority of its members. In the 30 days following the recommendation's adoption by the

college, ESMA shall carry out an investigation and decide whether there is scope for taking specific supervisory measures in accordance with Article 21a, paragraph 3. It shall inform the competent authority and college immediately of its decision.

Or. fr

Justification

This amendment aims to make supervision easier for ESMA and to facilitate ESMA's role in standardising prudential practices by giving every college member the opportunity to raise queries with the college and the competent national authority of the CCP.

Amendment 299

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point c a (new)

Regulation (EU) No 648/2012

Article 18 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(ca) in paragraph 4, the following subparagraph is added:

To facilitate ESMA's supervisory task and involve closely college members, where any member of the college assesses, on the basis of information exchanged pursuant to point (b), that the risk management practices of a CCP do not comply with all the requirements laid down in this Regulation or otherwise entail shortcomings in its resilience, the member may submit to the competent authority and the college a recommendation to address the issue and improve the resilience of the CCP. The college may adopt the recommendation on the basis of a simple majority of its members. Within 30 days of the adoption of the recommendation by the college, ESMA shall assess the issue and the

recommendation and decide whether to request any specific supervisory action pursuant to Article 21a (3). It shall immediately inform the competent authority and the college.

The competent authority shall keep the college informed of any subsequent action or absence thereof with respect to the recommendation. Where the competent authority has failed to take action within 90 days after the adoption of the recommendation and where failing to take action may result in non-compliance with the requirements laid down in this Regulation, any member of the college may, within 30 days after the end of the 90 days period, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010. “

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0648>)

Justification

This amendment aims at facilitating ESMA's supervisory tasks and ESMA's role in the harmonization of supervisory practices by providing any member of the college the opportunity to raise issues to the college and to the national competent authority of the CCP, and by providing ESMA with the possibility to request specific supervisory action, as provided pursuant to Article 21a (3).

Amendment 300

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point c a (new)

Regulation (EU) No 648/2012

Article 18 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(ca) The following paragraph 4a is inserted:

4a. Where any member of the college assesses, on the basis of information

exchanged pursuant to point (b), that the risk management practices of a CCP does not comply with all the requirements laid down in this Regulation or otherwise entail shortcomings in its resilience, the member may submit to the competent authority and the college a recommendation to address the issue and improve the resilience of the CCP.

The college may adopt the recommendation on the basis of a simple majority of its members.

Within 30 days of the adoption of the recommendation by the college, ESMA shall assess the issue and the recommendation and decide whether to request any specific supervisory action pursuant to Article 21a (3).

It shall immediately inform the competent authority and the college. The competent authority shall keep the college informed of any subsequent action or absence thereof with respect to the recommendation.

Where the competent authority has failed to take action within 90 days after the adoption of the recommendation and where failing to take action may result in non-compliance with the requirements laid down in this Regulation, any member of the college may, within 30 days after the end of the 90 days period, refer the matter to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

Or. en

Justification

New power to strengthen existing colleges.

Amendment 301
Anne Sander, Alain Lamassoure

Proposal for a regulation

Article 2 – paragraph 1 – point 3 a (new)

Regulation (EU) No 648/2012

Article 19 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In Article 19, the following subparagraph is added in paragraph 1:

At the request of any member of the college and upon adoption by a majority of the college, the opinion may include recommendations to improve the resilience of the CCP.

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0648>)

Justification

This amendment aims at strengthening the role of the college for mitigating the risks born by the CCP which could deeply impact its stakeholders. This would also lead to a stronger dialogue between the national competent authority of the CCP and the competent authorities of its stakeholders.

Amendment 302

Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 3 a (new)

Regulation (EU) No 648/2012

Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(3a) In Article 19, after paragraph 1 the following subparagraph is inserted:

At the request of each college member and once it has been adopted by the college by a simple majority, the opinion may include recommendations for improving the resilience of the CCP.

Justification

This amendment aims to give the college more powers to mitigate risks borne by the CCP, which may have a major impact on users and stakeholders as a whole.

Amendment 303

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 3 a (new)

Regulation (EU) No 648/2012

Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

3a. In Article 19, the following paragraph 1a is inserted:

‘1a. At the request of any member of the college and upon adoption by a majority of the college, the opinion may include recommendations to improve the resilience of the CCP.’

Or. en

Justification

New power in order to strengthen colleges.

Amendment 304

Burkhard Balz

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EU) No 648/2012

Article 19 – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

The representative of the Commission shall be non-voting member. The other permanent members of the CCP

deleted

Executive Session shall have one vote each.

Or. en

Amendment 305
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 4
Regulation (EU) No 648/2012
Article 19 – paragraph 3 – subparagraph 4

Text proposed by the Commission

The representative of the Commission shall be non-voting member. The *other permanent members* of the CCP *Executive Session* shall have one vote *each*.

Amendment

The representative of the Commission shall be non-voting member. The *Chair* of the CCP *Supervisory Committee* shall have one vote, *the Vice-Chair and the Directors of the CCP Supervisory committee shall be non-voting members in the colleges*.

Or. en

Amendment 306
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 4
Regulation (EU) No 648/2012
Article 19 – paragraph 3 – subparagraph 4

Text proposed by the Commission

The representative of the Commission shall be non-voting member. *The other permanent members of the CCP Executive Session shall have one vote each*.

Amendment

The representative of the Commission shall be non-voting member.

Or. en

Amendment 307
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 6
Regulation (EU) No 648/2012
Article 21 – paragraphs 1 and 3

Text proposed by the Commission

Amendment

6. Article 21 is amended as follows: *deleted*

(a) paragraph 1 is replaced by the following:

‘1. Without prejudice to the role of the college, the competent authorities referred to in Article 22, in cooperation with ESMA, shall review the arrangements, strategies, processes and mechanisms implemented by CCPs to comply with this Regulation and evaluate the risks to which CCPs are, or might be, exposed. ‘

(b) paragraph 3 is replaced by the following:

‘3. ESMA shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale and complexity of the activities of the CCPs concerned. The review and evaluation shall be updated at least on an annual basis.

The CCPs shall be subject to on-site inspections. ESMA staff shall be invited to participate in these on-site inspections.

The competent authority shall forward to ESMA any information received from the CCPs and shall request from the relevant CCP any information sought by ESMA which it cannot provide. ‘

Or. en

Amendment 308
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point a

Regulation (EU) No 648/2012

Article 21 – paragraph 1

Text proposed by the Commission

1. Without prejudice to the role of the college, the competent authorities referred to in Article 22, in cooperation with ESMA, shall review the arrangements, strategies, processes and mechanisms implemented by CCPs to comply with this Regulation and evaluate the risks to which CCPs are, or might be, exposed.

Amendment

1. Without prejudice to the role of the college, the competent authorities referred to in Article 22, in **close** cooperation with ESMA, shall review the arrangements, strategies, processes and mechanisms implemented by CCPs to comply with this Regulation and evaluate the risks, **which include, at least, financial, operational and cyber risks**, to which CCPs are, or might be, exposed.

Or. en

Amendment 309

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b

Regulation (EU) No 648/2012

Article 21 – paragraph 3 – subparagraph 1

Text proposed by the Commission

ESMA shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale **and** complexity of the activities of the CCPs concerned. The review and evaluation shall be updated at least on an annual basis.

Amendment

ESMA shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale, complexity of the activities **and interconnectedness with other financial market infrastructures** of the CCPs concerned. The review and evaluation shall be updated at least on an annual basis.

Or. en

Amendment 310

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b

Regulation (EU) No 648/2012

Article 21 – paragraph 3 – subparagraph 1

Text proposed by the Commission

ESMA shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 **having** regard to the size, systemic importance, nature, scale and complexity of the activities of the CCPs concerned. The review and evaluation shall be updated at least on an annual basis.

Amendment

ESMA shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 **giving particular** regard to the size, systemic importance, nature, scale and complexity of the activities of the CCPs concerned. The review and evaluation shall be updated at least on an annual basis.

Or. en

Amendment 311

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b

Regulation (EU) No 648/2012

Article 21 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

ESMA shall assess CCPs through regular stress-testing and crisis simulation exercises with respect to potential system-wide stress events. In exercising this role, ESMA shall ensure consistency with the assessments of the resilience of individual CCPs carried out pursuant to Chapter XII of Commission Delegated Regulation (EU) No 153/2013 with regard to the frequency and design of the tests and shall cooperate closely with the colleges established in accordance with Article 18 of this Regulation, the ESRB and competent authorities designated under Article 4 of Directive 2013/36/EU, including the ECB in carrying out its tasks within a single supervisory mechanism under Regulation (EU) No

1024/2013 and any national competent authorities tasked with the supervision of CCPs.

Or. en

Amendment 312

Petr Ježek, Caroline Nagtegaal, Wolf Klinz

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b

Regulation (EU) No 648/2012

Article 21 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The CCPs shall be subject to on-site inspections. ESMA staff shall ***be invited to*** participate in these on-site inspections.

Amendment

The CCPs shall be subject to on-site inspections. ESMA staff shall participate in these on-site inspections, ***unless ESMA decides otherwise.***

Or. en

Justification

This is to clarify that solely ESMA staff decide whether or not they participate in these on-site inspections, and that it is not dependent on an invitation from competent authorities.

Amendment 313

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b

Regulation (EU) No 648/2012

Article 21 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The CCPs ***shall*** be subject to on-site inspections. ***ESMA staff shall be invited to participate in these on-site inspections.***

Amendment

The CCPs ***may*** be subject to ***appropriate*** on-site inspections ***where necessary.***

Or. en

Amendment 314
Pervenche Berès

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b a (new)

Regulation (EU) No 648/2012

Article 21 – paragraph 6 – subparagraph 2 – point a

Present text

Amendment

(ba) in paragraph 6, point (a) of the second subparagraph is replaced by the following:

(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010; and

‘(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010, ***including comparative analysis of the risk management practices of CCPs authorised in accordance with Article 14 this Regulation;*** and’

Or. en

Justification

By including the comparative analysis of risk management practices in the scope of peer reviews, this amendment ensures that ESMA will have greater means to monitor the decisions impacting the resilience of CCPs.

Amendment 315
Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b a (new)

Regulation (EU) No 648/2012

Article 21 – paragraph 6 – subparagraph 2 – point a

Present text

Amendment

(ba) in paragraph 6, point (a) of the second subparagraph is replaced by the

(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010; and

following:

(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010, *in addition to a comparative analysis of the risk management practices of all the CCPs authorised in accordance with Article 14 of this Regulation;* and”

Or. fr

Justification

This amendment broadens the scope of peer review analyses in order to cover the risk management practices of the CCP. This gives ESMA more powers in major decisions that have an impact on the resilience of a CCP.

Amendment 316 **Danuta Maria Hübner**

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b a (new)

Regulation (EU) No 648/2012

Article 21 – paragraph 6 – subparagraph 2 – point a

Present text

(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010; and

Amendment

(ba) in paragraph 6, point (a) of the second subparagraph is replaced by the following:

“(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010 *and a comparative analysis of the risk management practices of all CCPs authorised in accordance with Article 14 this Regulation;* and”

Or. en

Justification

This gives the right for ESMA to review directly CCP's risk management practices.

Amendment 317

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 6 – point b a (new)

Regulation (EU) No 648/2012

Article 21 – paragraph 6 – subparagraph 2 – point a

Present text

(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010; and

Amendment

(ba) point (a) of the second subparagraph of paragraph 6 is replaced by the following:

(a) conduct a peer review analysis of the supervisory activities of all competent authorities in relation to the authorisation and the supervision of CCPs in accordance with Article 30 of Regulation (EU) No 1095/2010 ***and a comparative analysis of the risk management practices of all CCPs authorised in accordance with Article 14 this Regulation; and***

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0648>)

Justification

This amendment broadens the scope of peer reviews to encompass CCP risk management practices directly. Such provision strengthens the role of ESMA in the major decisions impacting the resilience of a CCP

Amendment 318

Burkhard Balz

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 319
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – Title

Text proposed by the Commission

Amendment

Preparation of draft decisions

deleted

Or. en

Amendment 320
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21a – Title

Text proposed by the Commission

Amendment

Preparation of draft decisions

Procedures for cooperation and decision-making with regards to authorised CCPs

Or. en

Justification

Mirrors Article 4 SSM Regulation and introduces a tiering of authorised EU CCPs.

Amendment 321
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1a. For the purpose of this Article, ESMA shall determine the following two categories of CCPs authorised within the Union:

- (a) Significant CCPs;***
- (b) Less significant CCPs.***

This division shall be established by ESMA on the basis of the following criteria:

- (a) the nature, size and complexity of the CCP's business, including the value in aggregate terms and in each Union currency of transactions cleared by the CCP, or the aggregate exposure of the CCP engaged in clearing activities to its counterparties;***
- (b) the effect that the failure of or a disruption to the CCP would have on financial markets, financial institutions, or the broader financial system, or on the financial stability of the Union or for one or more of its Member States;***
- (c) the CCP's clearing membership structure;***
- (d) the CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system.***

By [12 months after the entry into force of this amending Regulation] ESMA shall adopt draft Regulatory Technical Standards further specifying the criteria referred to in point (a) to (d) of the second subparagraph.

Power is conferred on the Commission to

adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 322
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph -1 b (new)

Text proposed by the Commission

Amendment

-1b. With regard to decisions relating to CCPs referred to in point (a) of paragraph 1a, ESMA and national competent authorities shall cooperate in the manner set out in paragraphs 1 to 7.

Or. en

Amendment 323
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 1

Text proposed by the Commission

Amendment

1. Competent authorities shall prepare and submit draft decisions to ESMA for consent prior to adoption of any of the following decisions:

deleted

(a) decisions adopted pursuant to Articles 7, 8, 14, 15, 16, 20, 21, 30, 31, 35, 49 and 54 of this Regulation and Articles 35 and 36 of Regulation (EU) No 600/2014;

(b) any decisions adopted in the carrying out of their duties resulting from the requirements set out in Article 16 and Titles IV and V.

Or. en

**Amendment 324
Roberto Gualtieri**

**Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 1**

Text proposed by the Commission

1. Competent authorities shall prepare and submit draft decisions to ESMA for consent prior to adoption of any of the **following decisions:**

(a) decisions adopted pursuant to Articles 7, 8, 14, 15, 16, 20, 21, 30, 31, 35, 49 and 54 of this Regulation and Articles 35 and 36 of Regulation (EU) No 600/2014;

(b) any decisions adopted in the carrying out of their duties resulting from the requirements set out in **Article 16** and **Titles IV and V**.

Amendment

1. Competent authorities:

(a) Shall prepare and submit draft decisions to ESMA for consent prior to adoption of any of the decisions adopted pursuant to ***or in the carrying out of their duties resulting from the requirements set out in*** Articles 7, 8, 14, 15, 16, 20, 21, **26, 27, 28, 29,** 30, 31, **32, 33, 34,** 35, **36, 37, 39, 40, 42, 43, 44, 45, 47, 48,** 49, **50, 51, 52, 53,** 54 of this Regulation and Articles 35 and 36 of Regulation (EU) No 600/2014;

(b) ***Shall prepare and submit draft decisions to ESMA for consultation prior to adoption of any of the*** decisions adopted ***pursuant to or*** in the carrying out of their duties resulting from the requirements set out in **Articles 41** and **46 of this Regulation.**

Or. en

**Amendment 325
Andrea Cozzolino, Renato Soru, Simona Bonafè, Luigi Morgano**

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 1

Text proposed by the Commission

1. Competent authorities shall prepare and submit draft decisions to ESMA for consent prior to adoption of any of the *following* decisions:

(a) decisions adopted pursuant to Articles 7, 8, 14, 15, 16, 20, 21, 30, 31, 35, 49 and 54 of this Regulation and Articles 35 and 36 of Regulation (EU) No 600/2014;

(b) any decisions adopted in the carrying out of their duties resulting from the requirements set out in Article 16 and Titles IV and V.

Amendment

1. Competent authorities shall prepare and submit draft decisions to ESMA for consent prior to adoption of any of the *decisions adopted pursuant to or in the carrying out of their duties resulting from the requirements set out in Articles 35 and 36 of Regulation (EU) No 600/2014, Articles 7, 8, 14, 15, 16, 20, 21, 30, 31, 49, Titles IV and V, except 41, 44, 46, 50, 54 of this Regulation,*

Ia. Competent authorities may adopt, without prior submission to ESMA for consent or consultation, decisions adopted pursuant to or in the carrying out of their duties resulting from the requirements set out in Articles 41, 44, 46, 50, 54 of this Regulation

Or. en

Amendment 326
Jörg Meuthen

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 1 – introductory part

Text proposed by the Commission

1. Competent authorities shall **prepare and submit draft decisions to ESMA for consent** prior to adoption of any of the following decisions:

Amendment

1. Competent authorities shall **inform ESMA** prior to adoption of any of the following decisions:

Or. en

Amendment 327

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 1 – introductory part

Text proposed by the Commission

1. Competent authorities shall prepare and submit draft decisions to ESMA for **consent** prior to adoption of any of the following decisions:

Amendment

1. Competent authorities shall prepare and submit draft decisions to ESMA for **consideration** prior to adoption of any of the following decisions:

Or. en

Amendment 328

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 – paragraph 1 – point a

Text proposed by the Commission

(a) decisions adopted pursuant to Articles 7, 8, 14, 15, 16, 20, 21, 30, 31, 35, **49** and 54 of this Regulation and Articles 35 and 36 of Regulation (EU) No 600/2014;

Amendment

(a) decisions adopted pursuant to Articles 7, 8, 14, 15, 16, 20, 21, 30, 31, 35, **41, 44, 46, 49, 50** and 54 of this Regulation and Articles 35 and 36 of Regulation (EU) No 600/2014;

Or. en

Justification

ESMA shall be involved, with the consultation of the central bank, in decisions on margins, collateral and liquidity.

Amendment 329

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 1 – point a

Text proposed by the Commission

(a) decisions adopted pursuant to Articles **7, 8, 14, 15, 16**, 20, 21, 30, 31, 35, 49 and 54 of this Regulation and Articles **35 and 36** of Regulation (EU) No 600/2014;

Amendment

(a) decisions adopted pursuant to Articles 20, 21, 30, 31, 35, 49 and 54 of this Regulation and Articles **35(4) and 36(4)** of Regulation (EU) No 600/2014;

Or. en

Amendment 330

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 1 – point b

Text proposed by the Commission

(b) *any decisions adopted in the carrying out of their duties resulting from the requirements set out in Article 16 and Titles IV and V.*

Amendment

(b) *When ESMA determines that a draft decision submitted by a competent authority pursuant to paragraph 1 should be subject to the procedures pursuant to Article 15 or Article 49, it shall inform the competent authority and the college.*

Where ESMA makes such a determination, the competent authority shall not adopt its decision. The competent authority informs the CCP, applies the relevant procedure and prepares and submits a draft decision in

accordance with paragraph 1.

Or. en

Justification

This amendment aims at allowing ESMA to reclassify a decision taken by a national competent authority into a decision adopted pursuant to Articles 15 or 49. This aims at harmonizing the interpretation of decisions related to such articles and at involving the college in an appropriate manner for major decisions for the CCP and its stakeholders.

Amendment 331
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where ESMA deems that a draft decision submitted by a competent authority in accordance with paragraph 1 should be subject to the procedures laid down in Articles 15 or 49, it shall inform the competent authority and the college.

Where ESMA makes such a decision, the competent authority shall not adopt that decision. The competent authority shall inform the CCP, implement the appropriate procedure and prepare and submit a draft decision in accordance with paragraph 1.

Or. fr

Justification

This amendment aims to give ESMA powers to re-classify a decision made by a competent national authority as a decision adopted pursuant to Articles 15 and 49. It aims to standardise the interpretation of decisions relating to these articles, and to involve the college in decisions concerning the CCP and its stakeholders in a suitable way.

Amendment 332
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2

Text proposed by the Commission

Amendment

2. Competent authorities shall **deleted**
prepare and submit draft decisions to the
central banks of issue referred to in
Article 18(2)(h) before adopting any
decision pursuant to Articles 14, 15, 20,
44, 46, 50 and 54.

*Competent authorities shall obtain, in
accordance with Article 21(b) the consent
of the central banks of issue referred to in
the first subparagraph in respect of any
aspect of those decisions relating to the
carrying out of their monetary policy
tasks.*

Or. en

Amendment 333
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2

Text proposed by the Commission

Amendment

2. Competent authorities shall **deleted**
prepare and submit draft decisions to the
central banks of issue referred to in
Article 18(2)(h) before adopting any
decision pursuant to Articles 14, 15, 20,
44, 46, 50 and 54.

*Competent authorities shall obtain, in
accordance with Article 21(b) the consent
of the central banks of issue referred to in
the first subparagraph in respect of any*

aspect of those decisions relating to the carrying out of their monetary policy tasks.

Or. en

Justification

Replaced by comply or explain procedure in next Article.

Amendment 334
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

deleted

Or. en

Amendment 335
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

With regards to decisions pursuant to Articles 14, 15, 20, 44, 46, 50 and 54, the competent authority shall consult each central bank of issue referred to in Article 18(2)(h) on those aspects of the draft decision which relate to the currency it

issues. Each central bank of issue shall respond to the request for consultation within 10 working days as of the transmission of the draft decision. In emergency situations, the aforementioned period shall not exceed 24 hours. Upon conclusion of the period for consulting the central banks of issue, the competent authority shall make every effort to comply with the amendments proposed by them. Where the competent authority does not reflect in its draft decision to be submitted to the Board of Supervisors the amendments proposed by a central bank of issue, competent authority shall inform that central bank of issue in writing stating its full reasons and an explanation of any significant deviation from these amendments.

Or. en

Amendment 336

Andrea Cozzolino, Renato Soru, Simona Bonafè, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 2

Text proposed by the Commission

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

Amendment

With regards to decisions pursuant to Articles 44 and 50, the competent authority shall consult each central bank of issue referred to in Article 18(2)(h) on those aspects of the draft decision which relate to the currency it issues. Each central bank of issue shall respond to the request for consultation within 10 working days as of the transmission of the draft decision. In emergency situations, the aforementioned period shall not exceed 24 hours.

Or. en

Amendment 337
Jörg Meuthen

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 –subparagraph 1

Text proposed by the Commission

Competent authorities shall ***prepare and submit draft decisions to*** the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

Amendment

Competent authorities shall ***inform*** the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

Or. en

Amendment 338
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 –subparagraph 1

Text proposed by the Commission

Competent authorities shall ***prepare and submit draft decisions to*** the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles ***14, 15, 20,*** 44, 46, 50 and 54.

Amendment

Competent authorities shall ***consult*** the central banks of issue referred to in Article 18(2)(h) before adopting any decision ***related to requirements*** pursuant to Articles 44, 46, 50 and 54.

Or. en

Amendment 339
Thomas Mann

Proposal for a regulation
Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012
Article 21 a – paragraph 2 –subparagraph 1

Text proposed by the Commission

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, **44, 46**, 50 and 54.

Amendment

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, **42, 44, 46, 47, 48**, 50 and 54.

Or. de

Amendment 340
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21a – paragraph 2 –subparagraph 1

Text proposed by the Commission

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

Amendment

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, **41**, 44, 46, 50 and 54.

Or. fr

Justification

Margin management could have a major impact on the monetary policy of the CBIs given that they respond to significant strains on liquidity experienced by clearing recipients, which in turn would also have an impact on the smooth operation of these payment systems.

Amendment 341
Markus Ferber

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 –subparagraph 1

Text proposed by the Commission

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

Amendment

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, **47**, 50 and 54.

Or. de

Justification

If it cannot withdraw a supervisory body's business licence, the supervisory authority lacks the fundamental powers it requires to carry out its mandate. To ensure the perspective of the central bank of issue is taken into account, especially with regard to systemically important aspects of CCP activity, the central bank of issue should also be entitled to vote on the authorisation,

Amendment 342

Anne Sander, Alain Lamassoure

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, 44, 46, 50 and 54.

Amendment

Competent authorities shall prepare and submit draft decisions to the central banks of issue referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 14, 15, 20, **41**, 44, 46, 50 and 54.

Or. en

Amendment 343

Andrea Cozzolino, Renato Soru, Simona Bonafè, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Upon conclusion of the period for consulting the central banks of issue, the competent authority shall make every effort to comply with the amendments proposed by them.

Or. en

Amendment 344

Andrea Cozzolino, Renato Soru, Simona Bonafè, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 2 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

Where the competent authority does not reflect in its draft decision to the amendments proposed by a central bank of issue, the competent authority shall inform that central bank of issue in writing stating its full reasons and an explanation of any significant deviation from these amendments.

Or. en

Amendment 345

Andrea Cozzolino, Renato Soru, Simona Bonafè, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Competent authorities shall obtain, in accordance with Article 21(b) the consent of the central banks of issue referred to in

deleted

the first subparagraph in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks.

Or. en

Amendment 346
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Competent authorities shall obtain, in accordance with Article 21(b) the consent of the central banks of issue referred to in the first subparagraph in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks.

deleted

Or. en

Amendment 347
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Competent *authorities shall obtain*, in accordance with *Article 21(b) the consent of the central banks of issue referred to in the first subparagraph in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks.*

Central banks of issue as referred to in the first subparagraph may require the CCP to obtain an authorisation granting access to the activity of credit institution pursuant to Article 8 of Directive 2013/36/EU whenever such authorisation is deemed necessary for the effective

carrying out of the monetary policy objectives. When such a requirement is imposed, the competent authority may only prepare a draft decision pursuant to Article 14 or 15 in accordance with the procedure referred to in paragraph 1 when the central banks of issue referred to therein have provided ESMA with written confirmation, within 180 days of the submission of an application, that the CCP complies with such authorization or that such authorization is not required. The written confirmation shall provide a duly justified and reasoned explanation of the relevance of such authorisation for the carrying out of their monetary policy tasks.

Or. en

Amendment 348

Burkhard Balz

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 3

Text proposed by the Commission

Amendment

3. ESMA shall transmit to competent authorities any relevant information which may result in the adoption of a decision referred to in paragraph 1 and may request specific supervisory action, including withdrawal of authorisation. Competent authorities shall keep ESMA informed of any subsequent action or inaction thereto.

deleted

Or. en

Amendment 349

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 3

Text proposed by the Commission

3. ESMA shall transmit to competent authorities any relevant information which may result in the adoption of a decision referred to in paragraph 1 and may request specific supervisory **action**, including withdrawal of authorisation. Competent authorities shall keep ESMA informed of any subsequent action or inaction thereto.

Amendment

3. ESMA shall transmit to competent authorities any relevant information which may result in the adoption of a decision referred to in paragraph 1 and may request specific supervisory **actions as provided for in this Regulation within a specified timeframe**, including withdrawal of authorisation. Competent authorities shall keep ESMA informed of any subsequent action or inaction thereto.

Or. en

Amendment 350
Jörg Meuthen

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 4

Text proposed by the Commission

4. For the purposes of paragraph 1, the consent of ESMA shall be deemed to be given unless it proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after having been notified of that decision. Where ESMA proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

Amendment

deleted

Or. en

Amendment 351
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 4

Text proposed by the Commission

Amendment

4. *For the purposes of paragraph 1, the consent of ESMA shall be deemed to be given unless it proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after having been notified of that decision. Where ESMA proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.*

deleted

Or. en

Amendment 352
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 4

Text proposed by the Commission

Amendment

4. For the purposes of paragraph 1, the consent of ESMA shall be deemed to be given unless it proposes amendments or objects to the draft decision within a maximum period of **15** calendar days after having been notified of that decision. Where ESMA proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

4. For the purposes of paragraph 1, the consent of ESMA shall be deemed to be given unless it proposes amendments or objects to the draft decision within a maximum period of **30** calendar days after having been notified of that decision. Where ESMA proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

Or. en

Amendment 353
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 5

Text proposed by the Commission

Amendment

5. *Where ESMA proposes amendments, the competent authority may only adopt the decision as amended by ESMA.*

deleted

Where ESMA objects to a final draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 354
Jörg Meuthen

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 5

Text proposed by the Commission

Amendment

5. *Where ESMA proposes amendments, the competent authority may only adopt the decision as amended by ESMA.*

deleted

Where ESMA objects to a final draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 355
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012
Article 21 a – paragraph 5 – subparagraph 1

Text proposed by the Commission

Where ESMA proposes amendments, the competent authority **may only adopt the decision as amended by ESMA.**

Amendment

Where ESMA proposes amendments, the competent authority **must give due consideration to their suggestions.**

Or. en

Amendment 356
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 5 – subparagraph 2

Text proposed by the Commission

Where ESMA objects to a final draft decision, the competent authority **shall** not adopt that decision.

Amendment

Where ESMA objects to a final draft decision, the competent authority **may** not adopt that decision.

Or. en

Amendment 357
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 6

Text proposed by the Commission

6. Where the competent authority disagrees with the proposed amendment or the objection of ESMA, it may submit within 5 days a reasoned request to the Board of Supervisors referred to in Article 6(1) of Regulation (EU) No 1095/2010 to assess that objection or amendment. The Board of Supervisors shall either endorse

Amendment

deleted

or reject ESMA's objections or amendments within 10 days of that request and paragraph 5 shall apply accordingly.

Or. en

Amendment 358
Jörg Meuthen

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 6

Text proposed by the Commission

Amendment

6. Where the competent authority disagrees with the proposed amendment or the objection of ESMA, it may submit within 5 days a reasoned request to the Board of Supervisors referred to in Article 6(1) of Regulation (EU) No 1095/2010 to assess that objection or amendment. The Board of Supervisors shall either endorse or reject ESMA's objections or amendments within 10 days of that request and paragraph 5 shall apply accordingly.

deleted

Or. en

Amendment 359
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 6

Text proposed by the Commission

Amendment

6. Where the competent authority disagrees with the proposed amendment or

6. Where the competent authority disagrees with the proposed amendment or

the objection of ESMA, it may submit within 5 days a reasoned request to the Board of Supervisors referred to in Article 6(1) of Regulation (EU) No 1095/2010 to assess that objection or amendment. ***The Board of Supervisors shall either endorse or reject ESMA's objections or amendments within 10 days of that request and paragraph 5 shall apply accordingly.***

the objection of ESMA, it may submit within 5 days a reasoned request to the Board of Supervisors referred to in Article 6(1) of Regulation (EU) No 1095/2010 to assess that objection or amendment. ***ESMA's objections or amendments shall be deemed adopted unless the Board of Supervisors decides on the basis of a qualified majority, as defined in Article 16(4) of the Treaty on European Union and in Article 238(2) TFEU, to reject the draft decision within five working days of its transmission.***

Or. en

Amendment 360
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 7

Text proposed by the Commission

Amendment

7. Without prejudice to the powers of the Commission under Article 258 TFEU, ESMA may adopt a decision addressed to a financial market participant requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice in the following cases:

deleted

(a) where a competent authority does not comply with paragraph 5 in case of ESMA's objection or amendments to a final draft decision;

(b) where a competent authority, following a request from ESMA in accordance with paragraph 3, fails to take the requested action within a reasonable time where that failure results in a financial market participant breaching the applicable requirements in Titles IV and V of this Regulation.

Decisions adopted pursuant to the first subparagraph shall prevail over any previous decision adopted by the competent authorities on the same matter.

Or. en

Amendment 361
Jörg Meuthen

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 7

Text proposed by the Commission

Amendment

7. Without prejudice to the powers of the Commission under Article 258 TFEU, ESMA may adopt a decision addressed to a financial market participant requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice in the following cases:

deleted

(a) where a competent authority does not comply with paragraph 5 in case of ESMA's objection or amendments to a final draft decision;

(b) where a competent authority, following a request from ESMA in accordance with paragraph 3, fails to take the requested action within a reasonable time where that failure results in a financial market participant breaching the applicable requirements in Titles IV and V of this Regulation.

Decisions adopted pursuant to the first subparagraph shall prevail over any previous decision adopted by the competent authorities on the same matter.

Or. en

Amendment 362
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 646/2012
Article 21 a – paragraph 7

Text proposed by the Commission

Amendment

7. Without prejudice to the powers of the Commission under Article 258 TFEU, ESMA may adopt a decision addressed to a financial market participant requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice in the following cases:

deleted

(a) where a competent authority does not comply with paragraph 5 in case of ESMA's objection or amendments to a final draft decision;

(b) where a competent authority, following a request from ESMA in accordance with paragraph 3, fails to take the requested action within a reasonable time where that failure results in a financial market participant breaching the applicable requirements in Titles IV and V of this Regulation.

Decisions adopted pursuant to the first subparagraph shall prevail over any previous decision adopted by the competent authorities on the same matter.

Or. en

Amendment 363
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 7 – subparagraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the powers of the Commission under Article 258 TFEU, ESMA *may* adopt a decision addressed to a financial market participant requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice in the following cases:

Amendment

Without prejudice to the powers of the Commission under Article 258 TFEU, ESMA *shall* adopt a decision addressed to a financial market participant requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice in the following cases:

Or. en

Amendment 364

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 7 – subparagraph 1 – point a

Text proposed by the Commission

(a) where a competent authority does not comply with paragraph 5 in case of ESMA's objection or amendments to a final draft decision;

Amendment

(a) where a competent authority does not comply with paragraph 5 in case of ESMA's objection or amendments to a final draft decision *or in situations referred to in Article 24;*

Or. en

Amendment 365

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 a – paragraph 7 – subparagraph 1 – point b

Text proposed by the Commission

(b) where a competent authority,

Amendment

(b) where a competent authority,

following a request from ESMA in accordance with paragraph 3, fails to take the requested action within *a reasonable time where that failure results in a financial market participant breaching the applicable requirements in Titles IV and V of this Regulation.*

following a request from ESMA in accordance with paragraph 3, fails to take the requested action within *the specified timeframe by ESMA referred to in paragraph 3.*

Or. en

Amendment 366
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EU) No 648/2012
Article 21 a – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. With regards to the supervision of CCPs referred to in point b) of paragraph -1a, national competent authority shall be in charge of supervision.

ESMA shall, in addition to its coordination role under paragraph 6 of Article 21, have the following powers:

(a) power to issue general instructions to national competent authorities, according to which the tasks listed in points a) and b) of paragraph 1 are performed and supervisory decisions are adopted by national competent authorities;

(b) when necessary to ensure consistent application of high supervisory standards, power to, at any time, on its own initiative after consulting with national competent authorities or upon request by a national competent authority, exercise directly itself any of the tasks referred to in points a) and b) of paragraph 1 for one or more authorised CCPs.

Amendment 367

Andrea Cozzolino, Renato Soru, Simona Bonafè, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 368

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b

Text proposed by the Commission

Amendment

[...]

deleted

Or. en