



2017/0136(COD)

13.4.2018

AMENDMENTS

369 - 610

Draft report
Danuta Maria Hübner
(PE616.847v01-00)

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 369

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 b

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 370

Burkhard Balz

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 371

Burkhard Balz

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – Title

Text proposed by the Commission

Amendment

Consent of the Central Bank of Issue

deleted

Amendment 372

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 b – Title

Text proposed by the Commission

Amendment

Consent of the Central Bank of Issue

deleted

Or. en

Amendment 373

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – Title

Text proposed by the Commission

Amendment

Consent of the Central Bank of Issue

deleted

Or. en

Amendment 374

Jörg Meuthen

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – Title

Text proposed by the Commission

Amendment

Consent of the Central Bank of Issue

deleted

Amendment 375

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – Title

Text proposed by the Commission

Amendment

Consent of the Central Bank of Issue

Cooperation with the Central Bank of Issue

Or. en

Amendment 376

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – Title

Text proposed by the Commission

Amendment

Consent of the Central Bank of Issue

Consultation of the Central Bank of Issue

Or. en

Amendment 377

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – paragraph 1

Text proposed by the Commission

Amendment

1. The consent referred to in Article 21a(2) shall be deemed to be given unless

deleted

the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred to in the first subparagraph shall be extended by 5 days.

Or. en

Amendment 378

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 b – paragraph 1

Text proposed by the Commission

Amendment

1. The consent referred to in Article 21a(2) shall be deemed to be given unless the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

deleted

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred

to in the first subparagraph shall be extended by 5 days.

Or. en

Amendment 379

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – paragraph 1

Text proposed by the Commission

Amendment

1. The consent referred to in Article 21a(2) shall be deemed to be given unless the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

deleted

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred to in the first subparagraph shall be extended by 5 days.

Or. en

Justification

Replaced by a consultation procedure.

Amendment 380

Jörg Meuthen

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

Text proposed by the Commission

Amendment

1. The consent referred to in Article 21a(2) shall be deemed to be given unless the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing. *deleted*

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred to in the first subparagraph shall be extended by 5 days.

Or. en

Amendment 381
Burkhard Balz

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

Text proposed by the Commission

Amendment

1. The consent referred to in Article 21a(2) shall be deemed to be given unless the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, *deleted*

in writing.

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred to in the first subparagraph shall be extended by 5 days.

Or. en

Amendment 382
Roberto Gualtieri

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

Text proposed by the Commission

Amendment

1. *The consent referred to in Article 21a(2) shall be deemed to be given unless the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.*

deleted

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred to in the first subparagraph shall be extended by 5 days.

Or. en

Amendment 383

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 – paragraph 1

Text proposed by the Commission

Amendment

1. The consent referred to in Article 21a(2) shall be deemed to be given unless the central bank of issue proposes amendments or objects to the draft decision within a maximum period of 15 calendar days after its submission. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

deleted

Where ESMA has proposed amendments pursuant to Article 21a(4) to the draft decisions to be adopted pursuant to Articles 14, 15, 20 and 54, it shall also submit them also to the central bank of issue. In that case, the deadline referred to in the first subparagraph shall be extended by 5 days.

Or. en

Amendment 384

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Cooperation should be ensured between the central bank of issue and the relevant supervisory authorities. This should include information sharing, analysis of stress tests carried out by the CCP and constructive dialogue in

decision making.

Where a decision relates to an issue of monetary policy, the relevant authority should consult with the relevant central bank of issue.

Or. en

Amendment 385
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

2. Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue. *deleted*

Where the central bank of issue objects to a draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 386
Roberto Gualtieri

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

Text proposed by the Commission

Amendment

2. Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue. *deleted*

Where the central bank of issue objects to a draft decision, the competent authority

shall not adopt that decision.

Or. en

Amendment 387

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 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue. *deleted*

Where the central bank of issue objects to a draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 388

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – paragraph 2

Text proposed by the Commission

Amendment

2. Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue. *deleted*

Where the central bank of issue objects to a draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 389

Burkhard Balz

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – paragraph 2

Text proposed by the Commission

Amendment

2. *Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue.* **deleted**

Where the central bank of issue objects to a draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 390

Jörg Meuthen

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 b – paragraph 2

Text proposed by the Commission

Amendment

2. *Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue.* **deleted**

Where the central bank of issue objects to a draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 391

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 b – paragraph 2

Text proposed by the Commission

Amendment

2. *Where the central bank of issue proposes amendments, the competent authority may only adopt the decision as amended by that central bank of issue.*

deleted

Where the central bank of issue objects to a draft decision, the competent authority shall not adopt that decision.

Or. en

Amendment 392

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) No 648/2012

Article 21 c – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The Commission shall adopt a delegated act in accordance with Article 82 to further specify 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 the following entities:

2. The Commission shall adopt a delegated act in accordance with Article 82 to further specify the types of fees, the matters for which fees are due, the amount of the fees - *which should be proportionate to the level of activity of the CCP within the EU*- and the manner in which they are to be paid by the following entities:

Or. en

Amendment 393

Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

2a. When taking decisions under Articles 14, 15, 17, 20, 41, 44, 46, 50, and 54, the CCP Supervisory Committee shall consult the central banks of issue referred to in Article 25(3)(f) in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The central banks concerned shall reply to any request for consultation within 15 business days. In emergency situations, this period shall not exceed 24 hours. The Supervisory Committee shall endeavour to comply with any amendments to a draft supervisory decision suggested by the central banks of issue. Where the Supervisory Committee decides, in its decision to object or not to object a draft supervisory decision, or in the amendments it proposes to a draft supervisory decision, not to follow the opinion of a central bank of issue, the Supervisory Committee shall provide full and detailed reasons for its decision, in writing, to the central bank concerned.

Or. en

Justification

Comply or explain mechanism.

Amendment 394
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)
Regulation (EU) No 648/2012
Article 22 a (new)

7a. The following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

1. ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third country CCPs.

The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.

2. The CCP Supervisory Committee shall be composed of:

(a) the following permanent members:

(i) a Chair and two directors, appointed in accordance with Article 22b, who shall be voting;

(ii) a representative of the ECB, who shall be non-voting;

(iii) a representative of the Commission, who shall be non-voting.

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting;

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is

convened, who shall be non-voting;

(iii) where the supervisory committee is convened in relation to decisions or discussions pertaining to Articles 41, 44, 46, 50 and 54, representatives of those central banks of issue of Union currencies cleared or to be cleared by the CCP in relation to which the CCP Supervisory Committee is convened which are not members under point (ii).

The Chair may invite as observers to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP to the meetings of the CCP Supervisory Committee.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2c), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory Committee as observers. Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members. The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point

(b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation (EU) No 648/2012;

(b) recognising and supervising third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1), the first subparagraph of Article 9(3), Articles 9(4), Article 13(1) and 13 (4), Article 17(2) and 17(3), Article 18(1), Article 20(2) and 20(6), Article 21(1), Article 21(3), Article 21(6), Article 21a, Articles 21c, Article 21a, Article 23, Article 24, Articles 29(3), Article 38(5), Article 48(3), Article 49(1) and Article 54(3) of Regulation (EU) No 648/2012.

4. The Chair of the CCP Supervisory Committee and the Directors referred to in point (i) of Article 22a(1)(a) shall be full-time, independent professionals. They 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.

They shall be chosen on the basis of an open selection procedure organised by the Commission, which shall respect the principles of gender balance, experience and qualification.

The Chair and the Directors referred to in point (i) of Article 22a(2)(a) shall be full-time, independent professionals. shall not hold any other office at national, Union, or international level.

The Commission shall provide to the

European Parliament a shortlist of candidates for the position of Chair of the CCP Supervisory Committee and Directors referred to in point (i) of Article 22a(2)(a) shall inform the Council of the shortlist.

The Commission shall submit a proposal for the appointment of the Chair of the CCP Supervisory Committee and Directors referred to in point (i) of Article 22a(2)(a) 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 CCP Supervisory Committee and Directors referred to in point (i) of Article 22a(2)(a).

The Council shall act by qualified majority.

Where the Chair of the CCP Supervisory Committee or one of the Directors referred to in point (i) of Article 22a(2)(a) no longer fulfil the conditions required for the performance of his or her duties or has been found guilty of serious misconduct, the Council 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 Commission that they consider the conditions for the removal of the Chair of the CCP Supervisory Committee or of one of the Directors referred to in point (i) of Article 22a(2)(a) to be fulfilled, to which the Commission shall respond.

5. The CCP Supervisory Committee shall be supported by a dedicated staff possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out its tasks.

6. The CCP Supervisory Committee shall inform the relevant supervisory college of the complete draft decisions it submits to the Board of Supervisors pursuant to paragraph 1.

7. The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) of Regulation (EU) No 648/2012 and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

8. For the purposes of this Regulation, ESMA shall ensure structural separation between the CCP Supervisory Committee and other functions referred to in Regulation (EU) No 1095/2010.

Or. en

Justification

Correction to the draft report allowing a sufficient number of voting members in the Supervisory Committee where third country CCPs are concerned by reinstating the two directors. Also, central banks of issue of currencies to be cleared by the CCPs which do not qualify as "relevant" shall be allowed to participate in discussions relating to monetary policy tasks.

Amendment 395

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Regulation (EU) No 648/2012

Article 22 a (new)

Text proposed by the Commission

Amendment

7a. The following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

1. ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third country CCPs.

The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.

2. The CCP Supervisory Committee shall be composed of:

(a) the following permanent members:

(i) a Chair, appointed in accordance with paragraph 4 of this article, who shall be voting;

(ii) two Vice Chairs, appointed in accordance with paragraph 4 of this article, who shall both be voting;

(ii) a representative of the Commission, who shall be non-voting; and

(iii) a representative of the ECB, who shall be non-voting;

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting.

The Chair may invite as observers to the meetings of the CCP Supervisory

Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP to the meetings of the CCP Supervisory Committee.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2c), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory Committee as observers.

Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members.

The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point (b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation (EU) No 648/2012;

(b) recognising and supervising third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the

monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1), the first subparagraph of Article 9(3), Articles 9(4), 13(1) and (4), 17(2) and (3), 18(1), 20(2) and (6), Articles 21c, 23 and 24, Articles 29(3), 38(5), 48(3), 49(1) and 54(3) of Regulation (EU) No 648/2012.

4. The Chair and Vice Chairs of the CCP Supervisory Committee shall be full-time, independent professionals. The Chair and Vice Chairs 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 and Vice Chairs shall be chosen on the basis of an open selection procedure organised by the Commission, which shall respect the principles of gender balance, experience and qualification.

The Chair and Vice Chairs shall not concurrently hold any other office at national, Union, or international level.

The Commission shall provide to the European Parliament a shortlist of candidates for the positions of Chair and Vice Chairs of the CCP Supervisory Committee and shall inform the Council of the shortlist.

The Commission shall submit a proposal for the appointment of the Chair and Vice Chairs 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 and Vice Chairs of the CCP Supervisory Committee. The Council shall act by qualified majority.

Where the Chair and/or Vice Chairs of the CCP Supervisory Committee no longer fulfil the conditions required for

the performance of their respective duties or has been found guilty of serious misconduct, the Council may, on a proposal from the Commission which has been approved by the European Parliament, adopt an implementing decision to remove one or more of them from office. The Council shall act by qualified majority.

The European Parliament or the Council may inform the Commission that they consider the conditions for the removal of the Chair and/or Vice Chairs of the CCP Supervisory Committee to be fulfilled, to which the Commission shall respond.

5. The CCP Supervisory Committee shall be supported by a dedicated staff possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out its tasks.

6. The CCP Supervisory Committee shall inform the relevant supervisory college of the complete draft decisions it submits to the Board of Supervisors pursuant to paragraph 1.

7. The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) of Regulation (EU) No 648/2012 and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

8. For the purposes of this Regulation, ESMA shall ensure structural separation between the CCP Supervisory Committee and other functions referred to in Regulation (EU) No 1095/2010.

Or. en

Justification

The rapporteur's approach to the supervisory architecture is more appropriate than that of

the Commission. However, it is necessary to have further voting members of the CCP Supervisory Committee. Therefore, it should be composed of a Chair and two Vice Chairs

Amendment 396

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Regulation (EU) No 648/2012

Article 22 a (new)

Text proposed by the Commission

Amendment

7a. The following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

1. Notwithstanding Article 41 and 45b of Regulation (EU) No 1095/2010, ESMA shall establish a permanent internal committee for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third country CCPs referred to in this Regulation as well in the CCP recovery and resolution Regulation, except the tasks conferred to the CCP resolution unit. The CCP Supervisory Committee established pursuant to the first subparagraph shall, in accordance with the provisions of Article 43 and 47 of Regulation (EU) No 1095/2010 submit to the ESMA Board of Supervisors or as appropriate to the ESMA Executive Board complete draft decisions for adoption in accordance with Article 22c.

2. The CCP Supervisory Committee shall be composed of:

(a) the following permanent members:

(i) a Head who shall be responsible for preparing the work of the CCP Supervisory Committee, shall chair its meetings and shall be voting;

(ii) A Vice-Head who shall carry out the tasks of the Chairperson in his or her absence or reasonable impediment and who shall be voting;

(iii) a representative of the Commission, who shall be non-voting; and

(iv) a representative of the ECB, who shall be non-voting;

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting.

The Head may invite as an observer to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognized by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2c), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory

Committee as observers.

Meetings of the CCP Supervisory Committee shall be convened by its Head at its own initiative or at the request of any of its members. The CCP Supervisory Committee shall meet at least six times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point (b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1);

(b) recognizing and supervising third-country CCPs in accordance with Article 25 and the monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of this Regulation and;

(c) other tasks and decisions than those referred to in points (a) and (b) of the first subparagraph conferred to ESMA in Regulation (EU) No1095/2010 or in Regulation [CCP recovery and resolution] with the exception of task sand decisions attributed to the ESMA resolution unit.

4. The Head and the Vice-Head of the CCP Supervisory Committee shall be a full-time, independent professional. They shall be full-time members of the ESMA Executive Board and shall be assigned to the responsibilities referred to in paragraph 2 by the Chairperson of the ESMA Executive Board for their 5 year term of office as full-time members of the ESMA Executive Board on the basis of merit, skills, knowledge of clearing, post-trading and financial matters, and of

experience relevant to CCP supervision and regulation. The appointments shall respect the principles of gender balance, experience and qualification. The Head and the Vice-Head shall not hold any other office at national, international level or another Union agency or institution.

5. The CCP Supervisory Committee shall be supported by a dedicated staff possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out its tasks.

6. The CCP Supervisory Committee shall inform the relevant supervisory college of the complete draft decisions it submits to the ESMA Board of Supervisors or as appropriate to the ESMA Executive Board pursuant to paragraph 1.

7. The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

8. The Head of the CCP Supervisory Committee on behalf of the permanent members of the CCP Supervisory Committee shall report any relevant information requested by the European Parliament in written on an ad-hoc basis.

Or. en

Amendment 397
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)
Regulation (EU) No 648/2012
Article 22 a (new)

7a. The following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

1. ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third-country CCPs. The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.

2. The CCP Supervisory Committee shall be composed of:

(a) the following permanent members:

(i) a Chair, appointed in accordance with Article 22b, who shall be voting;

(ii) a representative of the Commission, who shall be non-voting; and

(iii) a representative of the ECB, who shall be non-voting;

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting. The

Chair may invite as observers to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2b), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory Committee as observers. Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members.

The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point (b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation (EU) No 648/2012;

(b) recognising and supervising third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the monitoring of regulatory and supervisory

developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1), the first subparagraph of Article 9(3), Articles 9(4), 13(1) and (4), 17(2) and (3), 18(1), 20(2) and (6), Articles 21(1), (3) and (6), Articles 21a and 21c, Articles 23 and 24, Articles 29(3), 38(5), 48(3), 49(1) and 54(3) of Regulation (EU) No 648/2012.

4. 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 Commission, which shall respect the principles of gender balance, experience and qualification. The Chair is invited to the Board of Supervisors as an observer.

5. The CCP Supervisory Committee shall be supported by a dedicated staff possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out its tasks.

6. The CCP Supervisory Committee shall inform the relevant supervisory college of the complete draft decisions it submits to the Board of Supervisors pursuant to paragraph 1.

7. The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) of Regulation (EU) No 648/2012 and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

8. For the purposes of this

Regulation, ESMA shall ensure structural separation between the CCP Supervisory Committee and other functions referred to in Regulation (EU) No 1095/2010.

Or. fr

Justification

Amendment of point c, paragraph 3, based on AM 55 by the Rapporteur. It aims to boost the Supervisory Committee's role in strategic decisions.

Amendment 398

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Regulation (EU) No 648/2012

Article 22 a (new)

Present text

Amendment

7a. The following Article 22a is inserted:

"Article 22a

ESMA CCP Supervisory Committee

1. ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third country CCPs.

The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.

2. The CCP Supervisory Committee shall be composed of:

- (a) the following permanent members:***
- (i) a Chair, appointed in accordance***

with Article 22b, who shall be voting;

(ii) a representative of the Commission, who shall be non-voting; and

(iii) a representative of the ECB, who shall be non-voting;

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting.

The Chair may invite as observers to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP to the meetings of the CCP Supervisory Committee.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2c), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory Committee as observers.

Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members.

The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point (b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation (EU) No 648/2012;

(b) recognising and supervising third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1), the first subparagraph of Article 9(3), Articles 9(4), 13(1) and (4), 17(2) and (3), 18(1), 20(2) and (6), Article 21(1), Article 21(3), Article 21(6), Article 21a Articles 21c, 23 and 24, Articles 29(3), 38(5), 48(3), 49(1) and 54(3) of Regulation (EU) No 648/2012.

4. 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 Commission, which shall

respect the principles of gender balance, experience and qualification. The Chair shall be an observer at the Board of Supervisor."

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017PC0331>)

Justification

This amendment aims at strengthening the role of the Supervisory Committee for strategic decisions. This amendment aims at ensuring consistency and smoothness of the decision-making process. This would allow for the Chair to represent the Supervisory Committee at the Board of Supervisors which endorses the final decisions.

Amendment 399 **Markus Ferber**

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)
Regulation (EU) No 648/2012
Article 22 a (new)

Text proposed by the Commission

Amendment

7a. the following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

(1) ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third country CCPs.

The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.

(2) The CCP Supervisory Committee

shall be composed of:

(a) the following permanent members:

(i) a Chair, appointed in accordance with Article 22b, who shall be voting;

(ii) a representative of the Commission, who shall be non-voting; and

(iii) a representative of the ECB, who shall be non-voting:

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting.

The Chair may invite as observers to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP to the meetings of the CCP Supervisory Committee.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2c), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP

in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory Committee as observers.

Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members.

The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point (b)(ii) of this paragraph.

(3) The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation (EU) No 648/2012;

(b) the recognition and supervision of third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1), the first subparagraph of Article 9(3), Articles 9(4), 13(1) and (4), 17(2) and (3), 18(1), 20(2) and (6), Articles 21c, 23 and 24, Articles 29(3), 38(5), 48(3), 49(1) and 54(3) of Regulation (EU) No 648/2012.

(4) 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. They shall be chosen on the basis of an open selection procedure organised by the Commission in collaboration with national supervisory authorities, and it 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 Commission shall, in consultation with national supervisory authorities, provide the European Parliament and Council with a shortlist of candidates for the position of Chair of the CCP Supervisory Committee. The Commission shall, in consultation with national supervisory authorities, provide the European Parliament and Council with a proposal for appointing the Chair of the CCP Supervisory Committee. Following the approval of that proposal, the Council shall adopt an implementing decision to appoint the Chair of the CCP 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, once it has consulted the National Supervisory Bodies the Council 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 Commission and the National Supervisory Authorities 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.

(5) The CCP Supervisory Committee shall be supported by a dedicated staff possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out

its tasks.

(6) The CCP Supervisory Committee shall inform the relevant supervisory college of the complete draft decisions it submits to the Board of Supervisors pursuant to paragraph 1.

(7) The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) of Regulation (EU) No 648/2012 and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

(8) For the purposes of this Regulation, ESMA shall ensure structural separation between the CCP Supervisory Committee and other functions referred to in Regulation (EU) No 1095/2010.

Or. de

Justification

If there are issues with a CCP, the Member State in which the CCP concerned is based will be directly affected, and may have to incur additional costs. Hence, it makes sense for the national supervisory authorities to have a reasonable level of influence on the Chair of the CCP Supervisory Committee.

Amendment 400
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)
Regulation (EU) No 648/2012
Article 22 a (new)

Text proposed by the Commission

Amendment

7b. the following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

1. ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third-country CCPs.

The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.

2. The CCP Supervisory Committee shall be composed of:

(a) the following permanent members:

(i) a Chair, appointed in accordance with Article 22b, who shall be voting;

(ii) a representative of the Commission, who shall be non-voting; and

(iii) a representative of the ECB, who shall be non-voting;

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting.

The Chair may invite as observers to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant

CCP to the meetings of the CCP Supervisory Committee.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 may be invited, where and as appropriate and necessary, as observers.

Where discussing decisions pertaining to Article 25(2a) and (2c), Article 25b and Articles 41, 44 and 46, central banks of issue of the financial instruments cleared or to be cleared by the third country CCP in relation to which the CCP Supervisory Committee convenes may be invited to participate in the CCP Supervisory Committee as observers.

Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members.

The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point (b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation (EU) No 648/2012;

(b) recognising and supervising third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1), the first subparagraph of Article 9(3), Articles 9(4), 13(1) and (4), 17(2) and (3), 18(1), 20(2) and (6), Articles 21c, 23 and 24, Articles 29(3), 38(5), 48(3), 49(1) and 54(3) of Regulation (EU) No 648/2012.

4. 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 Commission, which shall respect the principles of gender balance, experience and qualification. The Chair is invited to the Board of Supervisors as an observer.

5. The CCP Supervisory Committee shall be supported by a dedicated staff possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out its tasks.

6. The CCP Supervisory Committee shall inform the relevant supervisory college of the complete draft decisions it submits to the Board of Supervisors pursuant to paragraph 1.

7. The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) of Regulation (EU) No 648/2012 and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

8. For the purposes of this Regulation, ESMA shall ensure structural separation between the CCP Supervisory Committee and other functions referred to in Regulation (EU) No 1095/2010.

Justification

Amendment based on AM 55 by the Rapporteur. It aims to boost the Supervisory Committee's role in strategic decisions.

Amendment 401
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)
 Regulation (EU) No 648/2012
 Article 22 a (new)

Text proposed by the Commission

Amendment

7a. The following Article 22a is inserted:

Article 22a

ESMA CCP Supervisory Committee

1. ESMA shall establish a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purposes of preparing decisions and carrying out the tasks relating to the supervision of Union and third country CCPs. The CCP Supervisory Committee established pursuant to the first subparagraph shall submit to the Board of Supervisors complete draft decisions for adoption in accordance with Article 22c.2.

The CCP Supervisory Committee shall be composed of:

- (a) the following permanent members:**
 - (i) a Chair, appointed in accordance with Article 22b, who shall be voting;**
 - (ii) two Vice Chairs, appointed in accordance with Article 22b, who shall be voting;**
 - (iii) a representative of the Commission, who shall be non-voting;**

and

(iv) a representative of the ESCB, who shall be non-voting;

(b) the following non-permanent members specific to each CCP in relation to which the CCP Supervisory Committee is convened:

(i) a representative of the national competent authority for each CCP established in the Union in relation to which the CCP is convened, who shall be voting; and

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting.

(iii) a representative of the national competent authority of the three largest clearing members of the CCP who shall be non-voting.

(iv) a representative of the national competent authority for each interoperable CCP for which the CCP Supervisory Committee is convened, who shall be non-voting.

The Chair may invite as observers to the meetings of the CCP Supervisory Committee, where and as appropriate and necessary, other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP to the meetings of the CCP Supervisory Committee.

Where the CCP Supervisory Committee is exercising any of the tasks referred to in point (b) of paragraph 3, authorities of third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 shall be invited, where and as appropriate and necessary, as observers.

Meetings of the CCP Supervisory Committee shall be convened by its Chair at its own initiative or at the request of any of its members. The CCP Supervisory Committee shall meet at least five times a year.

Where a task of the CCP Supervisory Committee does not relate to a specific CCP established in the Union, the Committee shall be composed only of the permanent members referred in point (a) of this paragraph and, where relevant, the central banks of issue referred to in point(b)(ii) of this paragraph.

3. The CCP Supervisory Committee shall be responsible for all of the following:

(a) providing the consent referred to in Article 21a(1) of Regulation(EU) No 648/2012;

(b) recognising and supervising the clearing services offered in Union currencies to EU clearing members of third-country CCPs in accordance with Article 25 of Regulation (EU) No 648/2012, the monitoring of regulatory and supervisory developments in third countries under Chapter 2 of Title II of Regulation (EU) No 648/2012; and

(c) the tasks referred to in the first subparagraph of Article 5(1),the first subparagraph of Article 9(3), Articles 9(4), 13(1) and (4), 17(2) and(3), 18(1), 20(2) and (6), Articles 21c, 23 and 24, Articles 29(3), 38(5),48(3), 49(1) and 54(3) of Regulation (EU) No 648/2012.

4. 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 Commission, which shall

respect the principles of gender balance, experience, qualification and not be restricted to those of EU nationality given the highly specialized nature of this role.

The Chair shall not hold any other office at national, Union, or international level.

The Chair shall be subject to an appropriate intermediary period before taking up this position and after completing this role.

The Commission 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 of the shortlist.

The Commission 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 CCP Supervisory Committee. The Council shall act by qualified majority. The Chair shall be appointed for a fixed term.

The Chair of the CCP Supervisory Committee should be accountable to the European Parliament and should appear before them on a regular basis so as to inform the Parliament of ongoing activity and maintain an open and constructive dialogue.

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 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 Commission 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.

The appointment and treatment of the two independent Vice-Chairs does not need to follow this process, however the same level of independence and transparency should be ensured.

5. The CCP Supervisory Committee shall be supported by a dedicated staff of not necessarily EU nationals, possessing sufficient knowledge, skills and experience and shall be granted adequate resources by ESMA to carry out its tasks.

6. Following consultation with the relevant supervisory college, the CCP Supervisory Committee shall submit draft decisions to the Board of Supervisors pursuant to paragraph 1.

7. The CCP Supervisory Committee shall ensure that members of the college referred to in Article 18(2), the authorities referred to in Article 25(3) of Regulation (EU) No 648/2012 and the ESRB, in accordance with Article 15 of Regulation (EU) No 1092/2010, have access to all information necessary for the purpose of carrying out their tasks.

8. For the purposes of this Regulation, ESMA shall ensure structural separation between the CCP Supervisory Committee and other functions referred to in Regulation (EU) No 1095/2010.

Or. en

Amendment 402
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)
Regulation (EU) No 648/2012
Article 22 a (new)

7a. The following Article 22a is inserted:

Article 22a

Composition

1. The CCP Supervisory Committee shall be composed of:

(a) the following permanent members:

(i) the Chair, a Vice-Chair and five Directors, appointed in accordance with Article 22d, who shall be voting;

(ii) a representative of the ECB, who shall be non-voting;

(iii) a representative of the Commission, who shall be non-voting;

(b) the following non-permanent members specific to each CCP:

(i) a representative of the competent authority for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be voting;

(ii) a representative of each of the relevant central banks of issue referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012 for each CCP established in the Union in relation to which the CCP Supervisory Committee is convened, who shall be non-voting. The Chair may invite, where appropriate and necessary, as observers to the meetings of the CCP Supervisory Committee:

(a) other members referred to in Article 18(2) of Regulation (EU) No 648/2012 of the college of the relevant CCP to the meetings of the CCP Supervisory Committee;

(b) authorities of third-country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012, on a case by case base. Meetings of the CCP Supervisory Committee shall be convened

by its Chair at its own initiative or at the request of any of its members. Where a task of the CCP Supervisory Committee does not relate to a specific Union CCP, it shall be composed only of the permanent members referred in point (a) and, where relevant, the central banks of issue referred to in point (b)(ii).

Or. en

Amendment 403

Jakob von Weizsäcker, Paul Tang

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Regulation (EU) No 648/2012

Chapter 2 a – Article 22 a (new)

Text proposed by the Commission

Amendment

7a. The following chapter is inserted:

'Chapter 2a

The CCP - Single Resolution Fund

Article 22a

General provisions

1. The CCP-Single Resolution Fund ('CCP-SRF') is hereby established.

2. Prior to the establishment of a Single Resolution Board for CCPs (CCP-SRB), its revenues shall accumulate for up to 10 years to be used by the SRB as an additional financial backstop to the SRF for the activities within its mandate.

3. Once the CCP-SRB is established, it shall use the CCP-SRF only for the purpose of ensuring the efficient application of the resolution tools and the exercise of the resolution powers referred to in Chapter III of Regulation (EU) [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] and in

accordance with the resolution objectives and the principles governing resolution referred to in Articles 21 and 23 of that Regulation. Under no circumstances shall the Union budget or the national budgets be held liable for the expenses or losses of the CCP-SRF.

4. The owner of the CCP-SRF shall be the Single Resolution Board. Once established, the CCP-SRB becomes the sole owner of the CCP-SRF

5. Contributions shall be raised in accordance with Articles 22b and 22c.

Or. en

Amendment 404

Jakob von Weizsäcker, Paul Tang

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Regulation (EU) No 648/2012

Article 22 b (new)

Text proposed by the Commission

Amendment

7b. The following Article 22b is inserted:

Article 22b

Target level

The target level of the CCP-SRF is 0,25 % of Union GDP. Any capital returns on that fund that accrue beyond the target level shall be used towards the Union budget.

Or. en

(This Article belongs to Chapter 2a)

Amendment 405

Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)
Regulation (EU) No 648/2012
Article 22 b (new)

Text proposed by the Commission

Amendment

7b. *The following Article 22b is inserted:*

Article 22b

Tasks and powers of the CCP Supervisory Committee

The CCP Supervisory Committee shall be responsible for Preparing draft decisions to be submitted to the Board of Supervisors: a) where ESMA is required to provide its consent or is consulted in accordance with Article 21a of this Regulation b) where ESMA recognises and supervises third-country CCPs in accordance with Articles 25, 25a, 25b, 25c, 25d, 25e, 25f, 25g, 25h, 25i, 25j, 25m and 25n of this Regulation

Or. en

Amendment 406
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)
Regulation (EU) No 648/2012
Article 22 b (new)

Text proposed by the Commission

Amendment

7b. *The following Article 22b is inserted:*

Article 22b

Decision-making within the CCP Supervisory Committee

The CCP Supervisory Committee shall take its decisions by a simple majority of its members, In the event of a tie, the

Chair shall have the casting vote.

Or. en

Amendment 407

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Regulation (EU) No 648/2012

Article 22 b (new)

Text proposed by the Commission

Amendment

7b. the following Article 22b is inserted:

"Article 22b

**Decision-making within the CCP
Supervisory Committee**

The CCP Supervisory Committee shall take its decisions by a simple majority of its members, except for decisions pursuant to Articles 17, 20 and 25 which shall be adopted by a majority of two-thirds in the CCP Supervisory Committee. In the event of a tie, the Chair shall have the casting vote.

Or. en

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

Justification

The recognition process of an EU or a third-country CCP guarantees that there is no significant risk for EU participants to clear in this CCP, and is of the utmost importance to preserve the financial stability of the EU and to allow EU participants to use the clearing services of a CCP. Given the impact of such decisions, it is essential that they are adopted by a qualified majority within the Supervisory Committee.

Amendment 408

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)
Regulation (EU) No 648/2012
Article 22 b (new)

Text proposed by the Commission

Amendment

7b. The following Article 22b is inserted:

Article 22b

**Decision-making within the CCP
Supervisory Committee**

The CCP Supervisory Committee shall take its decisions by a simple majority of its members. In the event of a tie, the Head shall have the casting vote.

Or. en

Amendment 409
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)
Regulation (EU) No 648/2012
Article 22 b (new)

Text proposed by the Commission

Amendment

7c. The following Article 22b is inserted:

Article 22b

**Decision-making within the CCP
Supervisory Committee**

The CCP Supervisory Committee shall take its decisions by a simple majority of its members, except for decisions relating to Articles 17, 20 and 25, which must be adopted by a majority of two thirds of the CCP Supervisory Committee. The Chair shall have a casting vote in the event of a tie vote.

Justification

Given the impact of these types of decisions, it is imperative they are adopted by a qualified majority within the Supervisory Committee.

Amendment 410

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Regulation (EU) No 648/2012

Article 22 b (new)

Text proposed by the Commission

Amendment

7b. the following Article 22c is inserted:

Article 22b

Decision-making within the Board of Supervisors

Where the CCP Supervisory Committee submits draft decisions to the Board of Supervisors, those draft decisions shall be deemed adopted by ESMA unless the Board of Supervisors decides, by a simple majority of its members, to reject them within five working days of its transmission. In emergency situations, the period for deciding whether to reject a draft decision shall not exceed 24 hours. Where the Board of Supervisors rejects a draft decision, it shall state the reasons for doing so in writing.

Or. en

Justification

Correction to the draft report: simple majority is preferable to a qualified majority in order to keep a proper involvement of the Board of Supervisors in the decision-making.

Amendment 411
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)
Regulation (EU) No 648/2012
Article 22 b (new)

Text proposed by the Commission

Amendment

7b. The following Article 22b is inserted:

Article 22b

Where the CCP Supervisory Committee submits draft decisions to the Board of Supervisors, those draft decisions shall be deemed adopted by ESMA unless the Board of Supervisors decides on the basis of a simple majority to reject the draft decision within five working days of its transmission. In cases of particular urgency, the aforementioned period shall not exceed 24 hours. Where the Board of Supervisors rejects a draft decision, it shall state the reasons for doing so in writing.

Or. en

Justification

As ultimately the ESMA chair must take responsibility, it is necessary that rejections by the ESMA Board of Supervisors are based on a simple majority, in order to ensure that the ESMA Chair is involved in decisions from the outset.

Amendment 412
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 c (new)
Regulation (EU) No 648/2012
Article 22 c (new)

Text proposed by the Commission

Amendment

7c. The following Article 22c is inserted:

Article 22c

Decision-making

The CCP Supervisory Committee shall take its decisions by a simple majority of its members. The Chair shall have the casting vote.

Or. en

Amendment 413

Jakob von Weizsäcker, Paul Tang

Proposal for a regulation

Article 2 – paragraph 1 – point 7 c (new)

Regulation (EU) No 648/2012

Article 22 c (new)

Text proposed by the Commission

Amendment

7c. The following Article 22c is inserted:

Article 22c

Contributions

The contributions shall:

- (a) consist of a levy on average margin requirements posted by clearing members to CCPs in the previous month;**
- (b) always be set at a positive non-zero rate until the target level is reached; and**
- (c) be collected monthly.**

The Commission shall be empowered to adopt a delegated act in accordance with Article 22f defining the contributions to the CCP-SRF and their collection, using as basis any margin posted to any CCPs in the Union and any margin posted by clearing members in the Union to CPPs outside the Union where no comparable

levy falls due, allowing for differentiated rates taking into account, among others, competitiveness and cross border effects. The Commission shall review that delegated act at least every five years.

Or. en

(This Article belongs to Chapter 2a)

Amendment 414

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 7 c (new)

Regulation (EU) No 648/2012

Article 22 c (new)

Text proposed by the Commission

Amendment

7c. The following Article 22c is inserted:

Article 22c

Decision-making within the Board of Supervisors

Where the CCP Supervisory Committee submits draft decisions to the ESMA Board of Supervisors or pursuant to Article 21c to the ESMA Executive Board those draft decisions shall be deemed adopted by ESMA unless the Board of Supervisors or the Executive Board decide 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. In cases of particular urgency, the aforementioned period shall not exceed 24 hours. Where the Board of Supervisors rejects a draft decision, it shall state the reasons for doing so in writing.

Or. en

Amendment 415
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 7 c (new)
Regulation (EU) No 648/2012
Article 22 c (new)

Text proposed by the Commission

Amendment

7c. The following Article 22c is inserted:

Article 22c

Decision making within the Board of Supervisors

Where the CCP Supervisory Committee submits draft decisions to the Board of Supervisors, those draft decisions shall be deemed adopted by ESMA unless the Board of Supervisors decides on the basis of a simplified 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. In cases of particular urgency, the aforementioned period shall not exceed 24 hours. Where the Board of Supervisors rejects a draft decision, it shall state the reasons for doing so in writing.

Or. en

Amendment 416
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 d (new)
Regulation (EU) No 648/2012
Article 22 d (new)

7d. The following Article 22d is inserted:

Article 22d

Appointment and tasks of the Chair, the Vice-Chair and Directors of the CCP Supervisory Committee

1. The Chair of the CCP Supervisory Committee shall be responsible for preparing the work of the CCP Supervisory Committee and shall chair its meetings. 1a. The Chair shall be assisted by a Vice-Chair. The Vice-Chair shall carry out the functions of the Chair in his or her absence or reasonable impediment, in accordance with this Regulation.

2. The Chair, the Vice-Chair and Directors of the CCP Supervisory Committee referred to in point (i) of Article 22a(1)(a) shall be full-time, independent professionals. They 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. They shall be chosen on the basis of an open selection procedure organised by the Commission, which shall respect the principles of gender balance, experience and qualification. The European Parliament and the Council shall be kept duly informed at every stage of that procedure in a timely manner.

3. The term of office of the Chair, Vice-Chair and the Directors of the CCP Supervisory Committee referred to in point (i) of Article 44a(1)(a) shall be five years and may be extended once. The Chair, Vice-Chair of the Supervisory Committee and the Directors referred to in point (i) of Article 22a(1)(a) shall not hold any other office at national, Union, or international level.

4. After hearing the Board of

Supervisors, the Commission shall provide to the European Parliament a shortlist of candidates for the positions of Chair, Vice-Chair and Directors referred to in point (i) of Article 22a(1)(a) and shall inform the Council of the shortlist. The Commission shall submit a proposal for the appointment of the Chair, Vice-Chair of the CCP Supervisory Committee and Directors referred to in point (i) of Article 22a(1)(a) to the European Parliament for approval. Following the approval of that proposal, the Council shall adopt an implementing decision to appoint the Chair, Vice-Chair and the Directors of the CCP Supervisory Committee referred to in point (i) Article 22a(1)(a). The Council shall act by qualified majority.

5. Where the Chair, the Vice-Chair and the Directors of the CCP Supervisory Committee referred to in point (i) of Article 22a(1)(a) no longer fulfil the conditions required for the performance of his or her duties as referred to in paragraph 2 or has been found guilty of serious misconduct, the Council 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 Commission that they consider the conditions for the removal of the Chair or the Vice-Chair or the Directors of the CCP Supervisory Committee from office to be fulfilled, to which the Commission shall respond.”

Or. en

Amendment 417
Jakob von Weizsäcker, Paul Tang

Proposal for a regulation
Article 2 – paragraph 1 – point 7 d (new)
Regulation (EU) No 648/2012
Article 22 d (new)

Text proposed by the Commission

Amendment

7d. *The following Article 22d is inserted:*

Article 22d

Administration and investments

1. *Until a specific CCP-SRB is established, the Single Resolution Board, and after the establishment of a specific CCP-SRB, that CCP-SRB shall administer the CCP-SRF in accordance with Commission Delegated Regulation (EU) 2016/451 on general principles and criteria for the investment strategy and rules for the administration of the Single Resolution Fund.*

2. *The amounts received from a CCP under resolution, from a bridge institution, from interest and other earnings on investments, and from any other earnings shall only benefit the CCP-SRF.*

3. *The Commission shall be empowered to adopt delegated acts further specifying the rules referred to in paragraph 1.*

Or. en

(This Article belongs to Chapter 2a)

Amendment 418
Jakob von Weizsäcker, Paul Tang

Proposal for a regulation
Article 2 – paragraph 1 – point 7 e (new)
Regulation (EU) No 648/2012
Article 22 e (new)

7e. The following Article 22e is inserted:

Article 22e

Mission and use of the CCP-SRF

1. Within the resolution scheme, when applying the resolution tools to CCPs, the Board may use the CCP-SRF, to the extent necessary to ensure the effective application of the resolution tools, only where the following conditions are met:

- (a) the financial support is necessary to meet the resolution objectives;**
- (b) the financial support is used as a last resort after having assessed and exploited all resolution tools other than government financial stabilisation tools as referred to in Article 45 of Regulation (EU) [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] to the maximum extent practicable whilst maintaining financial stability, as determined by the CCP-SRB; and**
- (c) the financial support complies with the Union State aid framework.**

The CCP-SRF may only be used for the following purposes:

- (i) to guarantee the liabilities of the CCP under resolution, its subsidiaries, or a bridge institution;**
- (ii) to make contributions to a bridge institution;**
- (iii) to make contributions to the CCP under resolution in lieu of the write-down or conversion tool; and**
- (iv) take any combination of the actions referred to in points (a), (b) and (c).**

(This Article belongs to Chapter 2a)

Amendment 419
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 e (new)
Regulation (EU) No 648/2012
Article 22 e (new)

Text proposed by the Commission

Amendment

7e. The following Article 22e is inserted:

Article 22e

Independence

In relation to the tasks of the Chair, Vice-Chair and Directors of the CCP Supervisory Committee referred to in point (i) of Article 22a(1)(a) 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 Chair, Vice-Chair and the Directors of the CCP Supervisory Committee referred to in point (i) of Article 22a(1)(a) in the performance of his or her tasks. In accordance with the Staff Regulations referred to in Article 68 of Regulation (EU) No 1095/2010, Chair, Vice-Chair and the Directors of the CCP Supervisory Committee referred to in point (i) of 22a(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 420
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 f (new)
Regulation (EU) No 648/2012
Article 22 f (new)

Text proposed by the Commission

Amendment

7f. The following Article 22f is inserted:

Article 22f

Report

- 1. The European Parliament or the Council may invite the Chair, Vice-Chair and the Directors of the CCP Supervisory Committee, to make a statement while fully respecting their independence. The Chair shall make a statement before the European Parliament and answer any questions put by its members, whenever so requested.**
- 2. The Chair of the CCP Supervisory Committee shall report in writing on the main activities of Board of Supervisors and of the CCP Supervisory Committee, respectively, to the European Parliament where requested and at least 15 days before making the statement referred to in paragraph 1.**
- 3. The Chair shall report any relevant information requested by the European Parliament on an ad-hoc basis.**
- 4. Upon request, the Chair of the CCP Supervisory Committee shall hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under the TFEU. An agreement shall be concluded between the European**

Parliament and the CCP Supervisory Committee on the detailed modalities of organising such discussions, with a view to ensuring full confidentiality in accordance with the requirements of professional secrecy imposed on the CCP Supervisory Committee by this Regulation.

5. During any investigations by the European Parliament, the CCP Supervisory Committee shall cooperate with the European Parliament, subject to the TFEU and Regulations referred to in Article 226 thereof. Within six months of the appointment of the Chair, the Vice Chair and the Directors and the European Parliament shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the CCP Supervisory Committee by this Regulation. Subject to the power of the European Parliament pursuant to Article 226 TFEU, those arrangements shall cover, inter alia, access to information, including rules on the handling and protection of classified or otherwise confidential information, cooperation in hearings, confidential oral discussions, reports, responding to questions, investigations and information on the selection procedure of the Chair, the Vice-Chair, and the five Directors referred to in Article 22a(1)(a) of this Regulation.

Or. en

Amendment 421
Jakob von Weizsäcker, Paul Tang

Proposal for a regulation
Article 2 – paragraph 1 – point 7 f (new)
Regulation (EU) No 648/2012
Article 22 f (new)

7f. The following Article 22f is inserted:

Article 22f

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Article 22c shall be conferred for an indeterminate period of time from the date referred to in Article 83(2) of Regulation (EU) [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].

3. The delegation of power referred to in Article 22c may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 22c shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended

by three months at the initiative of the European Parliament or the Council.

6. The Commission shall not adopt delegated acts where the scrutiny time of the European Parliament is reduced through recess to less than five months, including any extension.'

Or. en

(This Article belongs to Chapter 2a)

Amendment 422
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 7 g (new)
Regulation (EU) No 648/2012
Article 22 g (new)

Text proposed by the Commission

Amendment

7g. The following Article 22gis inserted:

Article 22g

Decision-making at the Board of Supervisors

Where the CCP Supervisory Committee submits draft decisions to the Board of Supervisors pursuant to Articles 21a(1) only in reference to 14, 15, 20, 41, 44, 46, 50, 54 and 25(2), 25a, 25(2a), 25(2b), 25(2c), 25(5), for Tier 2 CCPs in accordance with Article 25(2b), Article 54 the Board of Supervisors shall decide in accordance with Article 44 of Regulation (EU) No 648/2012.

Where the CCP Supervisory Committee submits draft decisions to the Board of Supervisors pursuant to Articles other than those referred to in the first subparagraph, those draft decisions shall be deemed adopted by ESMA 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) of the Treaty on the Functioning of the European Union to reject the draft decision within ten working days as of its transmission. In emergency situations the aforementioned period shall not exceed 24 hours. Where the Board of Supervisors rejects a draft decision, it shall state the reasons for doing so in writing.

Or. en

Amendment 423

Jakob von Weizsäcker, Paul Tang

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Regulation (EU) No 648/2012

Chapter 2 b – Article 22 g (new)

Text proposed by the Commission

Amendment

7b. The following chapter is inserted:

'Chapter 2b

Supervision and oversight of Union CCPs

Article 22g

**Supervision of systemically important
CCPs established in the Union**

**1. ESMA shall determine whether a
CPP established in the Union is
systemically important or likely to become
systemically important for the financial
stability of the Union or for one or more
of its Member States (Tier 2 CCP) in
accordance with Article 25 (2a).**

**2. Where ESMA determines a CCP
established in the Union to be systemically
important or likely to become systemically
important (Tier 2 CCP) in accordance
with paragraph 1, ESMA shall have
exclusive competence to carry out all
tasks, actions and decisions required for
prudential supervisory purposes,**

including those of the college and the competent authority, in relation to that CCP.'

Or. en

Amendment 424
Neena Gill

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point a
Regulation (EU) No 648/2012
Article 25 – paragraph 2 – point e

Text proposed by the Commission

(e) the CCP has been determined as not systemically important or not likely to become systemically important (Tier 1 CCP) in accordance with paragraph 2a.

Amendment

(e) the **CCP or a CCP service provided by that** CCP has been determined as not systemically important or not likely to become systemically important (Tier 1 CCP) in accordance with paragraph 2a.

ESMA may recognise a third country CCP either in whole or may limit the recognition to a particular service, activity or class of financial instrument.

Or. en

Amendment 425
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point a
Regulation (EU) No 648/2012
Article 25 – paragraph 2 – point e

Text proposed by the Commission

(e) the CCP has been determined as **not** systemically important or **not** likely to become systemically important (Tier 1 CCP) in accordance with paragraph 2a.

Amendment

(e) the CCP has **not** been determined as systemically important or likely to become systemically important (Tier 1 CCP) in accordance with paragraph 2a.

Or. en

Amendment 426
Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – introductory part

Text proposed by the Commission

ESMA shall determine whether a **CCP** is systemically important or likely to become systemically important for the financial stability of the Union or **for** one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Amendment

ESMA shall, **after consulting the relevant central bank(s) of issue of Union currencies of the financial instruments cleared or to be cleared by that CCP**, determine whether a **CCP** is systemically important or likely to become systemically important for the financial stability of the Union or **of** one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Or. en

Amendment 427
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – introductory part

Text proposed by the Commission

ESMA shall determine whether **a CCP** is systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Amendment

ESMA shall determine whether **one or more of the clearing services provided by a third country CCP in a Union currency to EU clearing members**, is systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Or. en

Amendment 428
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – introductory part

Text proposed by the Commission

ESMA shall determine whether a CPP is systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Amendment

ESMA shall determine whether a CPP, ***or one or more clearing services, activities or financial instruments thereof***, is systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Or. en

Justification

While ESMA's analysis should examine all aspects of the CCP's business, including those services which directly and indirectly affect the union, it should be possible to determine that one or more clearing services, activities or financial instruments should be classified as Tier 2 if it is deemed appropriate.

Amendment 429
Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – introductory part

Text proposed by the Commission

ESMA shall determine whether a ***CPP*** is systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier 2 CCP) by taking into account all of the following criteria:

Amendment

ESMA shall ***after consulting the members of the ESCB*** determine whether a ***CCP or a CCP service provided by that CCP*** is systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier 2 CCP) by taking

into account all of the following criteria:

Or. en

Amendment 430

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point a

Text proposed by the Commission

(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*;

Amendment

(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, the aggregate exposure of the CCP engaged in clearing activities to its *clearing members as well as the share and the complexity of the contracts cleared. And, to the extent that they can be readily identified, their clients and indirect clients, in particular where any of those members or clients have been designated as a global or other systemically important institutions (G-SIIs or O-SIIs) pursuant to Directive 2013/36/EU.*

Or. en

Amendment 431

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point a

Text proposed by the Commission

(a) the nature, size and complexity of the CCP's business, including the value in

Amendment

(a) the nature, size and complexity of the CCP's business *or a CCP service*,

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;

including the value in aggregate terms and in each Union currency of transactions cleared by the CCP *or a CCP service*, or the aggregate exposure of the CCP *or a CCP service* engaged in clearing activities to its counterparties;

Or. en

Amendment 432
Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point a

Text proposed by the Commission

(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*;

Amendment

(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 *clearing members in the European Union, and to the extent possible their clients and indirect clients established in the Union, including where any of those members or clients have been designated as other systemically important institutions (O-SIIs) pursuant to Article 131 of Directive 2013/36/EU.*

Or. en

Amendment 433
Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(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;

(a) the nature, size and complexity of the CCP's business ***in the Union***, including the value in aggregate terms and in each Union currency of transactions cleared by the CCP ***for clearing members or their clients established in the Union***, or the aggregate exposure of the CCP engaged in clearing activities to its counterparties;

Or. en

Justification

Precision that the analysis shall look only at the activity of the CCP in the Union.

Amendment 434

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the risk profile of the CCP, including in terms of financial, operational and cyber risks;

Or. en

Amendment 435

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) the effect that the failure of or a

(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;

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 ***and the availability and applicability of a recovery and resolution plan in the spirit of the Regulation (EU) No xxxx/xxxx on a Framework for the Recovery and Resolution of Central Counterparties;***

Or. en

Amendment 436

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Paragraph 25 – paragraph 2 a – subparagraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(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 ***and whether the CCP is subject to recovery and resolution plans deemed equivalent by ESMA;***

Or. en

Amendment 437

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(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, ***or on the financial stability of the Union or one or more of its Member States;***

Or. en

Amendment 438

Markus Ferber

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(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, ***in addition to the potential for other CCPs to provide the same services;***

Or. de

Amendment 439

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(b) the effect that the failure of or a disruption to the CCP *or a CCP service* 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;

Or. en

Amendment 440

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c

Text proposed by the Commission

(c) the *CCP's clearing membership structure*;

Amendment

(c) the *proportion of clearing members, as well as of their clients and indirect clients, which is located in the Union*;

Or. en

Justification

Precision of point (c)

Amendment 441

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c

Text proposed by the Commission

(c) the CCP's clearing membership structure;

Amendment

(c) the CCP's clearing membership structure *as well as the structure of its network of clients and indirect clients*;

Or. en

Amendment 442

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c

Text proposed by the Commission

(c) the CCP's clearing membership structure;

Amendment

(c) the CCP's clearing membership structure *as well as the structure of its network of clients and indirect clients*;

Or. en

Justification

Important that, even in the case of differentiating a CCP's clearing services between Tier 1 and 2, that networks of direct and indirect clients are known.

Amendment 443

Thomas Mann

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c

Text proposed by the Commission

(c) the CCP's clearing membership structure;

Amendment

(c) the CCP's clearing membership structure *as well as the structure of its network of clients and indirect clients*;

Amendment 444

Markus Ferber

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) the CCP's clearing membership structure;

(c) the CCP's *direct and indirect* clearing membership structure;

Or. de

Amendment 445

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) the *CCP's* clearing membership structure;

(c) the *CCP or a CCP service's* clearing membership structure;

Or. en

Amendment 446

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the availability of substitutable clearing services in the currencies concerned to clearing members, their clients and indirect clients;

Or. en

Amendment 447

Thomas Mann

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the availability of clearing services in the relevant currencies to clearing members, their clients and indirect clients;

Or. de

Amendment 448

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) the CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system.

(d) the CCP's *or a CCP service's* relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system.

In determining the systemic importance for the Union of specific third country CCP activities, ESMA shall examine each

CCP service, activity or class of financial instruments provided to clearing members or trading venues established in the Union.

However, when a third country CCP does not operate risk management standards at service level, ESMA shall assess systemic importance at the level of the entire CCP.

In this case, ESMA shall recommend that the European Commission adopts an implementing act confirming that the CCP or some of the services provided by that CCP are systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States (Tier2 CCP).

Or. en

Amendment 449
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 a – subparagraph 1 – point d

Text proposed by the Commission

(d) the CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system.

Amendment

(d) the CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system *to the extent that this likely impacts the financial stability of the Union or of one or more of its Member States;*

Or. en

Amendment 450
Pervenche Berès

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the immediate and middle term effects that the failure of or a disruption to the CCP would have on the liquidity of the markets it serves, notably as regard the conduct of monetary policy by the central banks of issue, and on the availability of services it offers;

Or. en

Justification

This amendment aims at taking into account the fact that liquidity strains linked to the failure of a CCP could significantly affect the instruments used by central banks in the conduct of monetary policy. It also underlines that, when determining the systemicity of a CCP, the gradual substitutability of the services it sells is an important criterion. Indeed, if a CCP is difficult to replace in the middle term, the risk it poses for EU financial stability in case of a crisis is even greater.

Amendment 451

Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) The effect that the default or disruption of the CCP would have on the liquidity of the markets supplied, or on the implementation of the monetary policy of the central banks of issue

Or. fr

Justification

Liquidity stress resulting from a CCP defaulting may have a major impact on EU participants, and even on some of the main instruments used by the central banks in their monetary policy strategies.

Amendment 452

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the effect that the failure of or a disruption to the CCP would have on the liquidity of the markets served or on the monetary policy implementation of the central banks of issue

Or. en

Amendment 453

Jonás Fernández

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the relevance of the CCP for EU central banks of issue and their monetary policy operations;

Or. en

Amendment 454

Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) The substitutability of clearing services provided by the CCP.

Or. fr

Justification

Substitutability is a major criterion for determining the systemic importance. If the CCP is not (or is barely) substitutable, the risk to the financial stability of the EU in the event of a crisis is even greater.

Amendment 455

Jonás Fernández

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the liquidity risks of the CCP embedded by the CCP activities, in particular the physical settlement requirements it implies in Union currencies.

Or. en

Amendment 456

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 a – subparagraph 2

Text proposed by the Commission

Amendment

The Commission shall adopt a delegated act in accordance with Article 82 to further specify the criteria set out in the first subparagraph within [~~six~~ months from the entry into force of this Regulation].

The Commission shall adopt a delegated act in accordance with Article 82 to further specify the criteria set out in the first subparagraph within [**12** months from the entry into force of this Regulation].

Or. en

Justification

Six months is a short period and twelve months is the standard time for the adoption of a delegated act.

Amendment 457

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – introductory part

Text proposed by the Commission

Amendment

2b. Where ESMA determines a CCP to be systemically important or likely to become systemically important (Tier 2 CCP) in accordance with paragraph 2a, it may only recognise that CCP where, in addition to the conditions referred to in Article 25(2)(a), (b), (c) and (d), the following conditions are fulfilled:

2b. Where ESMA determines a CCP, ***or one or more clearing services, activities or financial instruments thereof***, to be systemically important or likely to become systemically important (Tier 2 CCP) in accordance with paragraph 2a, it may only recognise that CCP, ***or one or more of the relevant clearing services, activities or financial instruments thereof***, where, in addition to the conditions referred to in Article 25(2)(a), (b), (c) and (d), the following conditions are fulfilled:

Or. en

Justification

ESMA should have the possibility to designate certain clearing services, activities or financial instruments of a CCP as Tier 2, while other aspects of the CCP would be able to remain recognised as Tier 1.

Amendment 458
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – introductory part

Text proposed by the Commission

2b. Where ESMA determines *a CCP* to be systemically important or likely to become systemically important (Tier 2 CCP) in accordance with paragraph 2a, it may only recognise that CCP where, in addition to the conditions referred to in Article 25(2)(a), (b), (c) and (d), the following conditions are fulfilled:

Amendment

2b. Where ESMA determines *one or more of the services provided by a third country CCP in a Union currency to EU clearing members* to be systemically important or likely to become systemically important (Tier 2 CCP) in accordance with paragraph 2a, it may only recognise that CCP where, in addition to the conditions referred to in Article 25(2)(a), (b), (c) and (d), the following conditions are fulfilled *in respect of those clearing services*:

Or. en

Justification

This amendment would require other consequential amendments elsewhere in the text in order to replace references to CCPs in relation to Tier 2 requirements, with references to one or more clearing service(s); broader governance requirements associated with Tier 2 status would continue to be fulfilled at the level of the CCP where at least one service line would justify that status.

Amendment 459
Markus Ferber

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point a

Text proposed by the Commission

(a) the CCP complies, at the moment of recognition and thereafter on an ongoing basis, with the requirements set out in

Amendment

(a) the CCP complies, at the moment of recognition and thereafter on an ongoing basis, with the requirements set out in

Article 16 and in Titles IV and V. *ESMA shall take into account, in accordance with Article 25a(2), the extent to which an CCP's compliance with those requirements is satisfied by the CCP's compliance with the comparable requirements applicable in the third country;*

Article 16 and in Titles IV and V.

Or. de

Amendment 460

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point a

Text proposed by the Commission

(a) the CCP complies, at the moment of recognition and thereafter on an ongoing basis, with the requirements set out in Article 16 and in Titles IV and V. ESMA shall take into account, in accordance with Article 25a(2), the *extent to which an CCP's compliance with those requirements is satisfied by the* CCP's compliance with the comparable requirements applicable in the third country;

Amendment

(a) the CCP complies, at the moment of recognition and thereafter on an ongoing basis, with the requirements set out in Article 16 and in Titles IV and V. ESMA shall take into account, in accordance with Article 25a(2), the CCP's compliance with the comparable requirements applicable in the third country;

Or. en

Amendment 461

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point b

Text proposed by the Commission

(b) following the consultation referred to in point (f) of paragraph 3, 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 **any** requirements **imposed by** those central banks of issue **in** the carrying out of their monetary policy tasks. Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled;

Amendment

(b) following the consultation referred to in point (f) of paragraph 3, 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 **the following** requirements **that** those central banks of issue **may have imposed on this CCP in relation to** the carrying out of their monetary policy tasks:

(i) **the requirement to report any requested information to the relevant central bank of issue where that information has not otherwise been obtained by ESMA,**

(ii) **the right of the central bank of issue, upon a reasoned request, to participate in on-site inspections together with ESMA;**

(iii) **the opening by the CCP of a cash account at a central bank, where such accounts are made available on non-discriminatory terms and provided the CCP fulfils the relevant access requirements;**

(iv) **the commitment from the CCP to duly and fully cooperate with the central bank of issue in the context of its assessment of the CCP's resilience to adverse market conditions;**

(v) **requirements imposed on the basis of provisional measures adopted by the central bank of issue to confront an exceptional situation related to systemic liquidity risks, with a view in particular to guarantee the transmission of monetary policy and the smooth functioning of payment systems.**

Where the relevant central bank of issue has not provided a written response to

ESMA within the deadline, ESMA may consider this requirement to be fulfilled.

Any central bank of issue may submit to the Commission a duly justified request to add one or more requirements to the list set out in the first paragraph of this point. On the basis of this request, the Commission may adopt a delegated act adding the requirements concerned to the list set out in the first paragraph of this point.

Where, further to a request submitted pursuant to the previous paragraph, the Commission decides not to add to the list set out in the first paragraph of this point one or more of the requirements that the central bank asked for in its request, it shall provide full and detailed reasons for its decision to the central bank concerned, in writing.

The Commission may also adopt, on its own initiative, a delegated act adding one or more requirements to the list set out in the first paragraph of this point.

Or. en

Justification

Further clarification of the requirements that the central bank of issue may impose.

Amendment 462 **Burkhard Balz**

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point b

Text proposed by the Commission

(b) following the consultation referred to in **point (f) of paragraph 3**, the central banks of issue referred to therein have provided ESMA with written confirmation,

Amendment

(b) following the consultation referred to in paragraph **2a**, the central banks of issue referred to therein have provided ESMA with written confirmation, within

within 180 days of the submission of an application, that the CCP complies with **any** requirements **imposed by those** central banks of issue **in** the carrying out of their monetary policy tasks. Where the **relevant** central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled;

180 days of the submission of an application, that the CCP complies with **the following** requirements **the** central banks of issue **may have imposed in relation to** the carrying out of their monetary policy tasks:

(i) **the CCP has committed to submit any information which the central bank of issue may require upon its reasoned request;**

(ii) **the CCP has committed to fully and duly cooperate with the central bank of issue in the context of its assessment of the CCP's resilience to adverse market conditions;**

(iii) **the CCP has opened an overnight deposit account with the central bank of issue in accordance with relevant access criteria and requirements of the central bank of issue.**

Where the central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled.

Or. en

Amendment 463
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point b

Text proposed by the Commission

(b) **following** the consultation referred to in point (f) of paragraph 3, the central banks of issue referred to therein have provided ESMA with written confirmation, **within 180 days of the submission of an**

Amendment

(b) **within the deadline to respond to** the consultation referred to in point (f) of paragraph 3, the central banks of issue referred to therein have provided ESMA with written confirmation that the CCP

application, that the CCP complies with *any* requirements imposed by those central banks of issue in the carrying out of their monetary policy tasks. Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled;

complies with *the following* requirements imposed by those central banks of issue in the carrying out of their monetary policy tasks: *(i) the CCP has committed to submit any information which the central bank of issue may require upon its reasoned request; (ii) the CCP has committed to fully and duly cooperate with the central bank of issue in the context of its assessment of the CCP's resilience to adverse market conditions; (iii) the CCP has opened an overnight deposit account with the central bank of issue in accordance with relevant access criteria and requirements of the central bank of issue. (iv) requirements imposed as part of targeted and provisional measures adopted by the CBI to confront an exceptional situation related to systemic liquidity risks, with a view in particular to guarantee the transmission of monetary policy and the smooth functioning of payment systems. The central bank of issue may propose amendments of the list referred to in this point. The Commission shall be empowered to adopt delegated acts in accordance with Article 82 to adopt amended list set out in point (b) of this paragraph.* Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled;

Or. en

Amendment 464

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point b

Text proposed by the Commission

(b) following the consultation referred to in point (f) of paragraph 3, 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 **any** requirements imposed by those central banks of issue in the carrying out of their monetary policy tasks. Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled;

Amendment

(b) following the consultation referred to in point (f) of paragraph 3, 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 **specific** requirements imposed by those central banks of issue **relevant** in the carrying out of their **monetary policy tasks in relation to stress testing, reporting, liquidity, collateral, the right of the central bank of issue to participate in on-site inspections, and as appropriate, the requirement of establishing a subsidiary in the Union to obtain an authorisation granting access to the activity of credit institution pursuant to Article 8 of Directive 2013/36/EU and thereby the opening by the CCP of a cash account at a central bank. The written confirmation shall provide a duly justified and reasoned explanation of the relevance of the requirements pursuant to this paragraph for the carrying out of** monetary policy tasks. Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled

Or. en

Amendment 465

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point b

Text proposed by the Commission

(b) following the consultation referred to in point (f) of paragraph 3, the central banks of issue referred to therein have

Amendment

(b) following the consultation referred to in point (f) of paragraph 3, 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 **any** requirements imposed by those central banks of issue in the carrying out of their monetary policy tasks. Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider **this requirement** to be fulfilled;

provided ESMA with written confirmation, within **the deadline to respond to the consultation referred to in point (f) of paragraph 3**, that the CCP complies with **relevant** requirements imposed by those central banks of issue in the carrying out of their monetary policy tasks. **Such requirements may relate to stress testing, reporting, liquidity or collateral, the right of the central bank of issue to participate in on-site inspections, and the opening, or commitment to opening, by the CCP of a cash account at a central bank.** Where the relevant central bank of issue has not provided a written response to ESMA within the deadline, ESMA may consider **the requirements under this point** to be fulfilled;

Or. en

Justification

It will not always be possible for a CCP to open a cash account with a central bank before it is authorised to provide clearing services in the Union. Therefore, there should be an option for the CCP to commit to opening a cash account as soon as it is authorised in the Union.

Amendment 466 **Wolf Klinz**

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point b

Text proposed by the Commission

(b) following the consultation referred to in point (f) of paragraph 3, 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 **any** requirements imposed by those central banks of issue in **the carrying out of their monetary policy tasks. Where the relevant**

Amendment

(b) following the consultation referred to in point (f) of paragraph 3, the central banks of issue referred to therein have provided ESMA with written confirmation, within **the deadline to respond to the consultation referred to in point (f) of paragraph 3**, that the CCP complies with requirements imposed by those central banks of issue in **relation to stress testing,**

central bank *of issue has not provided a written response to ESMA within the deadline, ESMA may consider this requirement to be fulfilled;*

reporting, liquidity or collateral, on-site inspections, or the opening by the CCP of a cash account at a central bank.

Or. en

Amendment 467
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point b a (new)

Text proposed by the Commission

Amendment

(ba) The CCP shall comply with any additional requirements set by the Commission (or ESMA);

Or. fr

Justification

With regard to Recital 33a, it seems necessary for the Commission and ESMA to be able to set additional requirements for 'Tier 2' CCPs in order to preserve the financial stability of the EU.

Amendment 468
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point b a (new)

Text proposed by the Commission

Amendment

(ba) the CCP complies with any additional requirement imposed by the Commission (or ESMA);

Or. en

Justification

Aligned with recital 33bis, it seems necessary that the Commission and ESMA could impose additional requirements to Tier 2 CCPs in order to preserve the EU's financial stability.

Amendment 469

Pervenche Berès

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point c a (new)

Text proposed by the Commission

Amendment

(ca) the CCP complies with any additional requirement imposed by the Commission, following a recommendation by ESMA;

Or. en

Justification

This amendment is echoed by the amendment to recital 33: it 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 470

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 b – point d

Text proposed by the Commission

Amendment

(d) the CCP has put in place all necessary measures and procedures that ensure the effective compliance with the requirements laid down in points (a) and (c);

(d) the CCP has put in place all necessary measures and procedures that ensure the effective compliance with the requirements laid down in points (a) and (c) **including procedures to ensure compliance with requests addressed by**

ESMA that appropriate action is taken within a set timeframe in relation with the requirements set out in Article 16 and in Titles IV and V;

Or. en

Amendment 471
Pervenche Berès

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point d

Text proposed by the Commission

(d) the CCP has put in place all necessary measures and procedures that ensure the effective compliance with the requirements laid down in points (a) *and (c)*;

Amendment

(d) the CCP has put in place all necessary measures and procedures that ensure the effective compliance with the requirements laid down in points (a), (c) *and (ca)*;

Or. en

Justification

This amendment aims at ensuring legal consistency following the introduction of point (ca).

Amendment 472
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point d

Text proposed by the Commission

(d) the CCP has put in place all necessary measures and procedures that ensure the effective compliance with the requirements laid down in points (a) and (c);

Amendment

(d) the CCP has put in place all necessary measures and procedures that ensure the effective compliance with the requirements laid down in points (a), (*ba*) and (c);

Justification

This amendment aims to align with our amendment to Article 25 paragraph 2b new subparagraph (ba)

Amendment 473
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) 648/2012
Article 25 – paragraph 2 c – point d

Text proposed by the Commission

(d) the CCP has put in place all necessary measures and procedures *that* ensure the effective compliance with the requirements laid down in points (a) and (c);

Amendment

(d) the CCP has put in place all necessary measures and procedures *to* ensure the effective compliance with the requirements laid down in points (a), **(bb)** and (c);

Justification

Amendment related to Recitals 33a and to Article 25(2b) point bb (new).

Amendment 474
Wolf Klinz

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 b – point e a (new)

Text proposed by the Commission

(ea) taking effect on 1.1.2021, the CCP is located in the European Economic Area.

Amendment

Amendment 475
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 c

Text proposed by the Commission

Amendment

2c. ESMA, in agreement with the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph 2b.

deleted

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide clearing services in the Union after it has been granted authorisation in accordance with Article 14.

Or. en

Amendment 476
Olle Ludvigsson

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b

Text proposed by the Commission

Amendment

ESMA, in agreement with the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph 2b.

deleted

Or. en

Amendment 477

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 1

Text proposed by the Commission

Amendment

ESMA, ***in agreement with*** the relevant central banks of issue and ***commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a***, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States ***and should not therefore be recognised***. In such a case, ESMA shall recommend that the Commission adopt an implementing act

ESMA, ***after obtaining consent of*** the relevant central banks of issue and ***after consulting the ESRB***, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States. In such a case, ***and on the basis of its analysis which has determined that systemic risk will be reduced as a result of such a decision***, ESMA shall recommend that the Commission adopt an

confirming that that CCP should not be recognised in accordance with paragraph 2b.

implementing act *prohibiting the CCP concerned from being* recognised in accordance with paragraph 2 *and requiring the CCP to obtain authorisation in accordance with Article 14 in order to provide the clearing services concerned in the Union.*

ESMA may, in its analysis, identify specific clearing services or activities for which it considers that recognition shall not be granted or extended.

The recommendation shall be accompanied by an analysis of all of the following elements:

(a) the elements referred to in points (a) to (d) of Article 25 (2a);

(b) the characteristics of the clearing services provided by the CCP, in particular the liquidity needs associated with such services and the related likelihood of need for liquidity support in distressed situations, as well as the substitutability of the clearing services provided by the CCP;

(c) the potential consequences of including the outstanding cleared contracts within the scope of the implementing act;

(d) the potential consequences on EU clearing members' own funds requirements under Regulation (EU) No 575/2013 in the event of a requirement under the implementing act for the CCP to immediately apply for authorization in accordance with Article 14;

(e) the potential consequences, in terms of costs and benefits, of the requirement for the CCP to apply for authorisation in the Union on the Union clearing members, their clients, linked and operable FMIs and Union markets as a whole, in particular as regards the impact of the decision on the level playing field between Union clients and members and clients and members from other

jurisdictions;

(f) the potential impact consequences of the requirement for the CCP to apply for authorisation in the Union for the financial stability of the Union or of one or more of its Member States;

(g) the existence and nature of liquidity support mechanisms available to the CCP in its home country and the existence of any market mechanisms allowing to spread the risk caused by the CCP.

Or. en

Justification

In any analysis which will inform a Commission decision to adopt an implementing act, it is important that the costs of immediate withdrawal of recognition for clearing members are considered. This analysis should help inform the adaptation period that the Commission outlines in its implementing act, in accordance with the second subparagraph of paragraph 2c

Amendment 478

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 1

Text proposed by the Commission

ESMA, *in agreement with the relevant central banks of issue and commensurate with the degree of systemic importance* of the CCP *in accordance with paragraph 2a*, may conclude that a CCP is of such **substantial** systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be **recognised**. In such a case, ESMA **shall** recommend that the

Amendment

ESMA, *after obtaining consent of the central banks of issue of all Union currencies of the financial instruments cleared or to be cleared by that CCP and after consulting the ESRB* may conclude that a CCP *or the CCP service* is of such **specific** systemic importance **for the Union** that compliance with the conditions set out in paragraph 2b **and cooperation arrangements of Article 25(7a)** does not sufficiently ensure the financial stability of the Union or of one or more of its Member

Commission adopt an implementing act ***confirming that that CCP should not be recognised*** in accordance with paragraph 2b.

States and should not therefore be ***recognized***. In such a case, ESMA ***may*** recommend that the Commission adopt an implementing act ***denying the CCP or CCP service from being recognized*** in accordance with paragraph 2b.

ESMA recommendation shall be based on a quantitative analysis in particular of EU firms portfolio structure. It should include all of the following elements:

(a) The financial stability risks linked to all the criteria of article points(a) to (d) of Article 25 that cannot be addressed with the application of Article 25(2b) points (a) to (e);

(b) The specific relevance to the Union of the financial stability risks represented by the products cleared,

(c) the characteristics of the products cleared by the CCP, or the CCP service in particular the liquidity needs associated with such services and the materiality of liquidity and physical settlement requirements that need to be managed in case of stress event and could lead, in case of severe liquidity stress to access to central bank liquidity needs,

(d) the substitutability of the clearing services provided by the CCP;

(e) the potential consequences of including the outstanding cleared contracts within the scope of the implementing act;

(f) the potential consequences, in terms of costs, of the denial of recognition on the Union clearing members, their clients, linked and interoperable FMIs and Union market as a whole, in particular as regards the impact of the decision on the competitiveness of Union clients and members and clients and members from other jurisdictions;

(g) the potential impact consequences of denial of recognition in the Union for the financial stability of the Union or of

Amendment 479

Thomas Mann

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 1

Text proposed by the Commission

ESMA, *in agreement with* the relevant central banks of issue and *commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a*, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph 2b.

Amendment

ESMA, *after obtaining the consent of* the relevant central banks of issue and *after consulting the ESRB*, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that the CCP should not be recognised in accordance with paragraph 2 *and requiring the CCP to apply for authorisation pursuant to Article 14 to provide the clearing services in question within the Union.*

ESMA may, in its analysis, identify specific clearing services or activities for which it considers that recognition shall not be granted or extended. The recommendation shall be accompanied by an analysis of all of the following elements:

- (a) the elements referred to in points (a) to (d) of Article 25;*
- (b) The features of the clearing services provided by the CCP, especially those in the currencies of the Union;*
- (c) the potential consequences of including the outstanding cleared*

contracts within the scope of the implementing act;

(d) the potential consequences, in terms of costs and benefits, of the requirement for the CCP to apply for authorisation in the Union on the Union clearing members, their clients, linked and operable FMIs and Union markets as a whole, in particular as regards the impact of the decision on their competitiveness;

(e) the potential impact of a CCP not being required to apply for authorisation in the Union and the impact on the financial stability of the Union or of one or more of its Member States;

(f) the existence and nature of liquidity support mechanisms available to the CCP in its home country and the existence of any market mechanisms allowing to spread the risk caused by the CCP.

Or. de

Amendment 480
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
Regulation (EU) No 648/2012
Article 25 – paragraph 2 c – subparagraph 1

Text proposed by the Commission

ESMA, in agreement with the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, may conclude that a CCP *is* of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be **recognised. In**

Amendment

ESMA, in agreement with the relevant central banks of issue **of the financial instruments cleared or to be cleared by that CCP**, and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, may, **on the basis of a fully reasoned assessment**, conclude that a CCP **or some of its clearing services, are** of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does

such a case, ESMA shall recommend that the Commission adopt *an implementing* act confirming that that CCP should not be recognised in accordance with paragraph 2b.

not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be *recognized*. *In its assessment, ESMA shall:*

(a) *explain why compliance with the conditions set out in paragraph 2b does not sufficiently address the financial stability risk for the Union or for one or more of its Member States;*

(b) *provide an assessment of the costs and benefits of a decision not to recognise the CCP.*

On the basis of its assessment, ESMA shall recommend that the Commission adopt *a delegated* act confirming that that CCP should not be recognised in accordance with paragraph 2b.

Or. en

Amendment 481 **Markus Ferber**

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 1

Text proposed by the Commission

ESMA, in agreement with the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, *may conclude* that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph

Amendment

If there are no effective agreements between the EU supervisory authority and the competent supervisory authority of the third country concerned or between the European Central Bank and the central bank of the third country concerned that guarantee effective supervision over the clearing of derivatives in EU currencies, or if ESMA, in agreement with the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, concludes that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does

2b.

not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph 2b ***and requiring the CCP to apply for authorisation pursuant to Article 14 to provide the clearing services in question within the Union.***

Or. de

Amendment 482

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 1

Text proposed by the Commission

ESMA, ***in agreement with*** the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph 2b.

Amendment

ESMA ***or*** the relevant central banks of issue and commensurate with the degree of systemic importance of the CCP in accordance with paragraph 2a, may conclude that a CCP is of such substantial systemic importance that compliance with the conditions set out in paragraph 2b does not sufficiently ensure the financial stability of the Union or of one or more of its Member States and should not therefore be recognised. In such a case, ESMA ***or the relevant central banks of issue*** shall recommend that the Commission adopt an implementing act confirming that that CCP should not be recognised in accordance with paragraph 2b.

Or. en

Amendment 483

Jakob von Weizsäcker, Jonás Fernández, Paul Tang

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The recommendation shall assess the net benefits of such a move with regards to safeguarding the interests of EU taxpayers and financial stability.

Or. en

Amendment 484

Olle Ludvigsson

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 2

Text proposed by the Commission

Amendment

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide clearing services in the Union after it has been granted authorisation in accordance with Article 14.

deleted

Or. en

Amendment 485

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Text proposed by the Commission

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act ***declaring that*** that CCP shall not be recognised ***pursuant to paragraph 2b and that it may only provide*** clearing services in the Union ***after it has been granted authorisation*** in accordance with Article 14.

Amendment

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act ***specifying that following the transitional period specified by the Commission in accordance with point (b) some or all services provided by that CCP shall not be recognised. The implementing act shall be accompanied by an impact assessment explaining why the specific systemic relevance of some or all services provided by that CCP cannot be addressed by the application of Article 25(2b) points (a) to (e) as well as the potential consequences for the competitiveness and the financial stability of the Union or of one or more of its Member States.***

That implementing act should specify:

- (a) an appropriate adaptation period for the CCP, its clearing members and their clients, the length of which should be based on a quantitative assessment of EU firms portfolio structure;***
- (b) the conditions under which the CCP or the relevant services may be recognised temporarily during the adaptation period referred to in point (a);***
- (c) the need to include the outstanding cleared transactions within the scope of the implementing act based on a quantitative assessment of EU firms portfolio structure;***
- (d) any measures that shall be taken during the adaptation period, in order to limit the potential costs to clearing members and their clients, in particular those established in the Union. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 86(2).***

Amendment 486
Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 2

Text proposed by the Commission

After submission of the recommendation referred to in the *first* subparagraph, the Commission may adopt *an implementing act declaring that* that CCP shall *not be recognised pursuant to paragraph 2b and that it may only provide* clearing services in the Union *after it has been granted authorisation* in accordance with Article 14.

Amendment

After submission of the recommendation referred to in the *second* subparagraph, the Commission may adopt *a delegated act specifying:*

(a) *that following the adaptation period specified by the Commission in accordance with point (b) some or all services provided by that CCP shall only be provided to clearing members and trading venues established in the Union only by a CCP authorised in accordance with Article 14;*

(b) *an appropriate adaptation period for the CCP, its clearing members and their clients;*

(c) *the conditions under which that CCP may be temporarily recognised during the adaptation period referred to in point(b);*

(d) *any measures that shall be taken during the adaptation period, in order to limit the potential costs to clearing members and their clients, in particular those established in the Union.*

In specifying the services and adaptation period referred to in points (a) and (b) of the third second subparagraph, the Commission shall consider:

- (a) *the characteristics of the services offered by the CCP and their potential substitutability in the Union;*
- (b) *based on the legal and economic consequences of whether and to what extent including the outstanding cleared transactions shall be included within the scope of the implementing act;*
- (c) *the potential cost implications to clearing members and their clients, in particular those established in the Union.*

Or. en

Amendment 487
Petr Ježek, Caroline Nagtegaal

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b
 Regulation (EU) No 648/2012
 Article 25 – paragraph 2 c – subparagraph 2

Text proposed by the Commission

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt *an* implementing act *declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide* clearing services in the Union *after it has been granted authorisation* in accordance with Article 14.

Amendment

Based on the recommendation referred to in the first subparagraph, *and following the consideration of the elements referred to in points (a) to (f) of the third subparagraph*, the Commission may adopt *the* implementing act *referred to in the first subparagraph*.

This implementing act may require any of the following:

- (a) *prohibit the recognition of the CCP or the extension of the recognition of one or more of its clearing services and state that those clearing services shall only be provided to clearing members and trading venues established in the Union by a CCP authorised in accordance with Article 14;*
- (b) *where a CCP, at the date of the Commission's decision to adopt the*

implementing act, is recognised in accordance with Article 25 (2) or Article 25 (2b), the implementing act may specify an appropriate adaptation period for the CCP, its clearing members and their clients, together with the conditions under which the CCP may continue to be temporarily recognised during such an adaptation period and any measures that shall be taken during such an adaptation period in order to limit the potential costs to clearing members and their clients, in particular those established in the Union;

Or. en

Justification

Where a third country CCP is authorised as a Tier 1 or Tier 2 CCP, the Commission's implementing act should determine an adaptation period which is commensurate with the analysis which ESMA has carried out in accordance with the second subparagraph. The aim of the adaptation period is to avoid a scenario where clearing members would not be able to continue to benefit from contracts devised when the CCP was recognised as a Tier 1 or Tier 2 CCP.

Amendment 488

Wolf Klinz

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 2

Text proposed by the Commission

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide clearing services in the Union after it has been granted authorisation in accordance with Article 14.

Amendment

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide clearing services in the Union after it has been granted authorisation in accordance with Article 14. ***This implementing act shall specify a transition period during which the CCP remains recognised. When determining***

the length of this transition period the Commission shall endeavour to minimise market disruption.

Or. en

Amendment 489

Anne Sander

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 2

Text proposed by the Commission

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt an implementing act declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide clearing services in the Union after it has been granted authorisation in accordance with Article 14.

Amendment

After submission of the recommendation referred to in the first subparagraph, the Commission may adopt, ***provided that the decision will not create anti-competitive situation between counterparties, whether they are based in a third country or not,*** an implementing act declaring that that CCP shall not be recognised pursuant to paragraph 2b and that it may only provide clearing services in the Union after it has been granted authorisation in accordance with Article 14.”

Or. en

Amendment 490

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b

Regulation (EU) No 648/2012

Article 25 – paragraph 2 c – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall adopt a delegated act in accordance with Article 82 to further specify the criteria for considering

that a CCP is of substantial systemic importance as referred to in the first subparagraph within [six months from the entry into force of this Regulation].

Or. en

Amendment 491
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b a (new)
Regulation (EU) No 648/2012
Article 25 – paragraph 3 – introductory part

Present text

Amendment

3. When assessing whether the conditions referred to in paragraph 2 are met, ESMA shall consult

(ba) in paragraph 3 the introductory part is replaced by the following:

"3. When assessing whether the conditions referred to in paragraph 2 *or 2a*, *as applicable*, are met, ESMA shall consult:"

Or. en

Justification

The reference needs to be updated to cover both paragraphs dealing with both tracks for recognition.

Amendment 492
Petr Ježek, Caroline Nagtegaal, Wolf Klinz

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point b a (new)
Regulation (EU) No 648/2012
Article 25 – paragraph 3 – introductory part

Present text

Amendment

3. When assessing whether the conditions

(ba) paragraph 3 is amended as follows:

"3. When assessing whether the conditions

referred to in paragraph 2 are met, ESMA shall consult:

referred to in paragraph 2 *or paragraph 2a* are met, ESMA shall consult:

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012R0648>)

Justification

To ensure consistency with requirements under Paragraph 2 and Paragraph 2a

Amendment 493

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b b (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 3 – point f

Present text

Amendment

(f) the central banks of issue of *the most relevant* Union currencies of the financial instruments cleared or to be cleared.

(bb) in paragraph 3, point (f) is replaced by the following:

"(f) the central banks of issue of *all* Union currencies of the financial instruments cleared or to be cleared."

Or. en

Justification

All central banks issuing a currency to be cleared by the third country CCP are to be part of the recognition process, not only the three most relevant ones.

Amendment 494

Stanisław Ożóg

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 3 – point f a (new)

Text proposed by the Commission

Amendment

(ba) In paragraph 3, the following point (f a) is inserted:

(fa) the central banks of issue referred to in Article 18(2)(i).

Or. en

Justification

Per analogiam to proposed change to Article 18, Article 25 should be supplemented accordingly.

Amendment 495

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b b (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(bb) the following paragraph 3a is inserted:

"3a. In close cooperation with the concerned CCP, third country authority, central banks of issue and ESRB, ESMA may at any time and in the framework of this article assess CCPs through stress-testing and crisis simulation exercises with respect to potential system-wide stress events in order, inter alia, to evaluate the risk profile of the CCP."

Or. en

Amendment 496

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point b b (new)

Present text

ESMA shall publish on its website a list of the CCPs recognised in accordance with this Regulation.

Amendment

(bb) in paragraph 4, the subparagraph 6 is replaced by the following:

"ESMA shall publish on its website a list of the CCPs recognised in accordance with this Regulation, **together with a mention of their categorisation as Tier 1 CCPs or Tier 2 CCPs.**"

Or. en

Justification

The classification of a CCP is an element that should be made public, including in an accessible way through the register.

Amendment 497
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point c
Regulation (EU) No 648/2012
Article 25 – paragraph 5

Text proposed by the Commission

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of **the** CCP established in a third country where **that** CCP has extended the range of its activities and services in the Union **and in any case** at least every two years. That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Amendment

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of **a** CCP established in a third country:

(a) where **the** CCP has extended the range of its activities and services in the Union; **and**

(b) At least every two years **where that CCP clears an amount of financial instruments exceeding the level set in the**

delegated act referred to in the fifth subparagraph, and at least every five years in all other cases.

That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Where, following the review referred to in the first subparagraph, ESMA determines that a third country CCP that has been recognized as Tier 1 CCP should be recognised as a Tier 2 CCP, ESMA shall set an appropriate adaptation period which shall not exceed 12 months within which the CCP must comply with the requirements referred to in paragraph (2b). ESMA may extend that adaptation period up to additional 6 months upon the reasoned request of the CCP or competent authority responsible for the supervision of the clearing members, where such extension is justified by exceptional circumstances and implications to the clearing members established in the Union.

The Commission, in order to ensure the consistent application of this Article, shall, after consulting the central banks of issue of all Union currencies on aspects which related to the currency they issue, adopt a delegated act specifying the level referred to in point (b) of the first subparagraph. The Commission shall adopt the delegated act referred to in the fifth subparagraph in accordance with Article 82.

Or. en

Amendment 498
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point c
Regulation (EU) No 648/2012
Article 25 – paragraph 5

Text proposed by the Commission

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of the CCP established in a third country where that CCP has extended the range of its activities and services in the Union and in any case at least every two years. That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Amendment

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of the CCP established in a third country where that CCP has extended the range of its activities and services in the Union and in any case at least every two years. That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Where, further to the review referred to in Article 25(5), ESMA determines that a previously recognised CCP [entry into force of this Regulation] meets the criteria of a level 2 CCP referred to in Article 25(2a), or where a third-country CCP recognised as a level 1 CCP must be recognised as a level 2 CCP, ESMA shall set an appropriate adaptation period of no more than 12 months in which time the CCP must meet the requirements laid down in Article 25(2b).

Where, pursuant to Article 25(2c), the Commission concludes that a CCP or one of its clearing services should not be recognised, ESMA shall set an appropriate adaptation period of no more than twelve months in which time the CCP may be temporarily recognised.

Or. fr

Justification

Having a supervised adaptation period ensures the proposal is both credible and more operational, and it will allow third-country CCPs to comply with the new requirements that apply because of their change in level. Specifically, this amendment is essential for managing transaction stock if a clearing service relocates within the EU.

Amendment 499

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point c
Regulation (EU) No 648/2012
Article 25 – paragraph 5

Text proposed by the Commission

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of the CCP established in a third country where that CCP has extended the range of its activities and services in the Union and in any case at least every two years. That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Amendment

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of the CCP established in a third country where that CCP has extended the range of its activities and services in the Union and in any case at least every two years. That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Where, following the review referred to in Article 25 (1), ESMA determines that a CCP recognised before [entry into force of this Regulation] qualifies as a Tier 2 CCP in accordance with Article 25 (2a), or that a third-country CCP which has been recognized as Tier 1 CCP should be recognised as Tier 2 CCP, ESMA shall set an appropriate adaptation period which shall not exceed 12 months within which the CCP must comply with the requirements referred to in Article 25(2b).

Where, following Article 25 paragraph 2c the Commission concludes that a CCP or one of its clearing services should not be recognised, ESMA shall set an appropriate adaptation period which shall not exceed 12 months within which the CCP may be temporarily recognised.

Or. en

Justification

Providing for an adaptation period makes the proposal both credible and more operational, and allows third-country CCPs to adapt to the new requirements needed by their change of Tier classification. In particular, this amendment is essential for the management of the transaction stocks in case of relocation of a clearing service within the EU.

Amendment 500

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point c

Regulation (EU) No 648/2012

Article 25 – paragraph 5

Text proposed by the Commission

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of the CCP established in a third country where that CCP has extended the range of its activities and services in the Union **and in any case at least every two years**. That review shall be conducted in accordance with paragraphs 2, 3 and 4.

Amendment

5. ESMA shall, after consulting the authorities and entities referred to in paragraph 3, review the recognition of the CCP established in a third country where that CCP has extended the range of its activities and services in the Union. That review shall be conducted in accordance with paragraphs 2, 3 and 4. **ESMA may withdraw the recognition of that CCP where the conditions set out in paragraph 2 are no longer met and in the same circumstances as those described in Article 20.**

Or. en

Amendment 501

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point d

Regulation (EU) No 648/2012

Article 25 – paragraph 6 – introductory part

Text proposed by the Commission

The Commission may adopt **an implementing act under Article 5 of Regulation (EU) No 182/2011**, determining the following:

Amendment

The Commission may adopt **a delegated act in accordance with Article 82**, determining the following:

Or. en

Amendment 502

Markus Ferber

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point d

Regulation (EU) No 648/2012

Article 25 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The Commission *may* subject the application of the implementing act referred to in the first subparagraph to the effective fulfilment of any requirement set out therein by a third country on an ongoing basis and to the ability by ESMA to effectively exercise its responsibilities in relation to third-country CCPs recognised under paragraphs 2 and 2b or in relation to monitoring referred to in paragraph 6b, **including** by way of agreeing and applying the cooperation arrangements referred to in paragraph 7.

Amendment

The Commission **shall** subject the application of the implementing act referred to in the first subparagraph to the effective fulfilment of any requirement set out therein by a third country on an ongoing basis and to the ability by ESMA to effectively exercise its responsibilities in relation to third-country CCPs recognised under paragraphs 2 and 2b or in relation to monitoring referred to in paragraph 6b, by way of agreeing and applying the cooperation arrangements referred to in paragraph 7.

Or. de

Amendment 503

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point e

Regulation (EU) No 648/2012

Article 25 – paragraph 6 a

Text proposed by the Commission

6a. The Commission *may* adopt a delegated act in accordance with Article 82 to further specify the criteria referred to in points (a), (b) and (c) of paragraph 6.

Amendment

6a. The Commission **shall** adopt a delegated act in accordance with Article 82 to further specify the criteria referred to in points (a), (b) and (c) of paragraph 6.

Or. en

Amendment 504

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point e

Regulation (EU) No 648/2012

Article 25 – paragraph 6 b – subparagraph 1

Text proposed by the Commission

ESMA shall monitor the regulatory and supervisory developments in third countries for which implementing acts have been adopted pursuant to paragraph 6.

Amendment

Without prejudice to paragraph 7 of this Article, ESMA shall monitor the regulatory and supervisory developments in third countries for which implementing acts have been adopted pursuant to paragraph 6.

Or. en

Amendment 505

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point e

Regulation (EU) No 648/2012

Article 25 – paragraph 6 b – subparagraph 2

Text proposed by the Commission

Where ESMA identifies any regulatory or supervisory development in those third countries that may impact the financial stability of the Union or for one or more of its Member States, it shall inform the Commission confidentially and without delay.

Amendment

Where ESMA identifies any regulatory or supervisory development in those third countries that may impact the financial stability of the Union or for one or more of its Member States, it shall inform the Commission, ***the European Parliament and the Council*** confidentially and without delay.

Or. en

Amendment 506

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point f

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – first sentence

Text proposed by the Commission

Amendment

(f) *the first sentence of paragraph 7 is replaced by the following:* **deleted**

7. ESMA shall establish effective cooperation arrangements with the relevant competent authorities of third countries whose legal and supervisory frameworks have been recognised as equivalent to this Regulation in accordance with paragraph 6.

Or. en

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

Amendment 507
Markus Ferber

Proposal for a regulation
Article 2 – paragraph 1 – point 9 – point f
Regulation (EU) No 648/2012
Article 25 – paragraph 7 – first sentence

Text proposed by the Commission

Amendment

(7) ESMA shall establish effective cooperation arrangements with the relevant competent authorities of third countries whose legal and supervisory frameworks have been recognised as equivalent to this Regulation in accordance with paragraph 6.

(7) ESMA shall establish effective cooperation arrangements with the relevant competent authorities of third countries whose legal and supervisory frameworks have been recognised as equivalent to this Regulation in accordance with paragraph 6. ***These cooperation agreements contain in particular effective requirements that clearly regulate the rights and obligations of the supervisory authorities in the event that a CCP finds itself in crisis, and they guarantee the European supervisory authority the necessary rights of access.***

Or. de

Amendment 508
Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point f a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7

Present text

7. ESMA shall establish **effective** cooperation arrangements with the relevant competent authorities of third countries **whose legal and supervisory frameworks have been recognised as equivalent to this Regulation in accordance with paragraph 6. Such arrangements shall specify at least:**

(a) **the mechanism for** the exchange of information between ESMA and the competent **authorities of** the third **countries concerned**, including access to all information requested by ESMA regarding CCPs **authorised** in third **countries**;

(b) the mechanism for prompt notification to ESMA where a third-country competent authority deems a CCP it **is supervising** to be in breach of the conditions of its authorisation or of other

Amendment

(fa) paragraph 7 is replaced by the following:

7. ESMA shall establish cooperation arrangements with the relevant competent authorities of third countries **CCPs to be recognized pursuant par 2a covering the following:**

(-a) the mechanism for the coordination of supervisory activities, including the exchanges of information and reporting to be made in case of substantial changes to risk models and parameters, extension of CCP activities and services, changes in the client account structure and in the use of payment systems that substantially affect the Union;

(-aa) procedures for the coordination of supervisory activities between ESMA and the third country competent authority in case of a default of a clearing member established in the Union or the default of a clearing member with clients or indirect clients established in the Union including for the liquidation of assets;

(a) exchange of information between ESMA and the third **country** competent **authority**, including access to all information requested by ESMA regarding CCPs **authorized** in **that** third **country**;

(b) the mechanism for prompt notification to ESMA where a third country competent authority deems a **third country** CCP it **supervises** to be in breach of the conditions of its authorisation or of

law to which it is subject;

(c) the mechanism for prompt notification to ESMA by a third-country competent authority where a CCP *it is supervising* has been granted the right to provide clearing services to clearing members or clients established in the Union;

(d) the procedures concerning the coordination of supervisory activities including, where appropriate, on-site inspections;

other law to which it is subject;

(c) the mechanism for prompt notification to ESMA by a third country competent authority where a CCP *supervises* has been granted the right to provide clearing services to clearing members or clients established in the Union;

(d) the procedures concerning the coordination of supervisory activities including, where appropriate, on-site inspections;

(da) the consultation of ESMA and relevant Member States' resolution authorities designated according to [Article 3 of Regulation COM(2016) 856 final] in drawing up the resolution plan of the third country CCP that would substantially affect the Union;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0648&from=EN>

Amendment 509

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e

Text proposed by the Commission

Amendment

(g) *in paragraph 7, the following point (e) is added:*

deleted

(d) the procedures concerning the coordination of supervisory activities, including the agreement of third-country authorities to allow investigations and on-site inspections in accordance with Articles 25d and 25e respectively.

(e) the procedures necessary for the effective monitoring of regulatory and supervisory developments in a third

country.

Or. en

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

Amendment 510

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point d a (new)

Text proposed by the Commission

Amendment

(da) the express consent from the third country to the sharing of any information it provides to ESMA and to the central banks of issue under point (a), (b) and (c) with the authorities referred to in paragraph 3, subject to the professional secrecy requirements set out in Article 83.

Or. en

Amendment 511

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point d b (new)

Text proposed by the Commission

Amendment

(db) where rights on decisions are granted to ESMA in accordance with Article 25b, procedures concerning the effective enforcement of these rights.

Or. en

Amendment 512
Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e a (new)

Text proposed by the Commission

Amendment

(ga) in paragraph 7 the following point is added:

(ea) procedures for cooperation in emergency situations, including the following:

(i) the agreement of third-country authorities to inform ESMA without undue delay of any emergency situation relating to a CCP, including developments in financial markets, which may have an adverse effect on market liquidity, the transmission of monetary policy, the smooth operation of payment systems and the stability of the financial system in any of the Member States or in the Union as a whole;

(ii) the agreement of third-country authorities to appropriately involve ESMA and the relevant Union central banks of issue in decisions taken in such situations.

Or. en

Amendment 513
Pervenche Berès

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e a (new)

Text proposed by the Commission

Amendment

(ga) in paragraph 7 the following point is added:

(ea) the procedures concerning emergency situations, including the obligation for third-country authorities to inform ESMA without undue delay of any emergency situation relating to a CCP which may have detrimental effects on the stability of the financial system in either one individual Member State or in the EU as a whole, and to involve ESMA and the relevant EU central banks of issue in the decisions to be imposed in such situations.

Or. en

Justification

This amendment aims at preserving EU's financial stability by ensuring the proper involvement of EU authorities in case of emergency situations in cooperation with the relevant competent authorities of third countries whose legal and supervisory framework has been recognised as equivalent.

Amendment 514 **Thierry Cornillet**

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e a (new)

Text proposed by the Commission

Amendment

(ga) in paragraph 7 the following point is added:

(ea) Where decision-making powers are given to ESMA in accordance with Article 25(c), the procedures will guarantee the effective implementation of these powers.

Or. fr

Justification

This amendment aims to ensure that the decisions that ESMA may take as part of its role supervising the compliance of recognised 'Tier 2' CCPs are truly enforceable.

Amendment 515

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e a (new)

Text proposed by the Commission

Amendment

(ga) in paragraph 7 the following point is added:

(ea) where rights on decisions are granted to ESMA in accordance with Article 25b, the procedures concerning the effective enforcement of these rights.

Or. en

Justification

This amendment aims at ensuring an effective enforceability of the decisions that ESMA could take in carrying out the supervision of the compliance of recognised Tier 2 CCPs.

Amendment 516

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g b (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e b (new)

Text proposed by the Commission

Amendment

(gb) in paragraph 7 the following point is added:

(eb) the procedures concerning emergency situations, including the agreement of third-country authorities to inform ESMA without undue delay of any emergency situation relating to a CCP including developments in financial markets, which may have an adverse effect on market liquidity and the stability

of the financial system in any of the Member States or in the EU as a whole, and including the agreement of third-country authorities to appropriately involve ESMA and the relevant EU central banks of issue in decisions taken in such situations.

Or. en

Justification

This amendment aims at ensuring that appropriate mechanisms are put in place in case of emergency situations in the third-country in order to preserve the EU financial stability.

Amendment 517
Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g b (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – point e b (new)

Text proposed by the Commission

Amendment

(gb) in paragraph 7, the following point is added.:

(eb) Procedures that relate to emergency situations, including the agreement of third-country authorities to notify ESMA without delay of any emergency situation that relates to a CCP, including developments in financial markets that may have an adverse effect on market liquidity or on the stability of the financial system in one of the Member States or the EU as a whole, including the agreement of third-country authorities guaranteeing the appropriate involvement of ESMA and the central banks concerned in decisions taken in these emergencies.

Or. fr

Justification

This amendment aims to ensure the appropriate mechanisms are in place for emergency situations in third countries, the ultimate objective being to preserve the financial stability of the EU.

Amendment 518

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g b (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(gb) in paragraph 7, the following subparagraph is added:

Where ESMA considers that a third country competent authority fails to apply any of the provisions laid down in a cooperation arrangement concluded in accordance with this paragraph, it shall inform the Commission confidentially and without delay thereof. In such a case, the Commission may decide to review the implementing act adopted in accordance with paragraph 6.

Or. en

Justification

Lack of proper implementation of the provisions of an existing memorandum of understanding might be as much of a problem than imperfect memoranda of understanding.

Amendment 519

Markus Ferber

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

(ga) in Article 25, paragraph 7a is inserted: :

7a. To ensure the existing cooperation agreements are effective and that European legislation is enforced on the supervision of CCPs, the cooperation agreements contain a clause that requires the third country in question to accept the jurisdiction of the European Court of Justice in matters of CCP supervision.

Or. de

Amendment 520

Jonás Fernández

Proposal for a regulation

Article 2 – paragraph 1 – point 9 – point g a (new)

Regulation (EU) No 648/2012

Article 25 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

(g a) In Article 25, the following paragraph 7a is inserted :

7a. ESMA shall establish effective cooperation arrangements with the competent authorities of the Tier 2 CCPs covering the following:

(a) the mechanism for the coordination of supervisory activities, including the exchange of information and reporting to be made;

(b) procedures for the coordination of supervisory activities between ESMA and the third country competent authority in case of a default of a clearing member established in the Union;

(c) access to all relevant information requested by ESMA regarding CCPs authorised in that third country;

(d) *the coordination of supervisory activities including, where appropriate, on-site inspections;*

(e) *the consultation of ESMA in the drawing up of the resolution plan of a Tier 2 CCP;*

(f) *the notification process from a third country competent authority to ESMA when it deems a Tier 2 CCP to be in breach of the conditions of its authorisation;*

(g) *the coordination of recovery and resolution activities between ESMA and the resolution authorities of the third countries concerned in case where a CCP is deemed failing or likely to fail.*

Or. en

Amendment 521

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25a – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) the modalities and conditions to carry out the assessment.

Amendment

(b) the modalities and conditions to carry out the assessment *including the definition of categories of obligations by which the comparable compliance shall be assessed.*

Or. en

Amendment 522

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 a – paragraph 3 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the effect that the failure of or a disruption to the CCP would have on the liquidity of the markets served or on the monetary policy implementation of the central banks of issue;

Or. en

Justification

Liquidity strains linked to the failure of a CCP could significantly affect EU participants and even some of the main instruments used by central banks as part of their monetary policy actions.

Amendment 523

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 a – paragraph 3 – subparagraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) the substitutability of the clearing services offered by the CCP

Or. en

Justification

Liquidity strains linked to the failure of a CCP could significantly affect EU participants and even some of the main instruments used by central banks as part of their monetary policy actions.

Amendment 524

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Where ESMA receives a notification under the third subparagraph of paragraph 1 or where a Tier 2 CCP fails to provide ESMA with the confirmation referred to in the second subparagraph of paragraph 1, the CCP shall be considered as no longer meeting the conditions for recognition pursuant to Article 25(2b) and the procedures set out in Article 25m(2), (3) and (4) shall therefore be applied.*

Or. en

Amendment 525
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25b – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

ESMA shall prepare and submit draft decisions to the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

With regard to decisions pursuant to Articles 41, 44, 46, 50 and 54, **the CCP Supervisory Committee shall consult the central bank(s) of issue of the financial instruments cleared or to be cleared by the third country CCP on those aspects of the draft decision which relate to the currency it issues. Each central bank of issue shall respond to ESMA's 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 CCP Supervisory Committee shall make every**

effort to comply with the amendments proposed by them. Where the CCP Supervisory Committee does not reflect in its draft decision to be submitted to the Board of Supervisors the amendments proposed by a central bank of issue, the CCP Supervisory Committee 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 526
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 1

Text proposed by the Commission

ESMA shall prepare and submit draft decisions to the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

Amendment

With regard to decisions pursuant to Articles 41, 44, 46, 50 and 54 ESMA shall consult the central bank(s) of issue of the financial instruments cleared or to be cleared by the third-country CCP on those aspects of the draft decision which relate to the currency it issues. Each central bank of issue shall respond to ESMA's 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 527
Werner Langen

Proposal for a regulation
Article 2 – paragraph 1 – point 10

Text proposed by the Commission

ESMA shall prepare and submit draft decisions to the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

Amendment

Regarding the decisions taken under Articles 41, 44, 46, 50 and 54 ESMA shall consult the central bank(s) of issue of the financial instruments cleared or to be cleared by the third-country CCP on those parts of the draft decision relating to the currency it issues. Within 10 working days as of the transmission of the draft decision, each central bank of issue shall reply to ESMA's consultation request. In emergency situations the above-mentioned period shall not exceed 24 hours.

Or. en

Amendment 528
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 1

Text proposed by the Commission

ESMA shall **prepare and submit draft decisions to** the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any **decision** pursuant to Articles 41, 44, 46, 50, and 54.

Amendment

ESMA shall **consult** the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any **request that appropriate action is taken within a set timeframe in relation to requirements** pursuant to Articles 41, 44, 46, 50, and 54.

Or. en

Amendment 529
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 1

Text proposed by the Commission

ESMA shall prepare and *submit* draft decisions to the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

Amendment

ESMA shall prepare and *convey* draft decisions to the central bank of issue of the relevant currency referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

Or. en

Amendment 530

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 1

Text proposed by the Commission

ESMA shall prepare and submit draft decisions to the central *bank* of issue *of the relevant currency* referred to in Article 18(2)(h) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

Amendment

ESMA shall prepare and submit draft decisions to the central *banks* of issue referred to in Article 25(3)(f) before adopting any decision pursuant to Articles 41, 44, 46, 50, and 54.

Or. en

Justification

Central banks of issue relevant for third country CCPs are mentioned in point f of paragraph 3 of Article 25.

Amendment 531

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

deleted

Or. en

Amendment 532
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and

deleted

detailed reasons, in writing.

Or. en

Amendment 533

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

deleted

Or. en

Amendment 534

Werner Langen

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant

At the end of the consultation period of the central banks of issue, ESMA shall do

central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

its utmost to comply with the amendments proposed by them.

Or. en

Amendment 535
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 2

Text proposed by the Commission

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

Amendment

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

Or. en

Amendment 536
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 2

Text proposed by the Commission

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

Amendment

ESMA shall obtain, in accordance with this paragraph, the consent of the relevant central bank of issue in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks **only**. The consent of the central bank of issue referred to in the second subparagraph shall be deemed to be given unless it proposes amendments or objects to the draft decision within 15 calendar days after having been notified of the draft decision. Where the central bank of issue proposes amendments or objects to a draft decision, it shall provide full and detailed reasons, in writing.

Or. en

Amendment 537
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

When taking decisions under Articles 41, 44, 46, 50 and 54, the CCP Supervisory Committee shall consult the central banks of issue referred to in Article 25(3)(f) in respect of any aspect of those decisions relating to the carrying out of their monetary policy tasks. The central banks concerned shall reply to any request for consultation within 15 business days. In

emergency situations, this period shall not exceed 24 hours. The Supervisory Committee shall endeavour to comply with any amendments to a draft supervisory decision suggested by the central banks of issue. Where the Supervisory Committee decides, in its decision to object or not to object a draft supervisory decision, or in the amendments it proposes to a draft supervisory decision, not to follow the opinion of a central bank of issue, the Supervisory Committee shall provide full and detailed reasons for its decision, in writing, to the central bank concerned.

Or. en

Amendment 538

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where the central bank of issue objects to a draft decision, ESMA shall not adopt that decision. Where the central bank of issue proposes amendments, ESMA may only adopt the decision as amended by that central bank of issue.

deleted

Or. en

Amendment 539

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where the central bank of issue objects to a draft decision, ESMA shall not adopt that decision. Where the central bank of issue proposes amendments, ESMA may only adopt the decision as amended by that central bank of issue.

deleted

Or. en

Amendment 540

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where the central bank of issue objects to a draft decision, ESMA shall not adopt that decision. Where the central bank of issue proposes amendments, ESMA may only adopt the decision as amended by that central bank of issue.

deleted

Or. en

Amendment 541

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where the central bank of issue objects to a draft decision, ESMA shall not adopt that decision. Where the central bank of issue proposes amendments, ESMA may

Where the central bank of issue proposes amendments, ESMA shall take their recommendations into account, or justify their actions otherwise in writing.

only adopt the decision as amended by that central bank of issue.

Or. en

Amendment 542
Werner Langen

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where the central bank of issue objects to a draft decision, ESMA shall not adopt that decision. Where the central bank of issue proposes amendments, ESMA may only adopt the decision as amended by that central bank of issue.

Amendment

When ESMA does not take into account the amendments proposed by a central bank of issue, ESMA shall inform in writing and in detail the concerned central bank of issue of all the reasons why these amendments have not been taken into account.

Or. en

Amendment 543
Burkhard Balz

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where the central bank of issue objects to a draft decision, ESMA shall not adopt that decision. Where the central bank of issue proposes amendments, ESMA may only adopt the decision as amended by that central bank of issue.

Amendment

Where ESMA does not reflect in its decision the amendments proposed by a central bank of issue, ESMA 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 544

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 3

Text proposed by the Commission

3. ESMA shall carry out assessments of the resilience of **recognised** CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010.

Amendment

3. ESMA shall carry out assessments of the resilience of **recognized** CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010.

Where, further to the review referred to in paragraph 5 of Article 25 and the confirmation referred in the second subparagraph of paragraph 1, ESMA determines that a Tier 1 CCP has become significant for the financial stability of the Union or for one or more of its Member States, and is therefore a Tier 2 CCP, Articles 25b to 25f shall start to apply to that CCP within six months following the completion of the review.

Where, following the review referred to in paragraph 5 of Article 25, ESMA assesses that a Tier 2 CCP is no longer significant for the financial stability of the Union or for one or more of its Member States, and is therefore a Tier 1 CCP, Articles 25b to 25f shall cease to apply to that CCP.

Or. en

Amendment 545

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 3

Text proposed by the Commission

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010.

Amendment

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010. ***In close cooperation with third country authorities, central banks of issue and the ESRB, ESMA may at any time and within the framework of this article assess CCPs through stress-testing and crisis simulation exercises with respect to potential system-wide stress events in order to, inter alia, evaluate the risk profile of the CCP which includes at least financial, operational and cyber risks.***

Or. en

Amendment 546
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 3

Text proposed by the Commission

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010.

Amendment

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010. ***In carrying out this assessment, ESMA shall ensure consistency with the assessments of the resilience of CCPs carried out pursuant to Article 21 (6) (b) of this Regulation and Chapter XII of Commission Delegated Regulation (EU) No 153/2013.***

Or. en

Justification

Consistency in the conduct of stress testing matters strongly.

Amendment 547
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 3

Text proposed by the Commission

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010.

Amendment

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010, **and in coordination with the assessments laid down in Article 21(6b) of Regulation (EU) 648/2012.**

Or. fr

Justification

This amendment submits level 2 CCPs to the same stress tests as EU CCPs seeing as these CCPs may pose a significant risk to the financial system of the EU.

Amendment 548
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b – paragraph 3

Text proposed by the Commission

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of

Amendment

3. ESMA shall carry out assessments of the resilience of recognised CCPs to adverse market developments in accordance with Article 32(2) of Regulation (EU) No 1095/2010, **and in**

Justification

This amendment subjects Tier 2 CCPs to the same stress test exercises as EU CCPs, as such CCPs may pose significant risks to the EU financial system.

Amendment 549

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. ESMA shall periodically, after consulting the authorities and entities referred to in paragraph 3 of Article 25, review the recognition of a third country CCP. That review shall be conducted in accordance with paragraphs 2, 3 and 4 of Article 25.

The review referred to in the previous subparagraph shall take place with the following periodicity:

- (a) any time the CCP has extended the range of its activities and services in the Union;**
- (b) every two years, where the CCP clears any financial instrument denominated in any of the currencies of the Union;**
- (c) every five years, where the CCP does not clear any financial instrument denominated in any of the currencies of the Union.**

Amendment 550

Petr Ježek, Caroline Nagtegaal, Wolf Klinz

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where, further to the review referred to in the paragraph 3a, ESMA determines that a Tier 1 CCP has become significant for the financial stability of the Union or for one or more of its Member States, and is therefore a Tier 2 CCP, Articles 25b to 25f shall start to apply to that CCP within one year following the notification to that CCP by ESMA that it will be reclassified as a Tier 2 CCP.

Where, following the review referred to in paragraph 4, ESMA assesses that a Tier 2 CCP is no longer significant for the financial stability of the Union or for one or more of its Member States, and is therefore a Tier 1 CCP, Articles 25b to 25f shall cease to apply to that CCP.

Or. en

Justification

The time period for reclassification to take effect should be within 1 year from the notification to the CCP that it will be reclassified as a Tier 2 CCP.

Amendment 551

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 b a (new)

Text proposed by the Commission

Amendment

Article 25ba

Exercise of the powers referred to in Articles 25c to 25e

The powers conferred on ESMA or any official of or other person authorised by them by Articles 25c to 25e shall not be used to require the disclosure of information or documents which are subject to legal privilege.

Or. en

Justification

Mirrors article 60 EMIR applying to TRs in order to offer protection to legally privileged material.

Amendment 552
Andrea Cozzolino

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b a (new)

Text proposed by the Commission

Amendment

Article 25ba

Compliance with central bank of issue requirements in exceptional situations

- 1. In order to fulfil the condition referred to in Article 25(2b)(b), recognised Tier 2 CCPs shall comply with requirements adopted by central banks of issue to address exceptional situations, in particular where systemic liquidity risk in their respective currencies may affect the transmission of monetary policy or the smooth functioning of payment systems.***
- 2. In accordance with Article 84, the central bank of issue shall provide ESMA***

and other competent authorities with information on requirements to be adopted in accordance with paragraph 1, for the purposes of carrying out their respective duties under this Regulation. This shall include a written statement on the exceptional situation, and an explanation of the risks to the transmission of monetary policy or the smooth functioning of payment systems that the central bank of issue is seeking to address.

3. The requirements referred to in paragraph 1 shall apply for a limited period of time, not exceeding 6 months. The central bank of issue may extend this period if the exceptional situation persists. In such case, the central bank of issue shall provide ESMA and other competent authorities with a further written statement and explanation in accordance with paragraph 2.4. Where the central bank of issue determines that a recognised Tier 2 CCP has not complied with the requirements under the first subparagraph within 10 days, it shall immediately notify ESMA in accordance with the third subparagraph of Article 25b(1).

Or. en

Amendment 553
Roberto Gualtieri

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 b a (new)

Text proposed by the Commission

Amendment

Article 25ba

College for third country CCPs

1. ESMA shall establish a college for third country CCPs to facilitate the

sharing of information in accordance with Article XX.

2. The college shall consist of:

(a) the permanent members of the CCP Supervisory Committee;

(b) the competent authorities responsible for supervision of CCPs designated by the Member States pursuant to Article 22;

(c) the competent authorities responsible for the supervision of the clearing members established in the Union;

(d) the competent authorities responsible for the supervision of trading venues established in the Union, served or to be served by the CCP;

(e) the competent authorities supervising central securities depositories established in the Union to which the CCP is linked or intends to be linked;

(f) the members of the ESCB.

3. The college may request the CCP Supervisory Committee to discuss specific matters in relation to a CCP established in a third country. The CCP Supervisory Committee shall duly consider such requests and provide an appropriate response.

4. The Chair of the CCP Supervisory Committee shall chair the college. The establishment and functioning of the college shall be based on a written agreement between all its members.

Or. en

**Amendment 554
Kay Swinburne**

**Proposal for a regulation
Article 2 – paragraph 1 – point 10**

Text proposed by the Commission

1. ESMA may by simple request or by decision require recognised CCPs and related third parties to whom those CCPs have outsourced operational functions or activities to provide all necessary information to enable ESMA to carry out its duties under this Regulation.

Amendment

1. ESMA may by simple request or by decision require recognised CCPs and *where possible* related third parties to whom those CCPs have outsourced operational functions or activities to provide all necessary information to enable ESMA to carry out its duties under this Regulation.

Or. en

Amendment 555
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 c – paragraph 3 – point f

Text proposed by the Commission

(f) the fine provided for in Article 25g in conjunction with point (a) of Section V of Annex III, where the answers to questions asked are incorrect or misleading; and

Amendment

deleted

Or. en

Amendment 556
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 d – paragraph 1

Text proposed by the Commission

1. In order to carry out its duties under

Amendment

1. In order to carry out its duties under

this Regulation, ESMA may conduct *necessary* investigations of Tier 2 CCPs. To that end, the officials and other persons authorised by ESMA shall be empowered to:

this Regulation, ESMA may conduct *justified* investigations of *the clearing services offered by* Tier 2 CCPs *in Union currencies to EU clearing members*. To that end, the officials and other persons authorised by ESMA shall be empowered to:

Or. en

Amendment 557

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 d – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) The central banks of issue of the financial instruments cleared by the CCP may submit a request to ESMA to participate in such investigations where relevant for the carrying-out of their monetary policy tasks.

Or. en

Justification

CBIs should participate to general investigations, as already provided for on-site inspections (Article 25e paragraph 1), in order to ensure they have access to all the elements needed to carry out their monetary policy tasks.

Amendment 558

Thierry Cornillet

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 d – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The central banks of issue of financial instruments cleared by the CCP may ask ESMA for permission to take part in these investigations if they would help them to carry out their monetary policy tasks.

Or. fr

Justification

The CBI should take part in general investigations, as has already been planned for on-site inspections (Article 25e, paragraph 1), to ensure they have access to everything they require to carry out their monetary policy tasks effectively.

Amendment 559
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 d – paragraph 2

Text proposed by the Commission

Amendment

2. The officials and other persons authorised by ESMA for the purposes of the investigations referred to in paragraph 1 shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the investigation. That authorisation shall also indicate the periodic penalty payments provided for in Article 25h where the production of the required records, data, procedures or any other material, or the answers to questions asked to Tier 2 CCPs are not provided or are incomplete, ***and the fines provided for in Article 25g in conjunction with point (b) of Section V of Annex III, where the answers to questions asked to Tier 2 CCPs are incorrect or misleading.***

2. The officials and other persons authorised by ESMA for the purposes of the investigations referred to in paragraph 1 shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the investigation. That authorisation shall also indicate the periodic penalty payments provided for in Article 25h where the production of the required records, data, procedures or any other material, or the answers to questions asked to Tier 2 CCPs are not provided or are incomplete.

Amendment 560

Pervenche Berès

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 d – paragraph 4

Text proposed by the Commission

4. Prior to notifying a Tier 2 CCP of an investigation, ESMA shall inform the relevant third-country competent authority where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the third-country competent authority concerned may, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the third-country competent authority concerned may also attend the investigations. *Investigations in accordance with this Article shall be conducted provided that the relevant third-country authority does not object to them.*

Amendment

4. Prior to notifying a Tier 2 CCP of an investigation, ESMA shall inform the relevant third-country competent authority where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the third-country competent authority concerned may, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the third-country competent authority concerned may also attend the investigations.

Or. en

Justification

This amendment aims at avoiding the restriction of the role of ESMA vis-à-vis third country CCPs, by removing an unnecessary - and potentially damaging - pre-condition.

Amendment 561

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 d – paragraph 4

Text proposed by the Commission

4. Prior to notifying a Tier 2 CCP of an investigation, ESMA shall inform the relevant third-country competent authority where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the third-country competent authority concerned may, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the third-country competent authority concerned may also attend the investigations. ***Investigations in accordance with this Article shall be conducted provided that the relevant third-country authority does not object to them.***

Amendment

4. Prior to notifying a Tier 2 CCP of an investigation, ESMA shall inform the relevant third-country competent authority where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the third-country competent authority concerned may, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the third-country competent authority concerned may also attend the investigations.

Or. en

Justification

Supervisory powers are granted by an agreement and should not be subject to authorisation by a third-country authority. This amendment removes this pre-condition and strengthens the role of ESMA vis-à-vis third country CCPs.

Amendment 562
Thierry Cornillet

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 d – paragraph 4

Text proposed by the Commission

4. Prior to notifying a Tier 2 CCP of an investigation, ESMA shall inform the relevant third-country competent authority where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the third-country competent authority

Amendment

4. Prior to notifying a Tier 2 CCP of an investigation, ESMA shall inform the relevant third-country competent authority where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the third-country competent authority

concerned may, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the third-country competent authority concerned may also attend the investigations. ***Investigations in accordance with this Article shall be conducted provided that the relevant third-country authority does not object to them.***

concerned may, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the third-country competent authority concerned may also attend the investigations.

Or. fr

Justification

Supervisory powers are granted by framework agreements and should not be subject to authorisation from a third-country authority. This amendment deletes this prior condition and strengthens the role of ESMA with regards to third-country CCPs.

Amendment 563 Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 e – paragraph 1

Text proposed by the Commission

1. In order to carry out its duties under this Regulation, ESMA may conduct ***all necessary*** on-site inspections at any business premises of Tier 2 CCPs. The relevant central bank of issue shall be invited to participate in such on-site inspections.

Amendment

1. In order to carry out its duties under this Regulation, ESMA may conduct ***appropriate*** on-site inspections ***where necessary*** at any business premises of Tier 2 CCPs. The relevant central bank of issue shall be invited to participate in such on-site inspections ***where those inspections relate to monetary policy.***

Or. en

Amendment 564 Pervenche Berès

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 e – paragraph 3 – subparagraph 1

Text proposed by the Commission

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-country competent authority, may carry out the on-site inspection without prior notice to the CCP. ***Inspections in accordance with this Article shall be conducted provided that the relevant third-country authority has confirmed that it does not object to those inspections.***

Amendment

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-country competent authority, may carry out the on-site inspection without prior notice to the CCP.

Or. en

Justification

This amendment also aims at avoiding the restriction of the role of ESMA vis-à-vis third country CCPs, by removing an unnecessary - and potentially damaging - pre-condition.

Amendment 565

Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 e – paragraph 3 – subparagraph 1

Text proposed by the Commission

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-

Amendment

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-

country competent authority, may carry out the on-site inspection without prior notice to the CCP. ***Inspections in accordance with this Article shall be conducted provided that the relevant third-country authority has confirmed that it does not object to those inspections.***

country competent authority, may carry out the on-site inspection without prior notice to the CCP.

Or. en

Justification

Supervisory powers are granted by an agreement and should not be subject to authorisation by a third-country authority. This amendment removes this pre-condition and strengthens the role of ESMA vis-à-vis third country CCPs.

Amendment 566 **Thierry Cornillet**

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 e – paragraph 3 – subparagraph 1

Text proposed by the Commission

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-country competent authority, may carry out the on-site inspection without prior notice to the CCP. ***Inspections in accordance with this Article shall be conducted provided that the relevant third-country authority has confirmed that it does not object to those inspections.***

Amendment

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-country competent authority, may carry out the on-site inspection without prior notice to the CCP.

Or. fr

Justification

Supervisory powers are granted by framework agreements and should not be subject to authorisation from a third-country authority. This amendment deletes this prior condition and strengthens the role of ESMA with regards to third-country CCPs.

Amendment 567

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 e – paragraph 3 – subparagraph 1

Text proposed by the Commission

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-country competent authority, may carry out the on-site inspection without prior notice to the CCP. Inspections in accordance with this Article shall be conducted provided that the relevant third-country authority has confirmed that it does not object to those inspections.

Amendment

In sufficient time before the inspection, ESMA shall give notice of the inspection to the relevant third-country competent authority where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant third-country competent authority, may carry out the *appropriate* on-site inspection without prior notice to the CCP. Inspections in accordance with this Article shall be conducted provided that the relevant third-country authority has confirmed that it does not object to those inspections.

Or. en

Amendment 568

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 e – paragraph 5

Text proposed by the Commission

5. Officials of, as well as those authorised or appointed by, the competent authority of the third country where the

Amendment

5. Officials of, as well as those authorised or appointed by, the competent authority of the third country where the

inspection is to be conducted may, at the request of ESMA, actively assist the officials and other persons authorised by ESMA. Officials of the third-country competent authority *may* also attend the on-site inspections.

inspection is to be conducted may, at the request of ESMA, *may* actively assist the officials and other persons authorised by ESMA. Officials of the *relevant* third-country competent authority *should* also attend the on-site inspections.

Or. en

Amendment 569

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) 648/2012

Article 25 e – paragraph 6

Text proposed by the Commission

6. ESMA may also request third-country competent authorities *to* carry out specific investigatory tasks and on-site inspections as provided for in this Article and in Article 25d(1) on its behalf.

Amendment

6. ESMA may also request *that* third-country competent authorities carry out specific investigatory tasks and *appropriate* on-site inspections as provided for in this Article and in Article 25d(1) on its behalf.

Or. en

Amendment 570

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 e – paragraph 7

Text proposed by the Commission

7. *Where the officials and other accompanying persons authorised by ESMA find that a person opposes an inspection ordered pursuant to this Article, the third-country competent authority concerned may afford them the necessary assistance, requesting, where*

Amendment

deleted

appropriate, the assistance of the police or of an equivalent enforcement authority, to enable them to conduct their on-site inspection.

Or. en

Amendment 571
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 f – Title

Text proposed by the Commission

Procedural rules for taking supervisory measures *and imposing fines*

Amendment

Procedural rules for taking supervisory measures

Or. en

Amendment 572
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 f – paragraph 5

Text proposed by the Commission

5. On the basis of the file containing the investigation officer's findings and, when requested by the persons concerned, after having heard the persons subject to the investigations in accordance with Article 25i, ESMA shall decide if one or more of the infringements listed in Annex III has been committed by the persons who have been subject to the investigations and, in such a case, shall take a supervisory measure in accordance with Article 25n *and impose a fine in accordance with Article 25g.*

Amendment

5. On the basis of the file containing the investigation officer's findings and, when requested by the persons concerned, after having heard the persons subject to the investigations in accordance with Article 25i, ESMA shall decide if one or more of the infringements listed in Annex III has been committed by the persons who have been subject to the investigations and, in such a case, shall take a supervisory measure in accordance with Article 25n.

Amendment 573

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 f – paragraph 7

Text proposed by the Commission

7. The Commission shall adopt delegated acts in accordance with Article 82 to specify further the rules of procedure for the exercise of the power to impose ***fin***es or periodic penalty payments, including provisions on the rights of the defence, temporal provisions, and the collection of ***fin***es or periodic penalty payments, and the limitation periods for the imposition and enforcement of penalties.

Amendment

7. The Commission shall adopt delegated acts in accordance with Article 82 to specify further the rules of procedure for the exercise of the power to impose periodic penalty payments, including provisions on the rights of the defence, temporal provisions, and the collection of periodic penalty payments, and the limitation periods for the imposition and enforcement of penalties.

Or. en

Amendment 574

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 f – paragraph 8

Text proposed by the Commission

8. ESMA shall refer matters for criminal prosecution to the appropriate authorities for investigation and possible criminal prosecution where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, ESMA shall refrain from imposing ***fin***es or periodic penalty payments where a prior

Amendment

8. ESMA shall refer matters for criminal prosecution to the appropriate authorities for investigation and possible criminal prosecution where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, ESMA shall refrain from imposing periodic penalty payments where a prior

acquittal or conviction arising from identical fact or facts which are substantially the same has already acquired the force of res judicata as the result of criminal proceedings under national law.

acquittal or conviction arising from identical fact or facts which are substantially the same has already acquired the force of res judicata as the result of criminal proceedings under national law.

Or. en

Amendment 575
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 g

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

Whole Article to be deleted

Amendment 576
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 h – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) a Tier 2 CCP to put an end to an infringement in accordance with a decision taken pursuant to Article 25n(1)(a);

deleted

Or. en

Amendment 577
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 h – paragraph 1 – point c – point ii

Text proposed by the Commission

(ii) to submit to an on-site inspection ordered by a decision taken pursuant to Article 25e.

Amendment

(ii) to submit to an **appropriate** on-site inspection ordered by a decision taken pursuant to Article 25e.

Or. en

Amendment 578
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 h – paragraph 3

Text proposed by the Commission

3. Notwithstanding paragraph 2, the amount of the periodic penalty payments shall be **3 %** of the average daily turnover in the preceding business year, **or, in the case of natural persons, 2 % of the average daily income in the preceding calendar** year. It shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.

Amendment

3. Notwithstanding paragraph 2, the amount of the periodic penalty payments shall be **1 %** of the average daily turnover **of services offered in a Union currency to EU clearing members**, in the preceding business year. It shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.

Or. en

Amendment 579
Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 i – paragraph 1

Text proposed by the Commission

1. Before taking any decision on a ***fine or*** periodic penalty payment under ***Articles 25g and 25h***, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its decisions only on findings on which the persons subject to the proceedings have had an opportunity to comment.

Amendment

1. Before taking any decision on a periodic penalty payment under ***Article 25h***, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its decisions only on findings on which the persons subject to the proceedings have had an opportunity to comment.

Or. en

Amendment 580
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 j – Title

Text proposed by the Commission

Disclosure, nature, enforcement and allocation of ***fin***es and periodic penalty payments

Amendment

Disclosure, nature, enforcement and allocation of periodic penalty payments

Or. en

Amendment 581
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 j – paragraph 1

Text proposed by the Commission

1. ESMA shall disclose to the public every ***fine and*** periodic penalty payment that has been imposed pursuant to ***Articles 25g and 25h*** unless such disclosure to the

Amendment

1. ESMA shall disclose to the public every periodic penalty payment that has been imposed pursuant to ***Article 25h*** unless such disclosure to the public would

public would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data within the meaning of Regulation (EC) No 45/2001.

seriously jeopardise the financial markets or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data within the meaning of Regulation (EC) No 45/2001.

Or. en

Amendment 582

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 j – paragraph 2

Text proposed by the Commission

2. ***Fines and*** periodic penalty payments imposed pursuant to ***Articles 25g and 25h*** shall be of an administrative nature.

Amendment

2. Periodic penalty payments imposed pursuant to ***Article 25h*** shall be of an administrative nature.

Or. en

Amendment 583

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 j – paragraph 3

Text proposed by the Commission

3. Where ESMA decides to impose no ***fin***es or penalty payments, it shall inform the European Parliament, the Council, the Commission, and the relevant third-country competent authorities accordingly and shall set out the reasons for its decision.

Amendment

3. Where ESMA decides to impose no penalty payments, it shall inform the European Parliament, the Council, the Commission, and the relevant third-country competent authorities accordingly and shall set out the reasons for its decision.

Or. en

Amendment 584
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 j – paragraph 4 – subparagraph 1

Text proposed by the Commission

Fines and periodic penalty payments imposed pursuant to *Articles 25g and 25h* shall be enforceable.

Amendment

Periodic penalty payments imposed pursuant to *Article 25h* shall be enforceable.

Or. en

Amendment 585
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 j – paragraph 5

Text proposed by the Commission

5. The amounts of *the fines and* periodic penalty payments shall be allocated to the general budget of the European Union.

Amendment

5. The amounts of periodic penalty payments shall be allocated to the general budget of the European Union.

Or. en

Amendment 586
Kay Swinburne

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 k – paragraph 1

Text proposed by the Commission

The Court of Justice shall have **unlimited** jurisdiction to review decisions whereby ESMA has imposed **a fine or** a periodic penalty payment. It may annul, reduce or increase the **fine or** periodic penalty payment imposed.

Amendment

The Court of Justice shall have jurisdiction to review decisions whereby ESMA has imposed a periodic penalty payment. It may annul, reduce or increase the periodic penalty payment imposed.

Or. en

Amendment 587

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m – paragraph 1 – introductory part

Text proposed by the Commission

Without prejudice to Article 25n, and subject to the following paragraphs, ESMA shall withdraw a recognition decision adopted in accordance with Article 25 where **the CCP concerned**:

Amendment

Without prejudice to Article 25n, and subject to the following paragraphs, ESMA shall withdraw a recognition decision adopted in accordance with Article 25 where :

Or. en

Amendment 588

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m – paragraph 1 – point a

Text proposed by the Commission

(a) does not make use of the recognition within 6 months, expressly renounces the authorisation or has ceased to engage in business for more than six month;

Amendment

(a) **the CCP concerned** does not make use of the recognition within 6 months, expressly renounces the authorisation or has ceased to engage in business for more than six month;

Amendment 589
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 m – paragraph 1 – point b

Text proposed by the Commission

(b) has obtained the recognition through false statements or by any other irregular means;

Amendment

(b) ***the CCP concerned*** has obtained the recognition through false statements or by any other irregular means;

Or. en

Amendment 590
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 m – paragraph 1 – point c

Text proposed by the Commission

(c) no longer meets the conditions for recognition pursuant to Article 25(2b);

Amendment

(c) ***the CCP concerned*** no longer meets the conditions for recognition pursuant to Article 25(2b);

Or. en

Amendment 591
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 10
Regulation (EU) No 648/2012
Article 25 m – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) ESMA is unable, due to the failure of the third country supervisory authority to provide it with all relevant information in accordance with Article 25 (7), to exercise effectively its responsibilities under this Regulation over the CCP concerned;

Or. en

Justification

If ESMA is unable to properly carry out its supervisory tasks over a CCP, then the recognition of the CCP concerned shall be withdrawn.

Amendment 592

Wolf Klinz, Petr Ježek

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The withdrawal of the recognition shall not apply to financial instruments and transactions that have been cleared before the date of entry into effect of the decision to withdraw the recognition, as well as to contractual obligations arising from financial instruments and transactions that have been cleared before the date of entry into effect of the decision to withdraw the recognition.

Or. en

Amendment 593

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m – paragraph 2 – subparagraph 1

Text proposed by the Commission

Where ESMA considers that the criterion referred to in point (c) of the first paragraph is fulfilled in relation to a CCP, ESMA shall inform that CCP and the relevant third-country authorities prior to withdrawing a recognition decision, and request that appropriate action is taken within a set timeframe of up to a maximum of 3 months to remedy the situation.

Amendment

Where ESMA considers that the criterion referred to in point (c) of the first paragraph is fulfilled in relation to a CCP, ***particular service, activity or class of financial instruments***, ESMA shall inform that CCP and the relevant third-country authorities prior to withdrawing a recognition decision, and request that appropriate action is taken within a set timeframe of up to a maximum of 3 months to remedy the situation.

Or. en

Amendment 594

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m – paragraph 4

Text proposed by the Commission

4. Any of the authorities referred to in Article 25(3) which consider that one of the conditions referred to in paragraph 1 has been met may request ESMA to examine whether the conditions for the withdrawal of recognition of a recognised CCP concerned are met. Where ESMA decides not to withdraw the registration of the recognised CCP concerned, it shall provide full reasons to the requesting authority.

Amendment

4. Any of the authorities referred to in Article 25(3) which consider that one of the conditions referred to in paragraph 1 has been met may request ESMA to examine whether the conditions for the withdrawal of recognition of a recognised ***CCP or a particular service, activity or class of financial instrument recognised of the CCP*** concerned are met. Where ESMA decides not to withdraw the registration of the recognised CCP concerned, it shall provide full reasons to the requesting authority.

Or. en

Amendment 595

Markus Ferber

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m – paragraph 4 (new)

Text proposed by the Commission

Amendment

(4a) If a CCP loses authorisation within the EU solely because the Member State it is based in is leaving the EU, this CCP may, notwithstanding Article 25(1), continue clearing activities until an equivalence decision is met, provided they submit an equivalence application within four weeks of the home Member State leaving the EU. ESMA shall assess the equivalence application within three months of receipt.

Or. de

Amendment 596

Wolf Klinz

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 m a (new)

Text proposed by the Commission

Amendment

Article 25ma

Where a CCP would cease to be authorised solely as a result of being established in a Member State which ceases to be a member of the European Union, the CCP shall remain authorised for a transition period of 90 days from the date of which the Member State in which the CCP is established ceases to be a member of the European Union. The Commission may adopt an implementing act prolonging this transition period.

When determining the length of this transition period the Commission shall endeavour to minimise market disruption.

Or. en

Amendment 597

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 n – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) impose fines under Article 25g;

deleted

Or. en

Amendment 598

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) No 648/2012

Article 25 n – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) withdraw the recognition of a CCP under Article 25m.

(d) withdraw the recognition of a CCP or of a particular service, activity or class of financial instruments offered by that CCP under Article 25m.

Or. en

Amendment 599

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 11 – point a

Text proposed by the Commission

A CCP shall regularly review the models and parameters adopted to calculate its margin requirements, default fund contributions, collateral requirements and other risk control mechanisms. It shall subject the models to rigorous and frequent stress tests to assess their resilience in extreme but plausible market conditions and shall perform back tests to assess the reliability of the methodology adopted. The CCP shall obtain independent validation, shall inform its competent authority and ESMA of the results of the tests performed and shall obtain *the* validation of the competent authority in accordance with paragraphs (1a) before adopting any significant change to the models and parameters.

Amendment

A CCP shall regularly review the models and parameters adopted to calculate its margin requirements, default fund contributions, collateral requirements and other risk control mechanisms. It shall subject the models to rigorous and frequent stress tests to assess their resilience in extreme but plausible market conditions and shall perform back tests to assess the reliability of the methodology adopted. The CCP shall obtain independent validation, shall inform its competent authority and ESMA of the results of the tests performed and shall obtain *their* validation of the competent authority in accordance with paragraphs (1a) *and Article 21a* before adopting any significant change to the models and parameters.

Or. en

Amendment 600

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 11 – point b a (new)

Regulation (EU) No 648/2012

Article 49 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph 3a is inserted:

"3a. In close cooperation with CCPs, competent authorities, central banks of issue and the ESRB, ESMA may at any time, within the framework of this EU regulation and/or of the EU regulation on a framework for the recovery and resolution of central counterparties, assess CCPs through stress-testing and crisis simulation exercises with respect to

potential system-wide stress events."

Or. en

Amendment 601

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 11 a (new)

Regulation (EU) No 648/2012

Article 60 – paragraph 1

Present text

The powers conferred on ESMA or any official of or other person authorised by ESMA by Articles 61 to 63 shall not be used to require the disclosure of information or documents which are subject to legal privilege.

Amendment

11a. In Article 60, paragraph 1 is replaced by the following:

The powers conferred on ESMA or any official of or other person authorised by ESMA by Articles 61 to 63 shall not be used to require the disclosure of information or documents which are subject to legal privilege. ***The powers conferred on ESMA or any official of or other person authorised by ESMA by Articles 61 to 63 must be exercised in full agreement with the National Competent Authority.***

Or. en

Amendment 602

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 11 a (new)

Regulation (EU) No 648/2012

Article 84 – paragraph 3

Text proposed by the Commission

Amendment

11a. In Article 84, paragraph 3 is amended as follows:

"3. Competent authorities and ESMA shall communicate information to the

relevant central banks of issue where such information is relevant for the exercise of their duties and subject to the professional secrecy requirements set out in Article 83."

Or. en

Justification

Information held by ESMA might be of relevance to central banks of issue.

Amendment 603

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 11 a (new)

Regulation (EU) No 648/2012

Article 84 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

11a. In Article 84, the following paragraph 3a is added:

"3a. Competent authorities, ESMA, Central bank of issues and ESRB shall exchange relevant information regarding stress-testing and crisis simulation exercises."

Or. en

Amendment 604

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 11 a (new)

Regulation (EU) No 648/2012

Article 85 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

11a. In Article 85, the following

paragraph 4a is added:

"4a. Until the entry into force of the [ESAs review] Regulation the duties of the Head and the Vice-Head of the CCP Supervisory Committee referred to in Article 22a (1) shall be carried out by, respectively, the Chairperson and the Executive Director of ESMA."

Or. en

Amendment 605

Petr Ježek, Caroline Nagtegaal, Wolf Klinz

Proposal for a regulation

Article 2 – paragraph 1 – point 12

Regulation (EU) No 648/2012

Article 89 – paragraph 3 a

Text proposed by the Commission

3a. ESMA shall not exercise its powers pursuant to paragraph 2a, 2b and 2c of Article 25 until [insert date of entry into force of the delegated act referred to in the second subparagraph of paragraph 3 of that Article]

Amendment

3a. ESMA shall not exercise its powers pursuant to paragraph 2a, 2b and 2c of Article 25 until [insert date of entry into force of the delegated act referred to in the second subparagraph of paragraph **2a** of that Article]

Or. en

Amendment 606

Kay Swinburne

Proposal for a regulation

Article 2 – paragraph 1 – point 12

Regulation (EU) No 648/2012

Article 89 – paragraph 3 a

Text proposed by the Commission

3a. ESMA shall not exercise its powers pursuant to paragraph 2a, **2b and 2c** of Article 25 until [insert date of entry into force of the delegated act referred to in the second subparagraph of paragraph 3 of that

Amendment

3a. ESMA shall not exercise its powers pursuant to paragraph 2a **and 2b** of Article 25 until [insert date of entry into force of the delegated act referred to in the second subparagraph of paragraph 3 of that

Amendment 607**Danuta Maria Hübner****Proposal for a regulation****Article 2 – paragraph 1 – point 12**

Regulation (EU) No 648/2012

Article 89 – paragraph 3 b

Text proposed by the Commission

3b. ESMA shall *review* the recognition decisions adopted pursuant to Article 25(1) before [entry into force of this Regulation] within **12** months from the entry into force of the delegated act referred to in the second subparagraph of Article 25(2a), *in accordance with Article 25(5)*.

Amendment

3b. ESMA shall *examine* the recognition decisions *which have been* adopted pursuant to Article 25(1) before [entry into force of this Regulation] *in order to determine whether each of the CCPs recognised under those decisions is a Tier 1 CCP or a Tier 2 CCP. ESMA shall proceed to the assignment of recognised CCPs to a category* within **18** months from the entry into force of the delegated act referred to in the second subparagraph of Article 25(2a)

Justification

Clarification that the review of existing recognition decisions is to be made for the purpose of assigning the CCPs concerned to a category.

Amendment 608**Roberto Gualtieri****Proposal for a regulation****Article 2 – paragraph 1 – point 12**

Regulation (EU) No 648/2012

Article 89 – paragraph 3 b

Text proposed by the Commission

3b. ESMA shall review the recognition decisions adopted pursuant to Article 25(1) before [entry into force of this Regulation] within **12** months from the entry into force of the delegated act referred to in the second subparagraph of Article 25(2a), in accordance with Article 25(5).

Amendment

3b. ESMA shall review the recognition decisions adopted pursuant to Article 25(1) before [entry into force of this Regulation] within **18** months from the entry into force of the delegated act referred to in the second subparagraph of Article 25(2a), in accordance with Article 25(5).

Or. en

Amendment 609

Petr Ježek, Caroline Nagtegaal

Proposal for a regulation

Article 2 – paragraph 1 – point 12

Regulation (EU) No 648/2012

Article 89 – paragraph 3 b

Text proposed by the Commission

3b. ESMA shall review the recognition decisions adopted pursuant to Article 25(1) before [entry into force of this Regulation] within **12** months from the entry into force of the delegated act referred to in the second subparagraph of Article 25(2a), in accordance with Article 25(5).

Amendment

3b. ESMA shall review the recognition decisions adopted pursuant to Article 25(1) before [entry into force of this Regulation] within **18** months from the entry into force of the delegated act referred to in the second subparagraph of Article 25(2a), in accordance with Article 25(5).

Or. en

Amendment 610

Roberto Gualtieri

Proposal for a regulation

Article 2 – paragraph 1 – point 12 a (new)

Regulation (EU) No 648/2012

Article 89 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

12a. In Article 89, paragraph 9a is added:

"By June X the Commission shall review the implementation of Titles III, IV and V of this Regulation relating to the authorisation, recognition and supervision of CCPs. It shall assess the transfer of more tasks to ESMA in particular the functioning and efficiency of the role conferred on ESMA and the supervisory colleges in Titles III, IV and V. The Commission shall submit a report thereon to the European Parliament and to the Council. Where appropriate that report shall be accompanied by a legislative proposal."

Or. en