



EUROPEAN PARLIAMENT

2014 - 2019

Committee on Economic and Monetary Affairs

2014/0020(COD)

4.2.2015

AMENDMENTS

91 - 299a

Draft report

Gunnar Hökmark

(PE546.551v02-00)

on the proposal for a regulation of the European Parliament and of the Council
on structural measures improving the resilience of EU credit institutions

Proposal for a regulation

(COM(2014)0043 – C7-0024/2014 – 2014/0020(COD))

AM_Com_LegReport

Amendment 91
Pervenche Berès

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) The Union's financial system includes over 8,000 banks of different sizes, corporate structures and business models, a few of which exist in the form of large banking groups carrying out an all-encompassing set of activities. Those groups comprise a complex web of legal entities and intra-group relationships. They are highly connected to each other through interbank borrowing and lending and through derivatives markets. The impact of possible failures of these large banks can be extremely widespread and significant.

Amendment

(1) The Union's financial system includes over 8,000 banks of different sizes, corporate structures and business models, a few of which exist in the form of large banking groups carrying out an all-encompassing set of activities. Those groups comprise a complex web of legal entities and intra-group relationships. They are highly connected to each other through interbank borrowing and lending and through derivatives markets. The impact of possible failures of these large banks can be extremely widespread and significant.

Moreover, the financial crisis has demonstrated that important risks could stem from medium-sized banks. In this respect, this Regulation should have a wide scope that encompasses a significant number of credit institutions. It should also complement Regulation (EU) No 575/2013 (CRR), Directive 2013/36/EU (CRD4) and Directive 2014/59/EU (BRRD) by mitigating risks of trading entities that are not sufficiently addressed by existing legislation and be further complemented by the forthcoming TLAC standard being developed by the FSB.

Or. en

Amendment 92
Jonás Fernández

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Banking is a service of general economic interest. The real economy relies on credit to enable it to increase the production of goods and services, and hence to increase per capita income for its citizens and thus their well-being. For this reason, the purpose of banks that take deposits from individuals and undertakings should be to finance productive activity rather than speculation, which does not contribute to the growth of the real economy but increases the risk of financial crises such as the one that started in the United States in summer 2007.

Or. es

Amendment 93
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) One of the major factors responsible for the crisis that started in 2007 was the interaction between core banking services and investment banking activities. Securitisation markets promoted by investment banking led not only to lower underwriting standards by lenders eager to benefit from the capital velocity and risk transfer the capital markets were offering but also to a glut of liquidity in those markets resulting in exotic and unsafe securitisations replacing high grade government securities in investment and collateral pools in retail banks.

The different risks to which real economy focused and capital markets focused banks are exposed can be a source of diversification for a financial system. However, where such activities are combined in large entities sharing the same capital and funding, the systemic diversification effect is significantly reduced as problems in one market can be rapidly transmitted to the other. By ensuring that capital markets activities that are not necessary to the prudent management of risk, capital, funding and liquidity of a core credit institution are conducted in a legally and operationally separate trading entity, this regulation promotes a more resilient banking system where such core credit institutions are much less likely to feed capital markets bubbles or be severely negatively impacted when they burst.

Or. en

Amendment 94
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1 b) Certain services offered by banks are essential to the lives of private individuals as well as the SMEs that are the backbone of the European economy. It is the duty of the legislator and supervisory bodies to ensure that the banking system can continue to provide such "public good" services throughout the economic cycle. These services include safekeeping of deposits and assets, payment services and lending. A bank that has a close relationship with a customer may also be well placed to offer advice to such clients

on suitable products for their risk management challenges, without the bank having to take on board any market or counterparty risk itself. Finally, in order to meet regulatory requirements, raise capital and hedge the market and credit risks that are an inevitable consequence of the core services, a core credit institution may use derivatives, securitisation or other security issuance etc. in order to reduce the volatility of its income or asset values.

Or. en

Amendment 95

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 1 c (new)

Text proposed by the Commission

Amendment

(1 c) It is widely acknowledged that capital markets financing, currently reliant on banks, is underdeveloped in the Union. The Capital Markets Union (CMU) programme that has been announced is aimed at significantly improving non-bank financing of the real economy. Any short term impact on the already inadequate bank mediated capital markets financing due to this Regulation is therefore amply compensated by the benefits of increased systemic resilience of the banking sector and the offsetting effect of the CMU.

Or. en

Amendment 96

Jonás Fernández

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The financial crisis has demonstrated the interconnected nature of Union banks and the resulting risk to the financial system. As a result, resolution has to date been challenging, involved entire banking groups, as opposed to only the non-viable parts, and has relied significantly on public support.

Amendment

(2) The financial crisis has demonstrated the interconnected nature of Union banks and the resulting risk to the financial system. As a result, resolution has to date been challenging, involved entire banking groups, as opposed to only the non-viable parts, and has relied significantly on public support. ***Financial stability is a supranational public asset the safeguarding of which requires that the financial sector of the economy be adequately regulated and supervised, and without which there can be no lasting and environmentally sustainable economic growth. This regulation seeks to contribute to safeguarding the Union's financial stability and preventing systemic risk.***

Or. es

Amendment 97
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The financial crisis has demonstrated the interconnected nature of Union banks and the resulting ***risk to*** the financial system. As a result, resolution has to date been challenging, involved entire banking groups, as opposed to only the non-viable parts, and has relied significantly on public support.

Amendment

(2) The financial crisis has demonstrated the ***complex and*** interconnected nature of Union banks and the resulting ***fragility*** the financial system. As a result, resolution has to date been challenging, involved entire banking groups, as opposed to only the non-viable parts, ***with authorities unable to target their interventions on critical functions*** and has relied significantly on public support, ***with the risk that Member States acting to avoid fiscal impacts on their taxpayers burden those of others.***

Amendment 98
Markus Ferber

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) The financial crisis and its aftermath have led to a significant shortfall of investments in the European economy. This shortfall is estimated to be between EUR 400 and 700 billion. Any new legislation in the financial sector must take this investment shortfall duly into account and must not compromise any further the ability of the financial sector to invest into the real economy.

Or. en

Amendment 99
Fabio De Masi

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) The current economic crisis was largely caused by the financial industry where many actors have become too-big-to fail and had to be bailed-out with public funds. In contrast to any market-economy logic, losses were socialised and profits privatised. It needs to be recalled that the key role of financial institutions is to channel savings into productive investments. With the invention of various toxic financial instruments and dubious business practices, which for example set exorbitantly high profit targets, this role

has been squeezed out to the benefit of short-term profit maximisation with limited added value for society. It is therefore imperative to reduce the financial sector to its core functions. Hence, institutions that have reached a size and level of interconnectedness which is likely to pose a systemic threat to the functioning of the economies of single Member States or the Union as a whole should be separated as this will in the long term lead to more balanced and sustainable growth.

Or. en

Amendment 100

Fabio De Masi

Proposal for a regulation

Recital 2 b (new)

Text proposed by the Commission

Amendment

(2 b) Financial market stability should be seen in the context of overall sustainable and balanced economic growth. It cannot be a stand-alone objective but needs to be seen in a broader macro-economic perspective.

Or. en

Amendment 101

Bernd Lucke, Syed Kamall

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) Since the publication of the HLEG the Union and its Member States have adopted a vast variety of legislation

aiming at breaking the link between sovereign and banks to avoid future bail-outs. In this context it is crucial to restore resolvability and liability of credit institutions. A structural reform of the banking sector can install transparency and eliminate cross subsidisation of trading activities by deposits eligible under the Deposit Guarantee Scheme in accordance with Directive 2014/49/EU^{1a}. To assure a credible bail-in and, thus, a liability for risks and losses, significantly higher capital requirements than under current regulation are needed. The Financial Stability Board's proposal of a Total Loss-Absorbing Capacity represents a first step into this direction.

^{1a} Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit-guarantee schemes. OJ L 173, 12.06.2014, p.149.

Or. en

Amendment 102

Sylvie Goulard, Norica Nicolai, Nils Torvalds, Philippe De Backer

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) Since the proposal of the High-level Expert Group on reforming the structure of the Union's banking sector, the Union has adopted a large amount of legislation (EMIR, MIFID2, CRR, CRD4, DGS, BRRD among others) reducing systemic risk, increasing capital requirements, safeguarding depositors and improving the tools for dealing with bank crises across the Union. As a result of these new rules and of new structures for supervision, the legal framework has been

reinforced and the single rulebook in banking has created a new basis for financial markets in the Union, facilitating a single financial market and a working Capital Markets Union.

Or. en

Justification

Recital aiming at setting the framework that was not in place at the time of the Liikanen group or the adoption by the Commission of its proposal.

Amendment 103
Markus Ferber

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) The on-going banking regulatory reform agenda will significantly increase the resilience of both individual banks and the banking sector as a whole. *However, a limited subset of the largest and most complex Union banking groups still remain too-big-to-fail, too-big-to-save and too-complex to manage, supervise and resolve. Structural reform is therefore an important complement to other regulatory initiatives and measures, as it would offer one way of more directly addressing intra-group complexity, intra-group subsidies, and excessive risk-taking incentives. A number of Member States have adopted or are considering adopting measures to introduce structural reform in their respective banking systems.*

Amendment

(4) The on-going banking regulatory reform agenda will significantly increase the resilience of both individual banks and the banking sector as a whole *by introducing a range of directives and regulations such as EMIR, CRDIV, MiFID, BRRD and the Banking Union all addressing the too-big-to-fail problem.*

Or. en

Amendment 104

Jakob von Weizsäcker, Paul Tang, Renato Soru

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The on-going banking regulatory reform agenda will **significantly** increase the resilience of both individual banks and the banking sector as a whole. However, a limited subset of the largest and most complex Union banking groups still remain too-big-to-fail, too-big-to-save and too-complex to manage, supervise and resolve. Structural reform is therefore an important complement to other regulatory initiatives and measures, as it would offer one way of more directly addressing intra-group complexity, intra-group subsidies, **and** excessive risk-taking incentives. A number of Member States have adopted or are considering adopting measures to introduce structural reform in their respective banking systems.

Amendment

(4) The on-going banking regulatory reform agenda will increase the resilience of both individual banks and the banking sector as a whole. However, a limited subset of the largest and most complex Union banking groups still remain too-big-to-fail, too-big-to-save and too-complex to manage, supervise and resolve. Structural reform is therefore an important complement to other regulatory initiatives and measures, as it would offer one way of more directly addressing intra-group complexity, intra-group **and government** subsidies, excessive risk-taking incentives, ***mispricing of capital, distorted conditions of competition within the financial sector and threats arising from institutions operating under the jurisdiction of multiple regulatory regimes and supervisors***. A number of Member States have adopted or are considering adopting measures to introduce structural reform in their respective banking systems. ***Structural reform is a unique opportunity to strengthen the Banking Union.***

Or. en

Amendment 105

Esther de Lange, Tom Vandenkendelaere

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Banks must be able to offer a complete package of services for savers,

small and medium-sized undertakings and the business sector, but may no longer use savings for trading for their own profit and high-risk trading activities; internal separation or splitting of a bank's company operations and its business services can prevent the use of savings for these activities;

Or. nl

Amendment 106

Jakob von Weizsäcker

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Inconsistent national legislation that does not pursue the same policy goals in a manner that is compatible and equivalent with the mechanisms envisaged in this Regulation increases chances that capital movements decisions of market participants are negatively affected because different and inconsistent rules and practices may significantly raise operational costs for credit institutions that are operating across borders and hence lead to a less efficient allocation of resources and capital compared to a situation where capital movement is subject to similar and consistent rules. For the same reasons, different and inconsistent rules will also negatively affect decisions of market participants relating to where and how to provide cross-border financial services. Different and inconsistent rules may also unintentionally encourage geographic arbitrage. The movement of capital and the provision of cross-border services are essential elements for the proper functioning of the Union internal market. ***Without a Union-wide approach credit institutions will be forced to adapt their***

Amendment

(7) Inconsistent national legislation that does not pursue the same policy goals in a manner that is compatible and equivalent with the mechanisms envisaged in this Regulation increases chances that capital movements decisions of market participants are negatively affected because different and inconsistent rules and practices may significantly raise operational costs for credit institutions that are operating across borders and hence lead to a less efficient allocation of resources and capital compared to a situation where capital movement is subject to similar and consistent rules. For the same reasons, different and inconsistent rules will also negatively affect decisions of market participants relating to where and how to provide cross-border financial services. Different and inconsistent rules may also unintentionally encourage geographic arbitrage. The movement of capital and the provision of cross-border services are essential elements for the proper functioning of the Union internal market. ***A harmonised approach is especially important within the Banking Union in***

structure and operations along national boundaries, thereby making them even more complex and leading to increased fragmentation of the internal market.

order to avoid supervisory fragmentation.

Or. en

Amendment 107

Markus Ferber

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Harmonisation at Union level can ensure that Union banking groups, many of which operate in several Member States, are regulated by a common framework of structural requirements thereby avoiding competitive distortions, reducing regulatory complexity, avoiding unwarranted compliance costs for cross-border activities, promoting further integration in the Union market place and contributing to the elimination of regulatory arbitrage opportunities.

Amendment

(9) Harmonisation at Union level can ensure that Union banking groups, many of which operate in several Member States, are regulated by a common framework of structural requirements thereby avoiding competitive distortions, reducing regulatory complexity, avoiding unwarranted compliance costs for cross-border activities, promoting further integration in the Union market place and contributing to the elimination of regulatory arbitrage opportunities.

However, in this context, any harmonisation efforts at Union level must respect and be compatible with the specific characteristics of the national banking systems wherever possible.

Or. en

Amendment 108

Eva Paunova

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Harmonisation at Union level can

Amendment

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ensure that Union banking groups, many of which operate in several Member States, are regulated by a common framework of structural requirements thereby avoiding competitive distortions, reducing regulatory complexity, avoiding unwarranted compliance costs for cross-border activities, promoting further integration in the Union market place and contributing to the elimination of regulatory arbitrage opportunities.

ensure that Union banking groups, many of which operate in several Member States, are regulated by a common framework of structural requirements thereby avoiding competitive distortions, reducing regulatory complexity, avoiding unwarranted compliance costs for cross-border activities, promoting further integration in the Union market place and contributing to the elimination of regulatory arbitrage opportunities.

Uniform rules on banks' structures can stimulate economic growth by supporting the provision of credit to the economy, in particular to SMEs and start-ups, thereby ensuring greater resilience against potential financial crises, restoring trust and confidence in banks and removing risks to public finances.

Or. en

Amendment 109
Morten Messerschmidt

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) Harmonisation at Union level can ensure that Union banking groups, many of which operate in several Member States, are regulated by a common framework of structural requirements thereby avoiding competitive distortions, reducing regulatory complexity, avoiding unwarranted compliance costs for cross-border activities, promoting further integration in the Union market place and contributing to the elimination of regulatory arbitrage opportunities.

Amendment

(9) Harmonisation at Union level can ensure that Union banking groups, many of which operate in several Member States, are regulated by a common framework of structural requirements thereby avoiding competitive distortions, reducing regulatory complexity, avoiding unwarranted compliance costs for cross-border activities, promoting further integration in the Union market place and contributing to the elimination of regulatory arbitrage opportunities.

Systemic risks, where they appear, must be addressed in the same way throughout the Union, with the aim of ensuring that each institution is resolvable without

putting the financial stability of the Union at risk.

Or. en

Justification

Greater alignment with BRRD and the objective of resolvability assessment process should be ensured.

Amendment 110

Eva Paunova

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) Since EU Credit institutions play a significant role for the access of SMEs to an external investor base and since small businesses are one of the main drivers of the European economy, this proposal follows the Code of Conduct between credit institutions and SMEs - SEC (2004) 484.

Or. en

Amendment 111

Sylvie Goulard, Norica Nicolai, Philippe De Backer, Cora van Nieuwenhuizen

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) Consistent with the goals of contributing to the functioning of the internal market, it should be possible to grant a derogation for a credit institution from the provisions on separation of certain trading activities where a Member

deleted

State has adopted national primary legislation prior to 29 January 2014 (including secondary legislation subsequently adopted) prohibiting credit institutions, which take deposits from individuals and Small and Medium sized Enterprises (SMEs) from dealing in investments as a principal and holding trading assets. The Member State should therefore be entitled to make a request to the Commission to grant a derogation from the provisions on separation of certain trading activities for a credit institution that is subject to the national legislation compatible with those provisions. This would allow Member States that already have primary legislation in place, the effects of which are equivalent to and consistent with this Regulation, to avoid alignment of existing, effective provisions. To ensure that the impact of that national legislation, as well as of subsequent implementing measures, does not jeopardise the aim or functioning of the internal market, the aim of that national legislation and related supervisory and enforcement arrangements must be able to ensure that credit institutions that take eligible deposits from individuals and from SMEs comply with legally binding requirements that are equivalent and compatible with the provisions provided in this Regulation. The competent authority supervising the credit institution subject to the national legislation in question should be responsible for providing an opinion that should accompany the request for the derogation.

Or. en

Justification

(ECB) such a derogation is incompatible with the goal of creating a level playing field. Furthermore, such a provision may create a precedent for future derogation clauses in other legislative areas, thus impairing single market integration in general.

Amendment 112

Tom Vandenkendelaere, Esther de Lange

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) Consistent with the goals of contributing to the functioning of the internal market, it should be possible to grant a derogation for a credit institution from the provisions on separation of certain trading activities where a Member State has adopted national primary legislation prior to 29 January 2014 (including secondary legislation subsequently adopted) prohibiting credit institutions, which take deposits from individuals and Small and Medium sized Enterprises (SMEs) from dealing in investments as a principal and holding trading assets. The Member State should therefore be entitled to make a request to the Commission to grant a derogation from the provisions on separation of certain trading activities for a credit institution that is subject to the national legislation compatible with those provisions. This would allow Member States that already have primary legislation in place, the effects of which are equivalent to and consistent with this Regulation, to avoid alignment of existing, effective provisions. To ensure that the impact of that national legislation, as well as of subsequent implementing measures, does not jeopardise the aim or functioning of the internal market, the aim of that national legislation and related supervisory and enforcement arrangements must be able to ensure that credit institutions that take eligible deposits from individuals and from SMEs comply with legally binding requirements that are equivalent and

Deleted

compatible with the provisions provided in this Regulation. The competent authority supervising the credit institution subject to the national legislation in question should be responsible for providing an opinion that should accompany the request for the derogation.

Or. nl

Amendment 113
Jakob von Weizsäcker

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) Consistent with the goals of contributing to the functioning of the internal market, *it should be possible to grant a derogation for a credit institution from the provisions on separation of certain trading activities where a Member State has adopted* national primary legislation prior to 29 January 2014 (including secondary legislation subsequently adopted) *prohibiting* credit institutions, which take deposits from individuals and Small and Medium sized Enterprises (SMEs) from dealing in investments as a principal and holding trading assets. *The Member State should therefore be entitled to make a request to the Commission to grant a derogation from the provisions on separation of certain trading activities for a credit institution that is subject to the national legislation compatible with those provisions. This would allow Member States that already have primary legislation in place, the effects of which are equivalent to and consistent with this Regulation, to avoid alignment of existing, effective provisions. To ensure that the impact of that national legislation,*

Amendment

(10) Consistent with the goals of contributing to the functioning of the internal market, *a credit institution can be deemed compliant with the provisions on separation of trading activities or certain trading activities if this credit institution based on national primary legislation adopted by a Member State prior to 29 January 2014 (including secondary legislation subsequently adopted) is structured to prohibit* credit institutions which take deposits from individuals and Small and Medium sized Enterprises (SMEs) from dealing in investments as a principal and *from* holding trading assets. *This would allow credit institutions which already comply with primary legislation in place and which are structured in a way that the effects are in line with this Regulation, to avoid incurring additional compliance costs. Limiting the exemption to credit institutions compliant with national legislation adopted by a Member State prior to 29 January 2014 ensures that only such credit institutions will be covered which could not have foreseen additional requirements on a European level while already in the process of*

as well as of subsequent implementing measures, does not jeopardise the aim or functioning of the internal market, the aim of *that national legislation and related supervisory and enforcement arrangements must be able to ensure that credit institutions that take eligible deposits from individuals and from SMEs comply with legally binding requirements that are equivalent and compatible with the provisions provided in this Regulation.* The competent authority supervising the credit institution *subject to the national legislation in question should be responsible for providing an opinion that should accompany the request for the derogation.*

conforming with national legislation. *In order for this exemption not to* jeopardise the aim or functioning of the internal market *or unduly to discriminate, the credit institution's structure must be compatible with* the aim of *the provisions in this Regulation. To increase legal certainty and its planning ability, the credit institution may request a binding affirmation that it complies with the provisions on separation. Such request shall be accompanied by a supporting opinion of* the competent authority supervising the credit institution, *making reference to the national legislation already place.*

Or. en

Amendment 114 **Gunnar Hökmark**

Proposal for a regulation **Recital 10**

Text proposed by the Commission

(10) Consistent with the goals of contributing to the functioning of the internal market, it should be possible *to grant a derogation* for a credit institution *from the provisions on separation of certain trading activities where a Member State has adopted national primary legislation prior to 29 January 2014 (including secondary legislation subsequently adopted) prohibiting credit institutions, which take deposits from individuals and Small and Medium sized Enterprises (SMEs) from* dealing in investments as a principal *and holding* trading assets. *The Member State should therefore be entitled to make a request to the Commission to grant a derogation from the provisions on separation of*

Amendment

(10) Consistent with the goals of contributing to the functioning of the internal market it should be possible for a *core* credit institution *which does not deal in investments as a principal nor hold trading assets and for any core credit institution within a corporate group that is legally separated from group entities that engage in the regulated activity of* dealing in investments as a principal *or hold* trading assets, *and that also meets certain other conditions, to avoid being subject to the assessment set out in this Regulation. As well as creating a 'safe harbour' for institutions which take adequate steps to meet the objectives of this Regulation,* this would allow *institutions in* Member States that already

certain trading activities for a credit institution that is subject to the national legislation compatible with those provisions. This would allow Member States that already have primary legislation in place, the effects of which are equivalent to and consistent with this Regulation, to avoid *alignment of existing, effective provisions.* To ensure that the impact of that national legislation, as well as of subsequent implementing measures, does not jeopardise the aim or functioning of the internal market, the aim of that national legislation and related supervisory and enforcement arrangements must be able to ensure that credit institutions that take eligible deposits from individuals and from SMEs comply with legally binding requirements that are equivalent and compatible with the provisions provided in this Regulation. The competent authority supervising the credit institution *subject to the national legislation* in question should be responsible for *providing an opinion that should accompany the request for the derogation.*

have primary legislation in place, the effects of which are equivalent to and consistent with this Regulation, to avoid *being subject to further assessment and to a further requirement to separate their activities.* This would enable a Member State, or a jurisdiction with a common supervisor, which considers that its banking sector and the credit institutions in its territory and under its competent authorities' responsibility are of such a size relative to its economy as a whole that retail customers and depositors would, because of the proportion of trading and market making activities in its financial sector as a whole, face substantial risks without the provision of public financial support for resolution, to legislate at the appropriate level in order to separate such activities in a way that is consistent with this Regulation. The competent authority supervising the credit institution in question should be responsible for *verifying that the conditions of the exemption are met.*

Or. en

Justification

This amendment updates and replaces the previous amendment made by the Rapporteur.

Amendment 115

Jakob von Weizsäcker

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10 a) With respect to ensuring the effectiveness of separation this Regulation sets minimum standards. Member States,

either collectively within Banking Union or individually outside Banking Union, may further empower the competent authority, including, but not limited to imposing additional capital and liquidity requirements, requiring lower thresholds for maximum extra or intra group exposures and restricting transactions between the trading entity and the core credit institution.

Or. en

Amendment 116
Jakob von Weizsäcker

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) This Regulation intends to reduce excessive risk taking and rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy.

Amendment

(12) This Regulation intends to reduce excessive risk taking and rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy. ***This regulation also intends to reduce risks arising from financial conglomerates operating across the supervisory boundaries. To achieve these objectives, this Regulation does not limit the powers conferred to the relevant authorities by other legislation including, among others, Regulation (EU) No 575/2013, Regulation (EU) No 1024/2013, Directive 2014/59/EU and Directive***

Amendment 117

Fabio De Masi

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) This Regulation intends to **reduce** excessive risk taking and rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy.

Amendment

(12) This Regulation intends to **minimise** excessive risk taking and rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, ***including any implicit or explicit public subsidies for large, profit-oriented private institutions*** and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy.

Amendment 118

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) This Regulation intends to reduce excessive risk taking and rapid balance

Amendment

(12) This Regulation intends to reduce ***the impact of*** excessive risk taking ***in trading***

sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy.

activities on core credit institutions' services to the real economy, and also to reduce rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, *notably in the form of implicit or explicit public subsidies*, and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy.

Or. en

Amendment 119 Esther de Lange, Tom Vandenkendelaere

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) This Regulation intends to reduce excessive risk taking and rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, and misallocation of capital. It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital be excessively allocated to trading at the expense of lending to the non-financial economy.

Amendment

(12) This Regulation intends to reduce excessive risk taking and rapid balance sheet growth, difficult resolution, difficult monitoring, conflicts of interest, competition distortions, and misallocation of capital. ***Bank resolvability may provide an indication of whether certain activities by banks lead to excessive risk and a threat to financial stability but this is certainly not the only criterion.*** It also intends to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. Necessary rules should therefore contribute to refocusing banks on their core relationship-oriented role of serving the real economy, and avoid that bank capital

be excessively allocated to trading at the expense of lending to the non-financial economy.

Or. nl

Amendment 120

Sylvie Goulard, Norica Nicolai, Nils Torvalds, Philippe De Backer

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12 a) Through a risk-based approach, this Regulation should aim at providing financial stability, reducing systemic risk and maintaining a competitive European banking sector able to finance the economy.

Or. en

Justification

It is worth recalling the objectives including a strategic one.

Amendment 121

Markus Ferber

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and

too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures *also* on smaller credit institutions.

too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures on smaller credit institutions *in the framework of Directive 2014/59/EU (BRRD) in order to guarantee their potential resolvability.*

Or. en

Amendment 122

Jakob von Weizsäcker

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. ***Subsidiaries of foreign institutions which, measured on an aggregated basis within the Union, meet the thresholds shall be covered accordingly. To level the playing field, this Regulation with the exception of***

Chapter III shall also apply to subsidiaries of foreign G-SIIs and of foreign entities which meet the thresholds referred to above. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Or. en

Amendment 123

Fabio De Masi

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation ***will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus*** on the ***limited*** subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Amendment

(13) This Regulation ***focuses*** on the subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions ***which may equally pose significant financial risks to the Union or parts of it.***

Or. en

Amendment 124

Cora van Nieuwenhuizen

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet **thresholds** set out in the Regulation. This is in line with the explicit focus on the limited subset of the **largest and most complex** credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed **of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size**. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet **the criteria** set out in the Regulation. This is in line with the explicit focus on the limited subset of the **systemically relevant** credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed **significant supervised entities or significant supervised groups under Regulation (EU) No 468/2014 or exceed certain accounting-based thresholds on** size. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Or. en

Amendment 125
Othmar Karas

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation

should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute **accounting-based** thresholds in terms of trading activity or absolute size. **Member States** or the competent authorities may decide to impose similar measures **also** on smaller credit institutions.

should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute thresholds in terms of trading activity or absolute size. ***In order to reduce or remove material impediments to the application of resolution tools and to ensure the resolvability of the entities concerned,*** the competent authorities may decide to impose similar measures on smaller credit institutions ***on the basis of Directive 2014/59/EU of the European Parliament and of the Council.***

Or. en

Justification

Similar measures for smaller credit institutions, which do not fall under the scope of this regulation, need to be based on the assessment of resolvability according to the BRRD, which should be stated here for clarification. According to Rec 29 of the BRRD the resolution authorities have the power to require changes to the structure and organisation of institutions, to take measures to reduce or remove material impediments to the application of resolution tools to ensure the resolvability.

Amendment 126

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet **thresholds** set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation

Amendment

(13) This Regulation will apply only to credit institutions and groups ***of significant size and*** with trading activities that meet ***the threshold*** set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve.

should accordingly only apply to those Union credit institutions and groups that either are ***deemed of global systemic importance*** or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are ***identified as a global systemically important institution (G-SIIs) or other systemically important institution (O-SIIs)*** or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Or. en

Amendment 127
Burkhard Balz

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. ***Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.***

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size.

Or. en

Amendment 128

Michael Theurer, Cora van Nieuwenhuizen

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size.

Member States or the competent authorities may decide to impose similar measures also on smaller credit institutions.

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size.

Or. en

Justification

There should be clear threshold for separation in order to achieve a harmonised approach in the EU.

Amendment 129

Renato Soru

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States *or the competent authorities* may decide to impose similar measures also on *smaller* credit institutions.

Amendment

(13) This Regulation will apply only to credit institutions and groups with trading activities that meet thresholds set out in the Regulation. This is in line with the explicit focus on the limited subset of the largest and most complex credit institutions and groups that in spite of other legislative acts remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve. The provisions of this Regulation should accordingly only apply to those Union credit institutions and groups that either are deemed of global systemic importance or exceed certain relative and absolute accounting-based thresholds in terms of trading activity or absolute size. Member States may decide to impose similar measures also on *other* credit institutions.

Or. en

Amendment 130
Fabio De Masi

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Credit institutions and entities belonging to the same group, should be prohibited from buying and selling financial instruments and commodities for their own account, as this activity has limited or no added value for the public good and is inherently risky.

Amendment

(15) Credit institutions and entities belonging to the same group, should be prohibited from buying and selling financial instruments and commodities for their own account, as this activity has limited or no added value for the public good and is inherently risky. *Moreover, they should not be exposed or connected through investments, guarantees or lending to funds or other investment vehicles conducting such business.*

Amendment 131

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Credit institutions and entities belonging to the same group, should be prohibited from ***buying and selling financial instruments and commodities for their own account, as this activity has*** limited or no added value for the public good and ***is*** inherently risky.

Amendment

(15) Credit institutions and entities belonging to the same group, should be prohibited from ***engaging in proprietary trading or taking on exposures to financial institutions that engage in proprietary trading, as such activities have*** limited or no added value for the public good and ***are*** inherently risky.

Amendment 132

Jakob von Weizsäcker

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) It is difficult to distinguish proprietary trading from market making. To overcome this difficulty, the prohibition of proprietary trading should be limited to desks, units, divisions or individual traders ***specifically*** dedicated to proprietary trading. Banks should not be able to circumvent the prohibition by running or benefiting from investments in non-bank entities engaging in proprietary trading.

Amendment

(16) It is difficult to distinguish proprietary trading from market making. To overcome this difficulty, the prohibition of proprietary trading should be limited to desks, units, divisions or individual traders dedicated to proprietary trading. Banks should not be able to circumvent the prohibition by running or benefiting from investments in, ***or lending, issuing guarantees or bonds, to*** non-bank entities engaging in proprietary trading.

Amendment 133
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) *It is difficult to distinguish* proprietary trading *from market making. To overcome this difficulty, the prohibition of proprietary trading should be limited to desks, units, divisions or individual traders specifically dedicated to proprietary trading.* Banks should not be able to circumvent the prohibition by *running or benefiting from investments in* non-bank entities engaging in proprietary trading.

Amendment

(16) *The prohibition of* proprietary trading *should apply to trading using own capital or borrowed money to take on positions without any connection to actual or anticipated client activity.* Banks should not be able to circumvent the prohibition by *owning, investing in or being otherwise exposed to* non-bank entities engaging in proprietary trading.

Or. en

Amendment 134
Sylvie Goulard, Norica Nicolai

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) It is difficult to distinguish proprietary trading from market making. To overcome this difficulty, *the prohibition of proprietary trading should be limited to desks, units, divisions or individual traders specifically dedicated to proprietary trading.* Banks should not be able to circumvent the prohibition by running or benefiting from investments in non-bank entities engaging in proprietary trading.

Amendment

(16) It is difficult to distinguish proprietary trading from market making. To overcome this difficulty, *there should be enhanced rules regarding the definition of trading mandates with risk limits and improved permanent monitoring under the control of the competent authorities to ensure the consistency of transactions with the trading mandates and risk limits.* Banks should not be able to circumvent the prohibition by running or benefiting from investments in non-bank entities engaging in proprietary trading.

Justification

It is essential that this regulation improves the internal governance of banks, as foreseen by the “Volcker” rule in the US or by some national legislation under the control of the supervisor.

Amendment 135

Fabio De Masi

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) *It is difficult to distinguish proprietary trading from market making. To overcome this difficulty, the prohibition of proprietary trading should be limited to desks, units, divisions or individual traders specifically dedicated to proprietary trading. Banks should not be able to circumvent the prohibition by running or benefiting from investments in non-bank entities engaging in proprietary trading.*

Amendment

(16) *Market making often contains hidden proprietary trading elements and has thereby contributed to the build-up of systemic risks in the financial sector. It is therefore essential to define proprietary trading explicitly through a profit motif on own account and a lack of connection to actual or anticipated client activity.*

Or. en

Amendment 136

Jakob von Weizsäcker

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) *To ensure that* the entities subject to the prohibition of proprietary *trading can continue to contribute toward the financing of the economy, they* should be allowed to invest in a closed list of funds. This exhaustive list should comprise

Amendment

(17) The entities subject to the prohibition of proprietary should be allowed to invest in a closed list of funds. This exhaustive list should comprise closed-ended and unleveraged alternative investment funds (AIFs), European Venture Capital Funds,

closed-ended and unleveraged alternative investment funds (AIFs), European Venture Capital Funds, European Social Entrepreneurship Funds and European Long Term Investment Funds. To ensure that these funds do not endanger the viability and financial soundness of the credit institutions that invest in them, it is essential that closed-ended and unleveraged AIFs in which credit institutions can still invest are managed by AIF managers that are authorised and supervised in accordance with the relevant provisions of Directive 2011/61/EU of the European Parliament and of the Council²⁶, and that those AIFs are established in the Union or, if they are not established in the Union, they are marketed in the Union according to the rules of that Directive.

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

European Social Entrepreneurship Funds and European Long Term Investment Funds. To ensure that these funds do not endanger the viability and financial soundness of the credit institutions that invest in them, it is essential that closed-ended and unleveraged AIFs in which credit institutions can still invest are managed by AIF managers that are authorised and supervised in accordance with the relevant provisions of Directive 2011/61/EU of the European Parliament and of the Council²⁶, and that those AIFs are established in the Union or, if they are not established in the Union, they are marketed in the Union according to the rules of that Directive.

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

Or. en

Amendment 137

Cora van Nieuwenhuizen

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) To ensure that the entities subject to the prohibition of proprietary trading can continue to contribute toward the financing of the economy, they should be allowed to invest in a ***closed list of*** funds. ***This exhaustive list*** should ***comprise*** closed-ended and unleveraged alternative

Amendment

(17) To ensure that the entities subject to the prohibition of proprietary trading can continue to contribute toward the financing of the economy, they should be allowed to invest in a ***certain*** funds. ***These*** should ***include*** closed-ended and unleveraged alternative investment funds (AIFs),

investment funds (AIFs), *European Venture Capital Funds, European Social Entrepreneurship Funds and European Long Term Investment Funds*. To ensure that these funds do not endanger the viability and financial soundness of the credit institutions that invest in them, it is essential that closed-ended and unleveraged AIFs in which credit institutions can still invest are managed by AIF managers that are authorised and supervised in accordance with the relevant provisions of Directive 2011/61/EU of the European Parliament and of the Council²⁶, and that those AIFs are established in the Union or, if they are not established in the Union, they are marketed in the Union according to the rules of that Directive.

UCITS, other funds marketed to retail investors, AIFs where the mandate of the fund does not allow a leverage higher than that laid down in Article 51(3) of Directive 2009/65/EU as referenced in Article 128(2)(b) of Regulation (EU) 575/2013, qualifying venture capital funds as defined in Article 3(b) of Regulation (EU) No 345/2013, qualifying social entrepreneurship funds as defined in Article 3(b) of Regulation (EU) No 346/2013, and AIFs authorised as ELTIFs in accordance with Regulation (EU) No [XXX/XXXX].

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

Or. en

Amendment 138

Danuta Maria Hübner, Philippe De Backer, Luděk Niedermayer

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) To ensure that the entities subject to the prohibition of proprietary trading can continue to contribute toward the financing of the economy, they should be allowed to invest in a closed list of funds. This exhaustive list should comprise closed-ended *and unleveraged* alternative

Amendment

(17) To ensure that the entities subject to the prohibition of proprietary trading can continue to contribute toward the financing of the economy, they should be allowed to invest in a closed list of funds. This exhaustive list should comprise closed-ended alternative investment funds (AIFs),

investment funds (AIFs), **European Venture Capital Funds, European Social Entrepreneurship Funds and European Long Term Investment Funds. To ensure that these funds do not endanger the viability and financial soundness of the credit institutions that invest in them, it is essential that closed-ended and unleveraged AIFs in which credit institutions can still invest are managed by AIF managers that are authorised and supervised in accordance with the relevant provisions of Directive 2011/61/EU of the European Parliament and of the Council²⁶, and that those AIFs are established in the Union or, if they are not established in the Union, they are marketed in the Union according to the rules of that Directive.**

which are not substantially leveraged in accordance with the Directive 2011/61/EU²⁶ **and Regulation 231/2013, venture capital funds that fall under the definition foreseen in Article 3(b) of Regulation (EU) No 346/2013, European Social Entrepreneurship Funds and European Long Term Investment Funds.**

Given the contribution of venture capital funds toward the financing of the economy, in particular SMEs and the fact that EuVECA is an optional regime, credit institutions should be allowed to continue to invest in all type of venture capital funds. Therefore all venture capital funds that meet the definition of qualifying venture capital fund should be exempted from the proprietary trading ban.

All the funds mentioned above are properly regulated and competent authorities are provided with different supervisory tools for monitoring and addressing risks associated with either funds' or managers' activities. Investments in those types of funds do not endanger financial soundness of the credit institutions and therefore credit institutions should be allowed to invest in such funds.

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives

Justification

Although the EuVECA regulation is a very good initiative to improve access to finance for SMEs, it does not seem to be justified to require venture capital funds to be EuVECA designated to qualify for the exemption. EuVECA is an optional regime and requires fund managers to comply with additional criteria. There are many venture capital funds that operate only nationally and are either not interested in getting the EuVECA label or are simply unable to be EuVECA designated because of the nature of their business.

Amendment 139 **Burkhard Balz**

Proposal for a regulation **Recital 17**

Text proposed by the Commission

(17) To ensure that the entities subject to the prohibition of proprietary trading can continue to contribute toward the financing of the economy, they should be allowed to invest in ***a closed list*** of funds. ***This exhaustive list*** should comprise closed-ended and unleveraged alternative investment funds (AIFs), European Venture Capital Funds, European Social Entrepreneurship Funds and European Long Term Investment Funds. To ensure that these funds do not endanger the viability and financial soundness of the credit institutions that invest in them, it is essential that closed-ended and unleveraged AIFs in which credit institutions can still invest are managed by AIF managers that are authorised and supervised in accordance with the relevant provisions of Directive 2011/61/EU of the European Parliament and of the Council²⁶, ***and that those AIFs are established in the***

Amendment

(17) To ensure that the entities subject to the prohibition of proprietary trading can continue to contribute toward the financing of the economy, they should be allowed to invest in ***certain types*** of funds. ***These funds*** should comprise ***UCITs***, closed-ended and unleveraged alternative investment funds (AIFs), ***AIFs where the investment policy does not allow a leverage above the threshold of Article 111 Delegated Regulation (EU) No 231/2013***, European Venture Capital Funds, European Social Entrepreneurship Funds and European Long Term Investment Funds. To ensure that these funds do not endanger the viability and financial soundness of the credit institutions that invest in them, it is essential that closed-ended and unleveraged AIFs in which credit institutions can still invest are managed by AIF managers that are authorised and

Union or, if they are not established in the Union, they are marketed in the Union according to the rules of that Directive.

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

supervised in accordance with the relevant provisions of Directive 2011/61/EU of the European Parliament and of the Council²⁶ .

²⁶ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

Or. en

Amendment 140
Philippe De Backer

Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Having in mind that private equity and venture capital funds contribute to the financing of the real economy and that this positive role partly depends on the relationship of the private equity and venture capital industry with the banks (whether as investors, asset manager or lenders), banks lending to private equity and venture capital funds as well as providing guarantees to such funds should not be considered as trading activities that should be subject to the structural separation.

Or. en

Amendment 141
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 18

Text proposed by the Commission

Amendment

(18) The entities subject to the prohibition of proprietary trading should be allowed to use their own capital to make investments in the framework of their cash management. Cash management should be an activity aiming at preserving the value of own capital while spreading credit risk across multiple counterparties and maximising the liquidity of its own capital. In managing its cash, entities subject to the prohibition of proprietary trading should not pursue the objective of achieving returns greater than money market rates, using as a benchmark the rate of return of a three-month high quality government bond. ***deleted***

Or. en

Justification

Trading for the purpose of prudent management of the risks, capital and funding stemming from the core credit institution services should be allowed subject to supervisory review and approval that the trading is strictly related to those objectives.

Amendment 142
Luděk Niedermayer

Proposal for a regulation
Recital 18

Text proposed by the Commission

Amendment

(18) The entities subject to the prohibition of proprietary trading should be allowed to use their own capital to make investments in the framework of their cash management. Cash management should be an activity aiming at preserving the value of own capital while spreading credit risk

(18) The entities subject to the prohibition of proprietary trading should be allowed to use their own capital to make investments in the framework of their cash management. Cash management should be an activity aiming at preserving the value of own capital while spreading credit risk

across multiple counterparties and maximising the liquidity of its own capital.

In managing its cash, entities subject to the prohibition of proprietary trading should not pursue the objective of achieving returns greater than money market rates, using as a benchmark the rate of return of a three-month high quality government bond.

across multiple counterparties and maximising the liquidity of its own capital.

Or. en

Justification

The way how to prudently manage these funds should not be too restrictive. The institution should manage its assets in a prudent way in all areas and so should be allowed to find appropriate allocation of these funds.

Amendment 143

Jakob von Weizsäcker

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) Cash equivalent assets are instruments that are normally dealt on the money market, such as treasury and local authority bills, certificates of deposit, commercial paper, bankers' acceptances, short-term notes or units or shares of regulated money market funds. In order to prohibit short selling, a credit institution should hold cash equivalent assets before being able to sell these assets.

Amendment

(19) Cash equivalent assets are instruments that are ***not linked to units or shares of AIFs, and that are*** normally dealt on the money market, such as treasury and local authority bills, certificates of deposit, commercial paper, bankers' acceptances, short-term notes or units or shares of regulated money market funds. In order to prohibit short selling, a credit institution should hold cash equivalent assets before being able to sell these assets.

Or. en

Amendment 144

Olle Ludvigsson

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Remuneration policies which encourage excessive risk-taking can undermine sound and effective risk management of banks. By complementing relevant existing Union law in this area, remuneration provisions should contribute to preventing circumvention of the prohibition of proprietary trading. Similarly, it should curtail any residual or hidden proprietary trading activity by core credit institutions when carrying out prudent risk management.

Amendment

(20) Remuneration policies which encourage excessive risk-taking can undermine sound and effective risk management of banks. By complementing relevant existing Union law in this area, ***and while respecting the rights and roles of social partners***, remuneration provisions should contribute to preventing circumvention of the prohibition of proprietary trading. Similarly, it should curtail any residual or hidden proprietary trading activity by core credit institutions when carrying out prudent risk management.

Or. en

Amendment 145
Fabio De Masi

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Remuneration policies which encourage excessive risk-taking can undermine sound and effective risk management of banks. By complementing relevant existing Union law in this area, remuneration provisions should contribute to preventing circumvention of the prohibition of proprietary trading. Similarly, it should curtail any residual or hidden proprietary trading activity by core credit institutions when carrying out prudent risk management.

Amendment

(20) Remuneration policies which encourage excessive risk-taking can undermine sound and effective risk management of banks, ***contribute to the TBTF problem and significantly increase the likelihood of banks acting against societal interests***. By complementing relevant existing Union law in this area, remuneration provisions should contribute to preventing circumvention of the prohibition of proprietary trading ***and excessive speculation***. Similarly, it should curtail any residual or hidden proprietary trading activity by core credit institutions when carrying out prudent risk management.

Amendment 146
Jakob von Weizsäcker

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) The management body of the entities subject to the prohibition of proprietary trading should ensure compliance with this prohibition.

Amendment

(21) The management body of the entities subject to the prohibition of proprietary trading **and all members thereof** should ensure compliance with this prohibition.

Or. en

Amendment 147
Sylvie Goulard, Norica Nicolai

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) The management body of the entities subject to the prohibition of proprietary trading should ensure compliance with this prohibition.

Amendment

(21) The management body of the entities subject to the prohibition of proprietary trading should ensure compliance with this prohibition. ***The permanent control should assess the consistency of profit and loss, risk and activity (including turnover) results with the appetite for risk of the institution, the internal risk limits and the trading mandates.***

Or. en

Justification

It is essential that this regulation improves the internal governance of banks, as foreseen by the “Volcker” rule in the US or by some national legislations under the control of the supervisor.

Amendment 148
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) The core credit institution should only be permitted to engage in core services to individuals and non-financial institutions, which include taking deposits eligible for deposit insurance, lending, providing payment services, advising on and selling products of other regulated financial institutions without acting as a principal, and a number of other activities. The core credit institution should also be allowed to engage in certain trading activities to the extent that they are aimed at the prudent management of its risk, capital, liquidity and funding and do not pose concerns to its financial stability.

Or. en

Justification

since the main objective prevent contagion between trading from core banking services interrupting the, it is essential to set out what the "public utility" services are. This should include safekeeping of cash and assets, payment systems and lending as well as the ancillary treasury and risk management activities needed to support them.

Amendment 149
Krišjānis Kariņš

Proposal for a regulation
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Several studies suggest that separation of certain activities will

increase the costs for financial intermediaries, and effectively raise the cost of capital for businesses and households. The current Union law already greatly reduces systematic risk and curtails excessive risk taking by financial intermediaries. Therefore, to avoid adding unnecessary burden on banks and economy as a whole, separation of certain trading activities should only take place after a thorough risk assessment.

Or. en

Amendment 150
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) A core credit institution should publish, at least semi-annually, a separate balance sheet regarding its prudent risk, liquidity, capital and funding management activities, thereby increasing transparency and facilitating the monitoring by the competent authorities of whether those activities are strictly linked to the needs of the core services.

Or. en

Amendment 151
Fabio De Masi

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Other than proprietary trading, large credit institutions engage in numerous other trading activities, such as market making, issuance, investment and sponsorship activity linked to risky securitisation, or the structuring, arranging, or execution of complex derivative transactions. These trading activities are often related to client activity but may nevertheless give rise to concerns. Considering, however, the potentially useful nature of these activities they should not be subject to a direct prohibition. Instead, such activities should ***remain subject to an ex post assessment by the competent authority and, potentially, to a requirement to be separated from the rest of the groups' activities.***

Amendment

(22) Other than proprietary trading, large credit institutions engage in numerous other trading activities, such as market making, issuance, investment and sponsorship activity linked to risky securitisation, or the structuring, arranging, or execution of complex derivative transactions. These trading activities are often related to client activity but may nevertheless give rise to concerns. Considering, however, the potentially useful nature of these activities they should not be subject to a direct prohibition. Instead, such activities should ***be transferred to an economically, legally and organisationally separate trading entity for all entities falling under the scope of this Regulation.***

Or. en

Amendment 152

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Other than proprietary trading, large credit institutions engage in numerous other trading activities, such as market making, issuance, investment and sponsorship activity linked to risky securitisation, or the structuring, arranging, or execution of complex derivative transactions. These trading activities are often related to client activity but may nevertheless give rise to concerns. Considering, however, the potentially useful nature of these activities they should not be subject to a direct prohibition.

Amendment

(22) Other than proprietary trading, large credit institutions engage in numerous other trading activities, such as market making, issuance, investment and sponsorship activity linked to risky securitisation, or the structuring, arranging, or execution of complex derivative transactions. These trading activities are often related to client activity but may nevertheless give rise to concerns. Considering, however, the potentially useful nature of these activities they should not be subject to a direct prohibition.

Instead, such activities should *remain subject to an ex post assessment by the competent authority and, potentially, to a requirement to be separated from the rest of the groups' activities.*

Instead, such activities should *be separated from those permitted for the core credit institution, unless they are deemed essential to the prudent management of its own risk, capital, liquidity, and funding.*

Or. en

Amendment 153

Krišjānis Kariņš

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Other than proprietary trading, large credit institutions engage in numerous other trading activities, such as market making, issuance, investment and sponsorship activity linked to risky securitisation, or the structuring, arranging, or execution of complex derivative transactions. These trading activities are often related to client activity but may nevertheless give rise to concerns. Considering, however, the potentially useful nature of these activities they should not be subject to a direct prohibition. Instead, such activities should remain subject to *an ex post* assessment by the competent authority and, potentially, to a requirement to be separated from the rest of the groups' activities.

Amendment

(22) Other than proprietary trading, large credit institutions engage in numerous other trading activities, such as market making, issuance, investment and sponsorship activity linked to risky securitisation, or the structuring, arranging, or execution of complex derivative transactions. These trading activities are often related to client activity but may nevertheless give rise to concerns. Considering, however, the potentially useful nature of these activities they should not be subject to a direct prohibition. Instead, such activities should remain subject to *a thorough risk* assessment by the competent authority and, potentially, to a requirement to be separated from the rest of the groups' activities.

Or. en

Amendment 154

Fabio De Masi

Proposal for a regulation

Recital 23

Text proposed by the Commission

Amendment

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it should require their separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.

deleted

Or. en

Amendment 155

Cora van Nieuwenhuizen

Proposal for a regulation

Recital 23

Text proposed by the Commission

Amendment

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it should require ***their*** separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system ***as a whole***, taking into account the objectives set out in this Regulation.

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness ***posing undue risks to the resolvability and stability of the core credit institution, or to the stability of the Union's financial system,*** it should require ***additional measures which may take the form of enhanced supervision, higher capital requirements and separation of the relevant trading activities*** from the core credit institution unless the core credit institution can demonstrate to the

satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system, taking into account the objectives set out in this Regulation.

Or. en

Amendment 156
Neena Gill

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it should require their separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.

Amendment

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, ***and further deems that there is a threat to the financial stability of the core credit institution or to the whole or part of the Union financial system, taking into account the objectives of this Regulation,*** it should require their separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.'

Or. en

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

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) If, when assessing the trading activities, the competent authority concludes that ***they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it should require their separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.***

Amendment

(23) If, when assessing the trading activities, the competent authority concludes that the core credit institution ***carries out trading activities that are not strictly necessary for the prudent management of risk, capital, liquidity and funding of its non-trading business, it should require their separation from the core credit institution.***

Or. en

Justification

only trading activities needed for prudent management of risks and capital etc. should be permitted within the CCI. All other trading must be conducted in a bankruptcy remote entity (or stopped). The supervisory assessment is limited to establishing the purpose of the trading and identifying anything that falls outside the principle of prudent management

Amendment 158
Burkhard Balz

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it

Amendment

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it

should require *their* separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.

should require *the core credit institution to reduce the risk that potential losses from these trading related activities are passed on to the core credit institution by taking measures in line with Article 17 of Directive 2014/59/EU. Measures that the competent authority may take should include enhanced supervision, higher capital requirements and as a last resort a* separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.

Or. en

Amendment 159

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, it should require their separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.

Amendment

(23) If, when assessing the trading activities, the competent authority concludes that they exceed certain metrics in terms of relative size, leverage, complexity, profitability, associated market risk, as well as interconnectedness, *and further deems that there is a threat to the financial stability of the core credit institution or to the whole or part of the Union financial system, taking into account the objectives of this Regulation,* it should require their separation from the core credit institution unless the core credit institution can demonstrate to the satisfaction of the competent authority that those trading activities do not pose a threat to the financial stability of the core credit

institution or to the Union financial system as a whole, taking into account the objectives set out in this Regulation.

Or. en

Justification

(ECB) aims to ensure consistency between recital 23 and Article 10, which provides the competent authority with discretion when reviewing trading activities and deciding whether to start a procedure for separation

Amendment 160

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) There are particular concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. Therefore, particular attention to those activities should be made during the assessment of the competent authority.

deleted

Or. en

Justification

The need to distinguish market making from trading on behalf of clients or on behalf of the bank itself is not relevant in the approach taken by the Greens: market making activities (which are not directly related to prudent management) should be automatically carried out in a bankruptcy remote entity. If they cannot survive outside the CCI then the market does not need them.

Amendment 161

Fabio De Masi

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) There are particular concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. Therefore, ***particular attention to*** those activities should be ***made during the assessment of the competent authority***.

Amendment

(24) There are particular concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. Therefore, those activities should be ***carried out in a separated trading entity***.

Or. en

Amendment 162

Cora van Nieuwenhuizen, Philippe De Backer

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) There are particular concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. Therefore, particular attention to those activities should be made during the assessment of the competent authority.

Amendment

(24) There are particular concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. ***Market making activities, however, are also indispensable to the well-functioning of the market for corporate bonds and other debt instruments, since liquidity is necessary to make the instruments appropriate for a wide variety of investors.*** Therefore, particular attention to those activities should be made during the assessment of the competent authority.

Or. en

Amendment 163
Georgios Kyrtos

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) ***There are particular*** concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result

Amendment

(24) ***Market making activities are crucial for the financial system and have a great impact on the European economy.*** ***However, there could arise*** concerns in relation to market making. The resolvability of a bank may be impeded by the presence of trading and inventory

from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. Therefore, particular attention to those activities should be made during the assessment of the competent authority.

within a large banking group, as individual trading positions are treated the same way in a resolution process, whether they result from client activity driven market making or from speculation. Additionally, market makers are interconnected with other large banking groups. Furthermore, market makers can be exposed to substantial counterparty risk and the concrete functioning of market making can vary in relation to different financial instruments and market models. Therefore, particular attention to those activities should be made during the assessment of the competent authority.

Or. en

Amendment 164
Sander Loones

Proposal for a regulation
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) A regulation that aims to prevent excessive risk taking related to trading activities should consider the actual risk taken by banks in trading and provide incentives for banks to diminish their trading-related risk exposures or to increase eligible capital in order to comply with the legislation. The measurement of the size of banks' trading activities should make use, but not exclusively, of the prudential measures of risk exposures provided for in Regulation (EU) No 575/2013, since typically those measures capture the actual risk in trading positions better than other measures and since they are clearly defined and controlled through the supervisory framework. Regard should be had to other metrics that might better capture the size of banks' trading

activities.

Or. en

Justification

The regulatory capital requirements are most often determined by banks' internal models, which causes a problem when different banks evaluate similar risks differently in their internal models.

Amendment 165

Morten Messerschmidt

Proposal for a regulation

Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) On the other hand, market making is a necessary component of a well-functioning market for corporate bonds and other debt instruments, since one of the main advantages for investors of such bonds is that they may be traded on a market at all times and contributes positively to financial stability.

Or. en

Justification

Some parts of banks' trading activities – market making - are essential to a Capital Markets Union where some of the funding of the real economy is done through securities markets. This should be reflected in the bank structural reform legislation.

Amendment 166

Esther de Lange, Tom Vandenkendelaere

Proposal for a regulation

Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) In a regulation that aims to prevent excessive risk-taking in trading activities, consideration should be given to the actual risk taken by banks when trading and banks should be given an incentive to diminish their trading-related risk exposures or to increase eligible capital in order to comply with the legislation; by measuring the size of banks' trading activities use can be made of the prudential measures of risk exposures provided for in Regulation (EU) No 575/2013; other measures that may be better suited to assessing the scale of trading activities should also be taken into account;

Or. nl

Amendment 167

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 25

Text proposed by the Commission

Amendment

(25) Certain activities involving securitisation have allowed credit institutions to build up risks quickly, to concentrate risks within the leveraged sector, to grow notably short-term debt reliance between financial intermediaries, and to make financial intermediaries significantly more interconnected. Unless securitisation fulfils certain minimum criteria to be considered as high quality, credit institutions still run significant liquidity risk. Further, investing in risky securitised products may give rise to interconnectedness of financial institutions which impedes orderly and

deleted

swift resolution. As a consequence, these activities require particular attention during the assessment of the competent authority.

Or. en

Justification

Under the Green approach, securitisation is automatically permitted if it is demonstrated to the supervisor that it is part of prudent capital, risk, funding or liquidity management. All other securitisation related activities must be conducted in a bankruptcy remote entity.

Amendment 168

Jakob von Weizsäcker

Proposal for a regulation

Recital 25 a (new)

Text proposed by the Commission

Amendment

(25 a) Notwithstanding separation decisions, the competent authority may impose additional capital and liquidity requirements that it deems necessary to counter a threat to the financial stability of the core credit institution or to the whole or part of the Union financial system.

Or. en

Amendment 169

Jakob von Weizsäcker

Proposal for a regulation

Recital 25 b (new)

Text proposed by the Commission

Amendment

(25 b) The universal banking model is based on the idea that a significant share of the balance sheet is to consist of loans

directly to the real economy. As part of the assessment, the competent authority shall examine parameters such as the non-bank loan to total asset ratio and corporate and investment banking revenues as a percentage of total revenues to identify large institutions no longer operating as universal banks in the traditional sense of the word. To preserve the universal banking model and its justification, the competent authority shall require a core credit institution not to carry out certain trading activities if the core credit institution falls below a non-bank loan to total asset ratio of 40 percent or exceeds a ratio of 30 percent for corporate and investment banking revenues as a percentage of total revenues or exceeds a ratio of 15 percent for derivatives assets as a percentage of total assets.

Or. en

Amendment 170
Jakob von Weizsäcker

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules on a functional sub-group basis. They should have strong independent governance and separate management bodies.

Amendment

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules *also* on a functional sub-group basis. They should have strong independent governance and separate management bodies. ***Trading entities within the group are to remain subject to prudential banking supervision, including but not limited to Regulation (EU) No 575/2013 and Directive 2013/36/EU.***

Or. en

Amendment 171

Fabio De Masi

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules ***on a functional sub-group basis***. They should have strong independent governance and separate management bodies.

Amendment

(26) To ensure an effective separation in legal, economic, governance and operational terms, ***both*** core credit institutions and trading entities should meet capital, liquidity, and large exposure rules. They should have strong independent governance and separate management bodies.

Or. en

Amendment 172

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules on a functional sub-group basis. They should have strong independent governance and separate management bodies.

Amendment

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules on a functional sub-group basis. They should have strong independent governance and separate management bodies.
Furthermore, in order to prevent firewalls between the core and the trading sub-groups being circumvented through up/down streaming dividends or other parent operations, the EU parent should be a non-operating holding company, the only activity of which is to acquire holdings.

Amendment 173
Morten Messerschmidt

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules ***on a functional sub-group basis***. They should have strong independent governance and separate management bodies.

Amendment

(26) To ensure an effective separation in legal, economic, governance and operational terms, core credit institutions and trading entities should meet capital, liquidity, and large exposure rules. They should have strong independent governance and separate management bodies.

Or. en

Justification

Amendment 174
Morten Messerschmidt

Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) Groups ***that qualify as mutuals, cooperatives, savings institutions or similar have a specific ownership and economic structure. Imposing some of the rules related to separation could require far-reaching changes to the structural organisation of those entities the costs of which could be disproportionate to the benefits. To the extent that those groups fall within the scope of the Regulation, the competent authority may decide to***

Amendment

(27) ***Banking groups in the Union have by tradition different ownership structures. Different legal traditions should be respected and the regulation adopts a neutral approach allowing the core credit institution to hold capital instruments and voting rights in the trading entity. Appropriate measures to ensure effective separation between the core credit institution and the trading entity must be taken, e.g. by securing that there are no***

allow core credit institutions that meet the requirements set out in Article 49(3)(a) or (b) of Regulation (EU) No 575/2013 to hold capital instruments or voting rights in a trading entity where the competent authority considers that holding such capital instruments or voting rights is indispensable for the functioning of the group and that the core credit institution has taken sufficient measures in order to appropriately mitigate the relevant risks.

recourse possibility from the trading entity to the core credit institution leaving creditors and equity in the trading entity to bear possible losses in the trading entity. The trading entity shall on a solo level fulfil own fund requirements and shall have its own management body.

Or. en

Justification

Banking groups in the EU have by tradition different ownership structures. Different legal traditions should be respected and it is therefore warranted to adopt a neutral approach to ownership structure allowing the CCI to hold capital instruments and voting rights in the trading entity. Such an approach will leave room for banking groups to choose the setup most appropriate for the group's ownership structure. Appropriate measures to ensure effective separation between the core credit institution and the trading entity must be taken.

Amendment 175

Fabio De Masi

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) Large exposure limits aim at protecting credit institutions against the risk of incurring losses because of an excessive concentration on one client or a group of connected clients. Applying those restrictions between the *separated parts within the credit institution or group, as well as between the* core credit institution and external entities carrying out trading activities are an integral part of this Regulation. However, irrespective of individual exposure limits, aggregate large exposures can still be substantial. The individual limits should therefore be

Amendment

(28) Large exposure limits aim at protecting credit institutions against the risk of incurring losses because of an excessive concentration on one client or a group of connected clients. Applying those restrictions between the core credit institution and external entities carrying out trading activities are an integral part of this Regulation. However, irrespective of individual exposure limits, aggregate large exposures can still be substantial. The individual limits should therefore be complemented by an aggregate large exposure limit. In order to limit the

complemented by an aggregate large exposure limit. In order to limit the application of the public safety net to the activities subject to separation and to clearly distinguish the activities of a trading entity from the core credit institution, the trading entities should be prohibited from taking deposits eligible for deposit insurance. This prohibition should not prevent the exchange of collateral strictly relating to their trading activities. However, in order not to close down an additional source of credit, the trading entity should be allowed to extend credit to all clients. Furthermore, whereas the trading entity may need to provide wholesale payment, clearing and settlement services, it should not be involved in retail payment services.

application of the public safety net to the activities subject to separation and to clearly distinguish the activities of a trading entity from the core credit institution, the trading entities should be prohibited from taking deposits eligible for deposit insurance. This prohibition should not prevent the exchange of collateral strictly relating to their trading activities. However, in order not to close down an additional source of credit, the trading entity should be allowed to extend credit to all clients. Furthermore, whereas the trading entity may need to provide wholesale payment, clearing and settlement services, it should not be involved in retail payment services.

Or. en

Amendment 176 Jakob von Weizsäcker

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) Irrespective of separation, the core credit institution should still be able to manage its own risk. Certain trading activities should therefore be allowed to the extent that they are aimed at the prudent management of the core credit institution's capital, liquidity and funding and do not pose concerns to its financial stability. Similarly, **the** core credit institutions **needs** to be able to provide certain necessary risk management services to its clients. **However, that should** be done without exposing the core credit institution to **unnecessary** risk and without posing concerns to its financial stability. Hedging activities eligible for the purpose

Amendment

(29) Irrespective of separation, the core credit institution should still be able to manage its own risk. Certain trading activities should therefore be allowed to the extent that they are aimed at the prudent management of the core credit institution's capital, liquidity and funding and do not pose concerns to its financial stability. Similarly, core credit institutions **need** to be able to provide, **as an agent**, certain necessary risk management services to its clients. **That must** be done without exposing the core credit institution to risk and without posing concerns to its financial stability. Hedging activities eligible for the purpose of prudently managing own risk

of prudently managing own risk and for the provision of risk management services to clients can, but **does** not have to, qualify as hedge accounting under the International Financial Reporting Standards.

and for the provision of risk management services to clients can, but **do** not have to, qualify as hedge accounting under the International Financial Reporting Standards.

Or. en

Amendment 177

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Irrespective of separation, the core credit institution should still be able to manage its own risk. Certain trading activities should therefore be allowed to the extent that they are aimed at the prudent management of the core credit institution's capital, liquidity and funding and do not pose concerns to its financial stability. Similarly, the core credit institutions **needs to** be able to **provide certain necessary** risk management services **to its clients. However, that should be done without exposing the core credit institution to unnecessary risk and without posing concerns to its financial stability.** Hedging activities eligible for the purpose of prudently managing own risk and for the provision of risk management services to clients can, but does not have to, qualify as hedge accounting under the International Financial Reporting Standards.

Amendment

(29) Irrespective of separation, the core credit institution should still be able to manage its own risk. Certain trading activities should therefore be allowed to the extent that they are aimed at the prudent management of the core credit institution's **risk**, capital, liquidity and funding and do not pose concerns to its financial stability. Similarly, the core credit institutions **should** be able to **advise on and sell** risk management services **originated by legally separate regulated financial institutions to its clients, in compliance with MiFID/MIFIR provided that it does not act as a principal.** Hedging activities eligible for the purpose of prudently managing own risk and for the provision of risk management services to clients can, but does not have to, qualify as hedge accounting under the International Financial Reporting Standards.

Or. en

Amendment 178

Sylvie Goulard, Norica Nicolai

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Irrespective of separation, the core credit institution should still be able to manage its own risk. Certain trading activities should therefore be allowed to the extent that they are aimed at the prudent management of the core credit institution's capital, liquidity and funding and do not pose concerns to its financial stability. Similarly, the core credit institutions needs to be able to provide certain necessary risk management services to its clients. However, that should be done without exposing the core credit institution to unnecessary risk and without posing concerns to its financial stability. Hedging activities eligible for the purpose of prudently managing own risk and for the provision of risk management services to clients can, but does not have to, qualify as hedge accounting under the International Financial Reporting Standards.

Amendment

(29) Irrespective of separation, the core credit institution should still be able to manage its own risk. Certain trading activities should therefore be allowed to the extent that they are aimed at the prudent management of the core credit institution's capital, liquidity and funding and do not pose concerns to its financial stability. Similarly, the core credit institutions needs to be able to provide certain necessary risk management services to its clients. However, that should be done without exposing the core credit institution to unnecessary risk and without posing concerns to its financial stability. Hedging activities eligible for the purpose of prudently managing own risk and for the provision of risk management services to clients can, but does not have to, qualify as hedge accounting under the International Financial Reporting Standards.

Irrespective of a decision to separate, the competent authority shall have the power conferred by Article 104(1)(a) of Directive 2013/36/EU to impose an own funds requirement when the volume of risks and trading activities exceeds certain levels, in order to incentivise an institution not to take unnecessary risks for its financial stability or the financial stability of the Union in whole or in part.

Or. en

Justification

(ECB) In order to ensure that financial stability risks due to trading activities are limited, the competent authority should have the power to impose a capital surcharge when the volume of risk and activities exceeds certain levels. Such a surcharge would help to dissuade banks from engaging in excessive trading activities.

Amendment 179
Jakob von Weizsäcker

Proposal for a regulation
Recital 29 a (new)

Text proposed by the Commission

Amendment

(29 a) Irrespective of a decision to separate or impose other measures according to this Regulation, the competent authority shall have all the powers conferred to it by other legislation. This includes, but is not limited to the power conferred by Article 104 of Directive 2013/36/EU.

Or. en

Amendment 180
Jakob von Weizsäcker

Proposal for a regulation
Recital 30

Text proposed by the Commission

Amendment

(30) To enhance the effectiveness of the decision making procedure envisaged by this Regulation as well as to ensure to greatest extent possible that ***there is consistency between*** measures imposed under ***this Regulation***, Council Regulation (EU) No 1024/2013 of the European Parliament and of the Council, Directive [BRRD] and Directive 2013/36/EU²⁷ of the European Parliament and of the Council, competent authorities and relevant resolution authorities should closely cooperate in all circumstances having all powers conferred upon them in relevant Union law. The duty to cooperate should cover all stages of the procedure leading up to a competent authority's final decision to

(30) To enhance the effectiveness of the decision making procedure envisaged by this Regulation as well as to ensure to greatest extent possible that measures imposed under, Council Regulation (EU) No 1024/2013 of the European Parliament and of the Council, Directive [BRRD] and Directive 2013/36/EU²⁷ of the European Parliament and of the Council ***are consistent with this Regulation***, competent authorities and relevant resolution authorities should closely cooperate in all circumstances having all powers conferred upon them in relevant Union law. The duty to cooperate should cover all stages of the procedure leading up to a competent authority's final decision to impose

impose structural measures.

structural measures.

²⁷ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p.338).

²⁷ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p.338).

Or. en

Amendment 181
Jakob von Weizsäcker

Proposal for a regulation
Recital 31

Text proposed by the Commission

(31) Separation has a significant impact on banking groups' legal, organisational and operational structure. To insure an effective and efficient application of separation ***and to prevent separation of groups along geographic lines***, separation decisions should be taken at group level by the consolidating supervisor, having consulted the competent authorities of a banking ***group's*** significant subsidiaries as appropriate.

Amendment

(31) Separation has a significant impact on banking groups' legal, organisational and operational structure. To insure an effective and efficient application of separation, separation decisions should be taken at group level by the consolidating supervisor, having consulted the competent authorities of a banking ***group's*** significant subsidiaries as appropriate.

Or. en

Amendment 182
Mady Delvaux, Costas Mavrides, Alfred Sant

Proposal for a regulation
Recital 31

Text proposed by the Commission

(31) Separation has a significant impact on banking groups' legal, organisational and operational structure. To insure an effective and efficient application of separation and to prevent separation of groups along geographic lines, separation decisions should be taken ***at group level*** by the consolidating supervisor, ***having consulted*** the competent authorities of a banking group's significant subsidiaries ***as appropriate***.

Amendment

(31) Separation has a significant impact on banking groups' legal, organisational and operational structure. To insure an effective and efficient application of separation and to prevent separation of groups along geographic lines, separation decisions should be taken ***jointly*** by the consolidating supervisor ***and*** the competent authorities of a banking group's significant subsidiaries.

Or. en

Justification

BSR should be coherent with other banking legislation as concerns decision taking, allowing for appropriate safeguards for both home and host Member States.

Amendment 183
Jakob von Weizsäcker

Proposal for a regulation
Recital 31 a (new)

Text proposed by the Commission

Amendment

(31 a) Large financial conglomerates operating across the boundaries of the jurisdiction of different competent authorities and under multiple supervisory regimes can pose a major threat to financial stability. Those institutions are particularly difficult to resolve in an orderly manner, making bailout more likely, especially in a systemic crisis. While single point of entry resolution remains the preferred mechanism, banks operating under multiple supervisory and resolution regimes should be structured to give regulators the option of multiple entry

point resolution just in case. Hence, each competent authority may require the structure of a holding company for all activities within its supervisory geography. The holding company can be required to issue its own debt and separately comply with capital and liquidity requirements. Also, the competent authority can require that the holding company ensures its practical viability even in case of insolvency of other entities within the group, but outside the jurisdiction of the competent authority. The imposition of such structural measures is to be based on proportionality in view of the significance of the financial activities in question.

Or. en

Amendment 184

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) In order to promote transparency and legal certainty for the benefit of all market stakeholders, the European Banking Authority (EBA) should publish and keep up-to-date on its website a list of credit institutions and groups subject to the requirements concerning the ban of proprietary trading and separation of *certain trading* activities.

Amendment

(32) In order to promote transparency and legal certainty for the benefit of all market stakeholders, the European Banking Authority (EBA) should publish and keep up-to-date on its website a list of credit institutions and groups subject to the requirements concerning the ban of proprietary trading and separation of *trading activities from core credit institution* activities.

Or. en

Amendment 185

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation
Recital 32 a (new)

Text proposed by the Commission

Amendment

(32 a) In accordance with Article 1(5) and Article 22(2) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), EBA shall pay particular attention to any systemic risk posed by financial institutions, the failure of which may impair the operation of the financial system or the real economy. EBA shall therefore develop guidance on the quantitative and the qualitative parameters.

Or. en

Justification

It should be EBA's role to develop the parameters

Amendment 186
Jakob von Weizsäcker

Proposal for a regulation
Recital 34

Text proposed by the Commission

Amendment

(34) Separation entails changes to the legal, organisation and operational structure of affected banking groups, all of which generate costs. In order to limit the risk of costs being passed on to clients and grant the credit institutions the time necessary to execute a separation decision in an orderly fashion, separation should not be applicable immediately upon entry into force of the Regulation but apply as of [OP please enter the exact date 18

deleted

months from the date of publication of this Regulation].

Or. en

Justification

A transition period of 18 months would be inconsistent with the longer transition period envisaged in Recital 47.

Amendment 187
Olle Ludvigsson

Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) Separation entails changes to the legal, organisation and operational structure of affected banking groups, all of which generate costs. In order to limit the risk of costs being passed on to clients and grant the credit institutions the time necessary to execute a separation decision in an orderly fashion, separation should not be applicable immediately upon entry into force of the Regulation but apply as of [OP please enter the exact date 18 months from the date of publication of this Regulation].

Amendment

(34) Separation entails changes to the legal, organisation and operational structure of affected banking groups, all of which generate costs. In order to limit the risk of costs being passed on to clients ***or employees*** and grant the credit institutions the time necessary to execute a separation decision in an orderly fashion, separation should not be applicable immediately upon entry into force of the Regulation but apply as of [OP please enter the exact date 18 months from the date of publication of this Regulation].

Or. en

Amendment 188
Fabio De Masi

Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) Separation entails changes to the legal,

Amendment

(34) Separation entails changes to the legal,

organisation and operational structure of affected banking groups, all of which generate costs. In order to limit the risk of costs being passed on to clients and grant the credit institutions the time necessary to execute a separation decision in an orderly fashion, separation should not be applicable immediately upon entry into force of the Regulation but apply as of [OP please enter the exact date **18** months from the date of publication of this Regulation].

organisation and operational structure of affected banking groups, all of which generate costs. In order to limit the risk of costs being passed on to clients and grant the credit institutions the time necessary to execute a separation decision in an orderly fashion, separation should not be applicable immediately upon entry into force of the Regulation but apply as of [OP please enter the exact date **12** months from the date of publication of this Regulation].

Or. en

Amendment 189
Olle Ludvigsson

Proposal for a regulation
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34 a) The active involvement of employees is a key to making separation work. When planning for separation, the group or credit institution should ensure that there are procedures in place to inform and consult with employees and their representatives throughout the separation process. Where applicable, collective agreements, or other arrangements provided for by social partners, should be taken into account in this regard.

Or. en

Amendment 190
Jakob von Weizsäcker

Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) For the purpose of carrying out the duties specified in this Regulation, the competent authority is to use the full set of its executive powers. This includes, but is not limited to the powers to impose penalties specified in Articles 64 to 72 of Directive 2013/36/EU and Article 18 of Regulation (EU) No 1024/2013.

Or. en

Amendment 191

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation

Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) For the purpose of carrying out its exclusive tasks, including the duties specified in this Regulation, the ECB has the sanctioning powers specified in Article 18 of Regulation (EU) No 1024/2013. For the purpose of carrying out its exclusive tasks, including the duties specified in this Regulation, the ECB has the sanctioning powers specified in Article 18 of Regulation (EU) No 1024/2013.

Or. en

Justification

(ECB) It should be clarified that, following the implementation of Article 28 of the proposed regulation by Member States, the ECB will have, for the purpose of carrying out its tasks, the sanctioning powers as specified in particular in Article 18 of Regulation (EU) No 1024/2013.

Amendment 192

Jakob von Weizsäcker

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the following non-essential elements: expanding the type of government bonds that should not be prohibited under Article 6 and which competent authorities do not have to review or consider for separation; setting the relevant limits and conditions for when a competent authority shall presume that certain trading activities must be separated; ***expanding the list of instruments that are allowed for the management of a credit institution's own risk; expanding the list of instruments that a credit institution may transact in to manage clients' risks; calculating the limit above which derivatives may not be sold nor recorded on the balance sheet of a core credit institution;*** large exposures and the extent of recognition of credit risk mitigation techniques; amending the components of the concept of 'trading activities' used for establishing the conditions of application of Chapter II and Chapter III of this Regulation; specifying the types of securitisations that do not pose a threat to the financial stability of a core credit institution or to the Union financial system; the criteria for assessing the equivalence of third country legal and supervisory frameworks. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment

(38) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the following non-essential elements: expanding the type of government bonds that should not be prohibited under Article 6 and which competent authorities do not have to review or consider for separation; setting the relevant limits and conditions for when a competent authority shall presume that certain trading activities must be separated; large exposures and the extent of recognition of credit risk mitigation techniques; amending the components of the concept of "trading activities" used for establishing the conditions of application of Chapter II and Chapter III of this Regulation; specifying the types of securitisations that do not pose a threat to the financial stability of a core credit institution or to the Union financial system; the criteria for assessing the equivalence of third country legal and supervisory frameworks. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment 193
Fabio De Masi

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the following non-essential elements: expanding the type of government bonds that should not be prohibited under Article 6 and which competent authorities do not have to review or consider for separation; ***setting the relevant limits and conditions for when a competent authority shall presume that certain trading activities must be separated***; expanding the list of instruments that are allowed for the management of a credit institution's own risk; ***expanding the list of instruments that a credit institution may transact in to manage clients' risks***; calculating the limit above which derivatives may not be sold nor recorded on the balance sheet of a core credit institution; large exposures and the extent of recognition of credit risk mitigation techniques; amending the components of the concept of 'trading activities' used for establishing the conditions of application of Chapter II and Chapter III of this Regulation; specifying the types of securitisations that do not pose a threat to the financial stability of a core credit institution or to the Union financial system; the criteria for assessing the equivalence of third country legal and supervisory frameworks. It is of particular importance that the Commission carries out appropriate consultations during its

Amendment

(38) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the following non-essential elements: expanding the type of government bonds that should not be prohibited under Article 6 and which competent authorities do not have to review or consider for separation; expanding the list of instruments that are allowed for the management of a credit institution's own risk; calculating the limit above which derivatives may not be sold nor recorded on the balance sheet of a core credit institution; large exposures and the extent of recognition of credit risk mitigation techniques; amending the components of the concept of 'trading activities' used for establishing the conditions of application of Chapter II and Chapter III of this Regulation; specifying the types of securitisations that do not pose a threat to the financial stability of a core credit institution or to ***parts of or the whole of*** the Union financial system; the criteria for assessing the equivalence of third country legal and supervisory frameworks. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and

preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

to the Council.

Or. en

Amendment 194

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the following non-essential elements: ***expanding the type of government bonds that should not be prohibited under Article 6 and which competent authorities do not have to review or consider for separation; setting the relevant limits and conditions for when a competent authority shall presume that certain trading activities must be separated***; expanding the list of instruments that are allowed for the management of a credit institution's own risk; ***expanding the list of instruments that a credit institution may transact in to manage clients' risks; calculating the limit above which derivatives may not be sold nor recorded on the balance sheet of a core credit institution***; large exposures ***and*** the extent of recognition of credit risk mitigation techniques; amending the components of the concept of 'trading activities' used for establishing the conditions of application of Chapter II and Chapter III of this Regulation; specifying

Amendment

(38) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the following non-essential elements; expanding the list of instruments that are allowed for the management of a credit institution's own risk; ***specifying the criteria for assessing whether trading qualifies as prudent management of risk, capital, funding or liquidity; specifying additional intra-group large exposure limits; adjusting the level of the extra-group large exposures limits***; the extent of recognition of credit risk mitigation techniques; amending the components of the concept of "trading activities" used for establishing the conditions of application of Chapter II and Chapter III of this Regulation; specifying the types of securitisations that do not pose a threat to the financial stability of a core credit institution or to the Union financial system; the criteria for assessing the equivalence of third country legal and supervisory frameworks. It is of particular importance that the Commission carries out appropriate consultations during its

the types of securitisations that do not pose a threat to the financial stability of a core credit institution or to the Union financial system; the criteria for assessing the equivalence of third country legal and supervisory frameworks. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Or. en

Justification

Under the Greens' approach, the CCI is permitted to advise on and sell products of other regulated financial institutions, provided that it does not act as a principal, and to buy and sell highly liquid securities for cash and liquidity management purposes. All other trading activities - unless they are deemed essential to the prudent management of risk, capital, liquidity and funding - should be automatically separated for all banks in scope.

Amendment 195

Fabio De Masi

Proposal for a regulation

Recital 41

Text proposed by the Commission

Amendment

(41) The Commission should adopt regulatory technical standards developed by the EBA with regard to the methodology for the consistent measurement and application of the metrics relative to the calculation of the threshold above which separation of trading activities should take place by means of delegated acts pursuant to Article 290 of the TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the

deleted

European Parliament and of the Council³⁰. The Commission and the EBA should ensure that those standards can be applied by all institutions concerned in a manner that is proportionate to the nature, scale and complexity of those institutions and their activities.

³⁰ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Or. en

Justification

Not needed because of full and mandatory separation.

Amendment 196

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation Recital 41

Text proposed by the Commission

Amendment

(41) The Commission should adopt regulatory technical standards developed by the EBA with regard to the methodology for the consistent measurement and application of the metrics relative to the calculation of the threshold above which separation of trading activities should take place by means of delegated acts pursuant to Article 290 of the TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the **deleted**

European Parliament and of the Council³⁰. The Commission and the EBA should ensure that those standards can be applied by all institutions concerned in a manner that is proportionate to the nature, scale and complexity of those institutions and their activities.

³⁰ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Or. en

Justification

In the Green approach, supervisors do not need to assess the quantity of trading, just its quality, i.e. whether it is necessary for prudent management of the risks etc. of the CCI's non-trading activities

Amendment 197 Burkhard Balz

Proposal for a regulation Recital 42

Text proposed by the Commission

Amendment

(42) The Commission should be empowered to adopt implementing technical standards developed by the EBA with regard to the methodology for calculating the amount of trading activities engaged in by credit institutions and groups, the uniform template for disclosure of total amount and the components of credit institutions and parent companies' trading activities and determining the procedures and forms for

deleted

exchange of information on sanctions with the EBA by means of implementing acts pursuant to Article 291 of the TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010.

Or. en

Amendment 198

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the aim of preventing systemic risk, financial stress or failure of large, complex and interconnected credit institutions to lay down rules on prohibition on proprietary trading and separation of *certain* trading activities. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with Article 5(4) of the Treaty on the European Union.

Amendment

(43) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the aim of preventing systemic risk, financial stress or failure of large, complex and interconnected credit institutions to lay down rules on prohibition on proprietary trading and separation of trading *activities from a core credit institution's permitted* activities. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with Article 5(4) of the Treaty on the European Union.

Or. en

Amendment 199

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) The freedom to conduct a business in

Amendment

(44) The freedom to conduct a business in

accordance with Union law and national laws and practices is recognised under Article 16 of the Charter of Fundamental Rights of the European Union (the Charter). Each person within the Union has the right to start-up or to continue a business without being subject to either discrimination or unnecessary restriction. Moreover, share ownership is protected as property under Article 17 of the Charter. Shareholders have the right to own, use, and dispose of their property, and the right not to be deprived involuntarily of this property. The prohibition of proprietary trading and the separation of *certain trading* activities provided for in this Regulation may affect the freedom to conduct a business as well as the property rights of shareholders who, in such situation, cannot freely dispose of their property.

accordance with Union law and national laws and practices is recognised under Article 16 of the Charter of Fundamental Rights of the European Union (the Charter). Each person within the Union has the right to start-up or to continue a business without being subject to either discrimination or unnecessary restriction. Moreover, share ownership is protected as property under Article 17 of the Charter. Shareholders have the right to own, use, and dispose of their property, and the right not to be deprived involuntarily of this property. The prohibition of proprietary trading and the separation of *trading activities from core banking* activities provided for in this Regulation may affect the freedom to conduct a business as well as the property rights of shareholders who, in such situation, cannot freely dispose of their property.

Or. en

Amendment 200

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation

Recital 44 a (new)

Text proposed by the Commission

Amendment

(44 a) The conferral of supervisory tasks implies a significant responsibility for the ECB to safeguard financial stability in the Union, and to use its supervisory powers in the most effective and proportionate way. Any shift of supervisory powers from the Member State to the Union level should be balanced by appropriate transparency and accountability requirements. The ECB should therefore be accountable for the exercise of those tasks towards the European Parliament and the Council as democratically legitimised institutions representing the

citizens of the Union and the Member States. That should include regular reporting, and responding to questions by the European Parliament in accordance with its rules of procedure, and by the Eurogroup in accordance with its procedures. Any reporting obligations should be subject to the relevant professional secrecy requirements.

Or. en

Justification

Wording replicated from the SSM regulation to address the democratic control.

Amendment 201
Olle Ludvigsson

Proposal for a regulation
Recital 45 a (new)

Text proposed by the Commission

Amendment

(45 a) The provisions on remuneration in this Regulation should be without prejudice to the full exercise of fundamental rights guaranteed by Article 153(5) TFEU, and the rights, where applicable, of the social partners to conclude and enforce collective agreements, in accordance with national law and customs.

Or. en

Amendment 202
Luděk Niedermayer

Proposal for a regulation
Recital 47 a (new)

Text proposed by the Commission

Amendment

(47 a) Corporate and investment banking activities are part of global financial system, and are often carried out by the credit institutions from different jurisdictions and under different regulatory regime. They all can compete with each other on various markets worldwide.

European regulation of these activities should be set having in mind need to maintain competitiveness of European financial system and ensure a level playing field between European banks and non-European banks.

Or. en

Amendment 203

Sylvie Goulard, Norica Nicolai, Nils Torvalds, Philippe De Backer

Proposal for a regulation

Recital 47 a (new)

Text proposed by the Commission

Amendment

(47 a) As stated in the Liikanen report, "attention should be paid to the governance and control mechanisms of all banks". More attention should indeed be given by the competent authorities to the ability of management and boards to run and monitor large and complex banks as well as smaller ones as the crisis has shown that small banks represent a risk too. Complementary supervisory tools should be developed such as fit-and-proper tests applied when evaluating the suitability of management and board candidates.

Or. en

Justification

It is important to take into account other recommendations formulated by the Liikanen group.

Amendment 204

Sylvie Goulard, Norica Nicolai

Proposal for a regulation

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

This Regulation *aims at* preventing systemic risk, financial stress or failure of large, complex and interconnected entities *in the financial system, in particular credit institutions, and at meeting* the following *objectives*:

Amendment

This Regulation *confers on the competent authorities specific tasks concerning policies relating to the prudential supervision with the aim of* preventing systemic risk, financial stress or failure of, *in particular*, large, complex and interconnected *credit institutions by mandating competent authorities to assess the trading activities and if an excessive risk occurs across the different legal entities of a banking group imposing the separation in a trading entity of those activities from the rest of the banking group, where they represent a threat to the solvency of the institution or to financial stability.*

In exercising this Regulation, the competent authorities will have to pay particular attention to the following dimensions:

Or. en

Justification

The key aspect is the supervisory risk assessment leading to a sound decision.

Amendment 205

Fabio De Masi

Proposal for a regulation

Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) to **reduce** excessive risk taking within the credit institution;

Amendment

(a) to **minimise** excessive risk taking within the credit institution;

Or. en

Amendment 206

Marco Valli, Marco Zanni

Proposal for a regulation

Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) To reduce excessive risk taking **within the credit institution**;

Amendment

(a) To reduce excessive risk taking **by removing the implicit government guarantee for trading activities conducted by credit institutions**;

Or. it

Amendment 207

Morten Messerschmidt

Proposal for a regulation

Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) to **reduce excessive risk taking within** the credit institution;

Amendment

(a) to **ensure the resolvability of** the credit institution;

Or. en

Justification

Greater alignment with BRRD and the objective of resolvability assessment process should be ensured.

Amendment 208

Philippe Lamberts, Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(a a) to insulate core banking services to private individuals and the real economy from risks inherent to trading activities;

Or. en

Justification

Safekeeping of cash/assets, payment services and prudent lending to the real economy are core banking services that represent a public good whose continuity must be assured throughout the economic cycle in order to promote financial and economic stability and preserve the effectiveness of credit institutions in the transmission of monetary policy. Trading activities can also be socio-economically useful but are much more volatile. Insulating the former from the latter is therefore essential.

Amendment 209

Jakob von Weizsäcker

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(a a) to prevent credit institutions from engaging in proprietary trading;

Or. en

Amendment 210

Fabio De Masi

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(a a) to significantly reduce excessive speculation with financial products that have limited added value for financing the real economy and where risks exceed their economic benefits;

Or. en

Amendment 211

Jakob von Weizsäcker

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(a b) to reduce credit institutions' exposure to AIFs;

Or. en

Amendment 212

Neena Gill

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b a) the management and structuring of certain trading activities when they are deemed to pose a risk to the institution or to the safeguarding of depositors, thereby building up systemic risk.

Or. en

Amendment 213

Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b a) to prevent banks from selling complex investment products that they originate directly to retail clients

Or. en

Justification

In the past, many retail structured investment products have been sold directly to clients of the originating bank without any impartial advice. These products have pay offs that can only be assessed by complex stochastic modelling leading to information asymmetry that can be exploited for profit by the bank. Greens amend Art 20 (prohibited activities for trading entity) to ensure that retail clients cannot purchase directly from the originating 'trading' bank.

Amendment 214

Jakob von Weizsäcker

Proposal for a regulation

Article 1 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) to avoid misallocation of resources and to encourage lending to the real economy;

(c) to avoid misallocation of resources and mispricing of capital, especially for trading activities;

Or. en

Amendment 215

Jakob von Weizsäcker

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(c a) to encourage lending to the real economy and to safeguard deposits;

Or. en

Amendment 216

Philippe Lamberts, Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) to contribute to undistorted conditions of competition for all credit institutions within the internal market;

(d) to ***remove implicit and explicit subsidies to the banking sector and*** contribute to undistorted conditions of competition for all credit institutions within the internal market;

Or. en

Justification

It is not compatible with market pricing of risk and efficient allocation of capital that certain banking activities' profitability depend to any degree on cost of funding (or other) advantages due to actual or expected government support or deposit guarantees

Amendment 217

Fabio De Masi

Proposal for a regulation

Article 1 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) to contribute to undistorted conditions of competition for all credit institutions within the internal market;

(d) to contribute to undistorted conditions of competition for all credit institutions within the internal market ***and to rule out explicit or implicit public subsidies for***

profit-oriented private credit institutions;

Or. en

Amendment 218

Jakob von Weizsäcker

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(d a) to level the playing field in the financial sector;

Or. en

Amendment 219

Jakob von Weizsäcker

Proposal for a regulation

Article 1 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) to reduce subsidies by explicit or implicit government guarantees for deposits or institutions;

Or. en

Amendment 220

Fabio De Masi

Proposal for a regulation

Article 1 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) to reduce interconnectedness within the financial sector leading to systemic risk;

(e) to reduce interconnectedness within the financial sector leading to systemic risk
and to insulate core credit services from

the risks associated with trading activity;

Or. en

Amendment 221

Neena Gill

Proposal for a regulation

Article 1 – paragraph 1 – point e

Text proposed by the Commission

(e) to reduce interconnectedness within the financial sector leading to systemic risk;

Amendment

(e) to reduce interconnectedness within the financial sector leading to systemic risk *by safeguarding depositors, addressing risks and improving resilience;*

Or. en

Amendment 222

Fabio De Masi

Proposal for a regulation

Article 1 – paragraph 1 – point g

Text proposed by the Commission

(g) to facilitate the orderly resolution and recovery of the group.

Amendment

(g) to facilitate the orderly resolution and recovery of the group *without public bail-outs.*

Or. en

Amendment 223

Marco Valli, Marco Zanni

Proposal for a regulation

Article 1 – paragraph 1 – point g

Text proposed by the Commission

(g) To facilitate the orderly resolution and

Amendment

(g) To facilitate the orderly resolution and

recovery of the group.

recovery of the group, *without this having any repercussions for taxpayers and without resorting to bail-outs.*

Or. it

Amendment 224
Eva Paunova

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

Text proposed by the Commission

(g) to facilitate the orderly resolution and recovery of the group.

Amendment

(g) to facilitate the orderly resolution and recovery of the group *of entities, ensuring that structural measures are in line with the resolvability assessment.*

Or. en

Amendment 225
Jakob von Weizsäcker

Proposal for a regulation
Article 1 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(g a) to reduce risks arising from financial institutions operating under multiple regulatory regimes or multiple supervisors;

Or. en

Amendment 226
Marco Valli, Marco Zanni

Proposal for a regulation
Article 1 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) To ensure that high ethical and professional standards are maintained in the banking industry by introducing administrative penalties to apply in the event of failure to comply with this Regulation;

Or. it

Amendment 227

Syed Kamall, Beatrix von Storch, Sampo Terho

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g a) to refute any market assumption that large credit institutions benefit from an implicit government subsidy.

Or. en

Justification

It is inappropriate for banks to implicitly benefit from a perceived public guarantee that they will receive public funds in the event of a failure. Therefore this regulation should also aim to ensure the elimination of said guarantee.

Amendment 228

Neena Gill

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g a) preserve financial stability by assuring the continuity of core services such as taking deposits.

Amendment 229

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation

Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

This Regulation lays down rules **on**:

Amendment

This Regulation lays down rules ***for a framework for the competent authorities' supervisory processes to properly assess the need for***:

Or. en

Justification

The key aspect is the supervisory risk assessment leading to a sound decision

Amendment 230

Philippe Lamberts, Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) the prohibition of proprietary trading;

Amendment

(a) the prohibition of proprietary trading
and exposures to financial institutions that engage in proprietary trading;

Or. en

Justification

It would be contradictory to ban banks from prop trading directly but allow them to do it by proxy through taking stakes in or providing funding, hedging etc. to other financials that engage in proprietary trading.

Amendment 231
Fabio De Masi

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

Text proposed by the Commission

(a) the prohibition of proprietary trading;

Amendment

(a) the prohibition of proprietary trading
***and of exposures to financial institutions
that engage in proprietary trading;***

Or. en

Amendment 232
Jakob von Weizsäcker

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

Text proposed by the Commission

(a) the prohibition of proprietary trading;

Amendment

(a) the prohibition of proprietary trading
and related activities;

Or. en

Justification

In line with the provisions of Article 6 b), credit institutions should also be shielded from investments and other exposures to financial institutions that engage in proprietary trading.

Amendment 233
Philippe Lamberts, Ernest Urtasun
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

(b) the separation of ***certain trading***
activities.

Amendment

(b) the separation of ***trading activities from
core banking*** activities.

Amendment 234
Jakob von Weizsäcker

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

Text proposed by the Commission

(b) the separation of certain trading activities.

Amendment

(b) the separation of certain trading activities ***and other measures***.

Or. en

Amendment 235
Marco Valli, Marco Zanni

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

Text proposed by the Commission

(b) the separation of ***certain*** trading activities.

Amendment

(b) the separation of trading activities ***from lending activities***.

Or. it

Amendment 236
Fabio De Masi

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

Text proposed by the Commission

(b) the separation of certain trading activities.

Amendment

(b) the ***mandatory*** separation of certain trading activities ***from core credit activities for entities falling under the scope pursuant to Article 3***.

Or. en

Amendment 237
Krišjānis Kariņš

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

Text proposed by the Commission

(b) *the separation of* certain trading activities.

Amendment

(b) *how to curtail risk posed by* certain trading activities.

Or. en

Amendment 238
Syed Kamall, Beatrix von Storch, Sampo Terho

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

Text proposed by the Commission

Amendment

(b a) the introduction of a liquidity transfer pricing mechanism to eliminate cross subsidisation of trading activities by deposits eligible under the Deposit Guarantee Scheme in accordance with Directive 2014/49/EU^{1a};

^{1a} *Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit-guarantee schemes. OJ L 173, 12.06.2014, p.149*

Or. en

Justification

If a decision to separate a credit institution has not be taken, the competent authority can require the credit institution to introduce a mechanism to protect retail deposits used to fund trading activities.

Amendment 239
Pervenche Berès

Proposal for a regulation
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2 a

Implementation of TLAC

Amendment to Article 129 of BRRD

The Commission shall review the implementation of Article 45 for systemically important institutions, based on the work being developed by the FSB on TLAC and the report of EBA referred to in Articles 45(19) and 45(20), and present, where appropriate, a legislative proposal to improve the resolvability of systemically important institutions with the view of reducing the systemic risk that they pose to the financial stability of the Union.

Or. en

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

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) any credit institution or an EU parent, including all branches and subsidiaries irrespective of where they are located, when it is identified as a global systemically important institution (G-SIIs) in application of Article 131 of Directive 2013/36/EU;

(a) any credit institution or an EU parent, including all branches and subsidiaries irrespective of where they are located, when ***either***

(i) it is identified as a global systemically important institution (G-SIIs) ***or other***

systemically important institution (O-SIIs)
in application of Article 131 of Directive
2013/36/EU *or*

(ii) it satisfies any of the following criteria

*- the total value of its assets exceeds EUR
30 billion;*

*- the ratio of its total assets over the GDP
of the participating Member State of
establishment exceeds 20 %, unless the
total value of its assets is below EUR 5
billion;*

Or. en

Justification

All banks that are significant in the sense of existing legislative acts (CRD Art 131 G and O-SIIs and Art. 6 of the SSM regulation) should be in scope of supervisory assessment of the size and nature of their trading activities.

Amendment 241

Marco Valli, Marco Zanni

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) any credit institution or an EU parent, including all branches and subsidiaries irrespective of where they are located, *when it is identified as a global systemically important institution (G-SIIs) in application of Article 131 of Directive 2013/36/EU;*

Amendment

(a) any credit institution or an EU parent, including all branches and subsidiaries irrespective of where they are located, ***with total assets of more than EUR 30 billion;***

Or. it

Amendment 242

Syed Kamall, Beatrix von Storch, Sampo Terho

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) any credit institution **or an EU parent**, including all branches and subsidiaries irrespective of where they are located, when it is identified as a global systemically important institution (G-SIIs) in application of Article 131 of Directive 2013/36/EU;

Amendment

(a) any credit institution, including all **its** branches and subsidiaries irrespective of where they are located, when it **or its EU parent** is identified as a global systemically important institution (G-SIIs) in application of Article 131 of Directive 2013/36/EU;

Or. en

Justification

Non-bank corporate or insurance companies with bank subsidiaries could be caught in the scope of this regulation. This amendment will clarify that only credit institutions and their branches and subsidiaries should be in scope.

Amendment 243
Cora van Nieuwenhuizen

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

Text proposed by the Commission

Amendment

(a a) any credit institution considered a significant supervised institution or significant supervised group as defined in point 16 and point 22, respectively, of Article 2 of Regulation (EU) 468/2014; or

Or. en

Justification

Structural reform is, among others, aimed at mitigating systemic risk. Hence all institutions deemed to be of systemic significance should be covered by the scope of the Regulation.

Amendment 244
Marco Valli, Marco Zanni

Proposal for a regulation
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading activities amounting at least to EUR 70 billion or 10 per cent of its total assets:

deleted

(i) any credit institution established in the Union which is neither a parent undertaking nor a subsidiary, including all its branches irrespective of where they are located;

(ii) an EU parent, including all branches and subsidiaries irrespective of where they are located, where one of the group entities is a credit institution established in the Union;

(iii) EU branches of credit institutions established in third countries.

Or. it

Amendment 245
Markus Ferber

Proposal for a regulation
Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading ***activities*** amounting at least to EUR 70 billion or ***10 per cent*** of its total ***assets***:

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading ***related risk exposures*** amounting at least to EUR 70 billion or ***50 per cent of the sum of its own funds and of its total eligible liabilities for bail-in requirements as defined in Article***

***45(4) of Directive 2014/59/EU [BRRD]
and has eligible Deposits as defined in
Directive 2014/49/EU [DGS] more than
3 % of its balance sheet total.***

Or. en

Justification

In order to follow the idea of having a risk-based approach, only those institutions should be in the scope of this regulation, which have deposits of more than 3 % of the balance sheet total of the institution.

Amendment 246

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that ***for*** a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading activities amounting at least to EUR 70 billion or 10 per cent of its total assets:

Amendment

(b) any of the following entities that ***at any point during*** a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading activities, ***measured in accordance with Article 23***, amounting at least to EUR 70 billion or 10 per cent of its total assets:

Or. en

Amendment 247

Sylvie Goulard, Norica Nicolai

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30

and has trading activities amounting at least to EUR 70 billion or 10 per cent of its total assets:

billion:

Or. en

Justification

Enlarge the scope

Amendment 248

Fabio De Masi

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities ***that for a period of three consecutive years has*** total assets ***amounting at least to*** EUR 30 billion ***and has trading activities amounting at least to EUR 70 billion or 10 per cent*** of its total assets:

Amendment

(b) any of the following entities ***(i - iii) that has eligible deposits as defined in Directive 2014/49/EU amounting to more than 5% of its total assets and that satisfies at least one of the following criteria:***

- the total value of its assets exceeds EUR 30 billion;

- the ratio of its total assets over the GDP of the participating Member State of establishment exceeds 20 %, unless the total value of its assets is below EUR 5 billion;

- the ratio of its trading activities over its total assets exceeds 20 % and the value of its total assets exceeds EUR 20 billion.

Or. en

Justification

The scope of the Regulation should be widened to include a larger number of very large, cross-border banks across the Union. In the spirit of a single rulebook under the SSM, it is paramount for banks under ECB supervision to operate on a level playing-field.

Amendment 249

Danuta Maria Hübner, Othmar Karas

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading **activities** amounting at least to EUR 70 billion or **10** per cent of its total **assets**:

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading **related risk exposures** amounting at least to EUR 70 billion or **50** per cent of its total **own funds and eligible liabilities for bail-in requirements as defined in Article 45 of Directive 2014/59/EU [BRRD]**:

Or. en

Justification

The text suggests a limit for potential separation at a level where trading related risk exposures account for '50% of its total eligible liabilities' in order to create a link between trading related risks and MREL. The rapporteur's wording currently only includes eligible liabilities and omits the reference to 'own funds' that is part of the MREL definition in Article 45 of the BRRD. The wording should therefore be corrected to ensure that banks with high proportions of own funds in their MREL are not discriminated and thus Art45 of the BRRD is reflected appropriately.

Amendment 250

Michael Theurer

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR **30** billion **and** has trading **activities** amounting at least to EUR 70 billion or **10 per cent** of its

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR **90** billion, has trading **related risk exposures** amounting at least to EUR 70 billion or **50 per cent of its total eligible liabilities for**

total assets:

bail-in requirements as defined in Article 45(4) of Directive 2014/59/EU [BRRD] and eligible deposits within the meaning of Article 2(1)(4) of Directive 2014/49/EU of more than 3 per cent of its total assets:

Or. en

Justification

The threshold should comprise an element to exclude institutions with very little eligible deposits since they do not really fall in the category of core credit institutions.

Amendment 251

Pablo Zalba Bidegain

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading *activities* amounting at least to EUR 70 billion or **10** per cent of its total *assets*:

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading *related risk exposures* amounting at least to EUR 70 billion or **50** per cent of its total *eligible liabilities for bail-in requirements as defined in Article 45 of Directive 2014/59/EU (BRRD)*:

Or. en

Amendment 252

Jakob von Weizsäcker, Jonás Fernández, Paul Tang, Renato Soru, Peter Simon

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that *for a* period of three *consecutive years* **has** total

Amendment

(b) any of the following entities that **has or** *within any* period of *the last* three years,

assets amounting at least to EUR 30 billion and has trading activities amounting at least to EUR 70 billion or 10 per cent of its total assets:

but not retroactively covering any period before this regulation entered into force, has had total assets amounting at least to EUR 30 billion and has trading activities ***calculated on a non-risk weighted basis according to Articles 22 and 23*** amounting at least to EUR 70 billion or 10 per cent of its total assets:

Or. en

Amendment 253

Cora van Nieuwenhuizen

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that for a period of three consecutive years has total ***assets*** amounting at least to EUR 30 billion ***and has trading activities amounting at least to EUR 70 billion or 10 per cent of its total assets:***

Amendment

(b) any of the following entities that for a period of three consecutive years has total ***deposits*** amounting at least to EUR 30 billion:

Or. en

Amendment 254

Pervenche Berès

Proposal for a regulation

Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that ***for*** a period of three consecutive years ***has total assets amounting at least to EUR 30 billion and has trading activities*** amounting at least to EUR 70 billion ***or 10 per cent of its total assets:***

Amendment

(b) any of the following entities that ***has, or within*** a period of three consecutive years - ***but not retroactively covering any period before this Regulation entered into force - has had total assets*** amounting at least to EUR 10 billion, ***without prejudice of Article 8(1a):***

Amendment 255
Burkhard Balz

Proposal for a regulation
Article 3 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading **activities** amounting at least to EUR 70 billion or **10** per cent of its total **assets**:

Amendment

(b) any of the following entities that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and has trading **related risk exposures** amounting at least to EUR 70 billion or **70** per cent of its total **own funds and eligible liabilities as defined in Article 45 of Directive 2014/59/EU**:

Amendment 256
Pablo Zalba Bidegain

Proposal for a regulation
Article 3 – paragraph 1 – point b – point i

Text proposed by the Commission

(i) any credit institution established in the Union **which is neither a parent undertaking nor a subsidiary, including all its branches irrespective of where they are located**;

Amendment

(i) any credit institution established in the Union, **including all its branches irrespective of where they are located**.

As a matter of derogation, Chapter III shall only apply to any of the preceding entities specified in point (b) (i), (ii) and (iii);

Amendment 257
Jakob von Weizsäcker

Proposal for a regulation
Article 3 – paragraph 1 – point b – point iii a (new)

Text proposed by the Commission

Amendment

(iii a) EU subsidiaries of credit institutions established in third countries or of parent undertakings of credit institutions established in third countries.

Or. en

Amendment 258
Neena Gill

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

Text proposed by the Commission

Amendment

(b a) any credit institution directly supervised under the Single Supervisory Mechanism in accordance with Council Regulation 1024/2013.

Or. en

Amendment 259
Sylvie Goulard, Norica Nicolai

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

Text proposed by the Commission

Amendment

(b a) any entity that the competent authority may, on its own initiative, consider to be of significant relevance on grounds of preventing systemic risk, financial stress or failure.

Justification

Enlarge the scope to enable the supervisor to tackle any potential risk.

Amendment 260

Esther de Lange, Tom Vandenkendelaere

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ba) entities that come under the direct supervision of the ECB in accordance with Regulation (EU) No 468/2014.

Or. nl

Amendment 261

Neena Gill

Proposal for a regulation

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

Text proposed by the Commission

Amendment

with the exception of credit institutions or EU parents listed under points (a) and (b) of the first subparagraph that hold less than EUR [25] billion of deposits from retail depositors and SMEs eligible under the Deposit Guarantee Scheme in accordance with Directive 2014/49/EC;

Or. en

Amendment 262

Jakob von Weizsäcker

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Irrespective of paragraph 1, this Regulation, with the exception of Chapter III, shall also apply to:

(a) any subsidiary or branch operating in the Union of a credit institution established in a third country or of a parent undertaking thereof established in a third country, when this credit institution or parent undertaking thereof is identified as a global systemically important institution (G-SIIs) by EBA according to subparagraph (c) of this paragraph;

(b) any subsidiary or branch operating in the Union of a credit institution established in a third country or of a parent undertaking thereof established in a third country when this credit institution or parent undertaking thereof has total assets amounting at least to EUR 30 billion and has trading activities calculated on a non-risk weighted basis according to Articles 22 and 23 amounting at least to EUR 70 billion or 10 per cent of its total assets.

Or. en

Amendment 263
Jakob von Weizsäcker

Proposal for a regulation
Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. EBA shall identify credit institutions or parent undertakings thereof that are Globally Systemically Important Institutions (G-SIIs) irrespective of where they are located applying the material standards of Article 131 of Directive

Amendment 264

Jakob von Weizsäcker

Proposal for a regulation

Article 3 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1 c. Any entity referred in points a) and b) of paragraph 1a will be considered as being within the scope of this Regulation unless it demonstrates to the satisfaction of the competent authority and EBA that its parent undertaking is not a G-SII or it does not meet the thresholds referred to in point b) of paragraph 1a.

Amendment 265

Syed Kamall, Sampo Terho

Proposal for a regulation

Article 4 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) EU branches of credit institutions established in third countries if they are subject to a legal framework deemed equivalent in accordance with Article 27(1);

(a) EU branches of credit institutions established in third countries ***or financial holding companies or subsidiaries of credit institutions established in third countries*** if they are subject to a legal framework deemed equivalent in accordance with Article 27(1);

Justification

It is necessary to exclude from the scope not only branches, but also subsidiaries and financial holding companies based in third countries with regulatory regimes deemed to be equivalent by the Commission according to Article 27.

Amendment 266

Syed Kamall

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(c a) building societies or credit unions.

Or. en

Justification

Although the assessment undertaken by competent authorities is unlikely to be relevant to the majority of building societies or credit unions, it is necessary to clarify that they are not in the scope of this regulation.

Amendment 267

Philippe Lamberts, Sven Giegold
on behalf of the Verts/ALE Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(c a) credit institutions that have been set up by a Member State's central or regional government and whose liabilities are fully and explicitly guaranteed by that government.

Or. en

Justification

In certain member states, development banks that are in any case fully backed by the tax payer may have eligible deposits and would therefore be candidates for structural reform. This AM (inspired by NRW dev. bank) is intended to recognise that.

Amendment 268

Syed Kamall

Proposal for a regulation

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Chapter III of this regulation shall not apply to any entity or EU parent where qualifying deposits held within the Union in a credit institution or credit institutions are less than EUR 50 billion.

Or. en

Justification

This is a proportionate approach to ensuring the scope does not inappropriately capture non systemically relevant banks.

Amendment 269

Neena Gill

Proposal for a regulation

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In addition to point (b) of paragraph 1, a competent authority may exempt from the requirements of Chapter III:

(a) subsidiaries and branches of EU parents established in third countries if that competent authority is satisfied that:

(i) there is a resolution strategy agreed upon between the group level resolution

authority in the Union and the third country host authority;

(ii) the resolution strategy for the subsidiary or branch of an EU parent established in a third country has no adverse effect on the financial stability of the Member State(s) where the EU parent and other group entities are established.

Or. en

Amendment 270

Jakob von Weizsäcker

Proposal for a regulation

Article 4 – paragraph 2 – point b

Text proposed by the Commission

(b) the resolution strategy for the subsidiary of an EU parent established in a third country has no adverse effect on the financial stability of the Member State(s) where the EU parent and other group entities are established.

Amendment

(b) the resolution strategy for the subsidiary of an EU parent established in a third country has no adverse effect on the ***whole or part of the Union financial system or on the*** financial stability of the Member State(s) where the EU parent and other group entities are established ***or operating***.

Or. en

Amendment 271

Anneliese Dodds, Richard Corbett

Proposal for a regulation

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. In addition to paragraph 1, a competent authority shall exempt from the requirements of Chapter III a credit institution taking qualifying deposits which, at the time that this Regulation

comes into effect, is already:

(a) prevented by national legislation, or due to be prevented by national legislation that has already been passed but not yet implemented, from engaging in the regulated activity of dealing in investments as principal and holding trading assets (albeit with limited exceptions that allow the credit institution to undertake risk-mitigating activities for the purpose of prudently managing its capital, liquidity and funding and to provide limited risk management services to customers);

(b) compelled by national legislation, or due to be compelled by national legislation that has already been passed but not yet implemented, to ensure that, where it belongs to a group, the credit institution taking eligible deposits from individuals and SMEs is legally separated from group entities that engage in the regulated activity of dealing in investments as a principal or hold trading assets, and specifically:

(i) is able to make decisions independently of other group entities;

(ii) has a management body that is independent of other group entities and independent of the credit institution itself;

(iii) is subject to capital and liquidity requirements in its own right;

(iv) is prohibited from entering into contracts or transactions with other group entities other than on terms similar to those referred to in Article 13(7).

Or. en

Justification

Where credit institutions are already (or due to be) subject to national legislation that prohibits them from engaging in the regulated activity of dealing in investments as principal and holding trading assets, and requires them to be legally separate from any part of their

wider group that does participate in such activity, in a manner aimed at increasing financial stability, then they should not be subject to a second law with a similar aim – and which would add the burden of additional compliance costs to credit institutions that are already structured in such a way as to achieve that aim.

Amendment 272

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. In addition to paragraph 1, a competent authority may exempt from the requirements of Chapter III a credit institution taking eligible deposits from individuals or SMEs which, at the time that separation under this Regulation comes into effect, is already:

(a) prevented by national legislation, in place before 29 January 2014, from engaging in the regulated activity of dealing in investments as principal and holding trading assets (albeit with limited exceptions that allow the credit institution to undertake risk-mitigating activities for the purpose of prudently managing its capital, liquidity and funding and to provide limited risk management services to customers where the institution does not act as principal);

(b) compelled by national legislation to ensure that, where it belongs to a group, the credit institution taking eligible deposits from individuals and SMEs is legally separated from group entities that engage in the regulated activity of dealing in investments as a principal or hold trading assets, and specifically:

(i) is able to make decisions independently of other group entities;

(ii) has a management body that is

independent of other group entities and independent of the credit institution itself;

(iii) is subject to capital and liquidity requirements in its own right;

(iv) is prohibited from entering into contracts or transactions with other group entities other than on terms similar to those referred to in Article 13(7)

Or. en

Justification

The Vickers reforms substantially predate the Commission proposal and represent the strongest structural measures to be implemented in the Union. The Regulation should not prevent successful implementation of Vickers nor should it allow for simple national exemptions. The amendment represents a potential way forward that the UK Treasury appears to consider feasible. The Greens also tabled an amendment to the Commission's proposed Art 21, which presents another approach.

Amendment 273

Fabio De Masi

Proposal for a regulation

Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the ***sole*** purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, ***through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based*** proprietary trading

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, ***including any such transaction undertaken with the aim of making profit, irrespective of whether such profit would be realised in the short term or in the longer term, or is in fact realised. Unless an institution proves to***

platforms;

the satisfaction of the competent authority that an activity is not covered by this definition, it shall be considered as proprietary trading;

Or. en

Amendment 274

Syed Kamall, Sampo Terho

Proposal for a regulation

Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to **take positions in** any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to **enter into** any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;

Or. en

Justification

The amendment aims to clarify the objective of the proposed prohibition as the word “position” is usually used in relation to instruments rather than transactions.

Amendment 275

Fulvio Martusciello

Proposal for a regulation
Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client ***activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;***

Amendment

4. "proprietary trading" means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a ***short term*** profit for own account, and without any connection to actual or anticipated client. ***The following activities shall not be intended as included in the scope of the proprietary trading definition:***

i. trading as part of investment services rendered to clients;

ii. market making;

iii. hedging of own risks, including hedging the risks associated with the performance of the activities set out under points i), ii), iv), v) of this paragraph;

iv. treasury management;

v. transactions in financial instruments with the intention of holding them durably, that is, for investment.

Or. en

Amendment 276
Michael Theurer, Cora van Nieuwenhuizen

Proposal for a regulation
Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any **type of** transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any **immediate** transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a **short term** profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;

Or. en

Justification

It should be clarified to include intention to make a 'short-term' profit in order to exclude any positions held within the banking book.

Amendment 277

Neena Gill

Proposal for a regulation

Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the **entity’s** risk as

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions , **in reaction to and with the motivation of exploiting actual or expected movements in market valuations**, in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to

result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated **web-based** proprietary trading platforms;

actual or anticipated client activity or for the purpose of hedging the **entity's** risk as a result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated **web based** proprietary trading platforms. ***This definition includes any such transaction undertaken with the aim of making profit, irrespective of whether such profit would be realised in the short term or in the longer term, or is in fact realised;***

Or. en

Amendment 278

Jakob von Weizsäcker, Peter Simon, Jonás Fernández, Pervenche Berès, Renato Soru, Hugues Bayet

Proposal for a regulation

Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the **sole** purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, ***through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based*** proprietary trading platforms;

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the **primary** purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity. ***This definition includes any such transaction undertaken with the aim of making profit, irrespective of whether such profit would be realised in the short term or in the longer term, or is in fact realised. Unless an institution demonstrates and proves to the satisfaction of the competent authority that an activity is not covered by this definition it shall be deemed to be***

proprietary trading;

Or. en

Amendment 279

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation

Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity, ***through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;***

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in ***reaction to and with the motivation of exploiting actual or expected movements in market valuations,*** in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity’s risk as result of actual or anticipated client activity. ***This definition includes any such transaction undertaken with the aim of making profit, irrespective of whether such profit would be realised in the short term or in the longer term, or is in fact realised;***

Or. en

Justification

(Partly ECB) To improve a definition prone to regulatory arbitrage and undermines the credibility of the regulation.

Amendment 280

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities ***for the sole purpose of making a profit for own account, and*** without ***any*** connection to actual or anticipated client activity or for the purpose of ***hedging the entity’s risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;***

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities without ***demonstrable*** connection to actual or anticipated client activity or for the purpose of ***prudent management of the entity's own risk, capital, funding or liquidity;***

Or. en

Justification

The reference to "desks" etc. and "purpose" are too easily circumvented. In the Green amendments, all activities beyond those in the white list for a CCI (which allows trading in the context of prudent management - see Green Art. 5a new) constitute trading that must be carried out in a bankruptcy remote trading entity - any of this trading that is not related to clients is proprietary trading.

Amendment 281
Pablo Zalba Bidegain

Proposal for a regulation
Article 5 – paragraph 1 – point 4

Text proposed by the Commission

4. ‘proprietary trading’ means using own capital or borrowed money to take positions ***in*** any type of transaction to purchase, sell or otherwise acquire or

Amendment

4. ‘proprietary trading’ means using own capital or borrowed money to take positions, ***in reaction to and with the motivation of exploiting actual or***

dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity's risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms;

expected movements in market valuations, in any type of transaction to purchase, sell or otherwise acquire or dispose of any financial instrument or commodities for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity or for the purpose of hedging the entity's risk as result of actual or anticipated client activity, through the use of desks, units, divisions or individual traders specifically dedicated to such position taking and profit making, including through dedicated web-based proprietary trading platforms. ***This definition includes any such transaction undertaken with the aim of making profit, irrespective of whether such profit would be realised in short term or in the longer term, or is in fact realised;***

Or. en

Amendment 282
Markus Ferber

Proposal for a regulation
Article 5 – paragraph 1 – point 12

Text proposed by the Commission

12. 'market making' means a financial institution's ***commitment to provide market liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade, but in both cases without being exposed to material market risk;***

Amendment

12. 'market making' means a financial institution's ***activity as defined in Art. 4 (7) of Directive 2014/65/EU;***

Or. en

Justification

Alignment with the 'market making' definition of MiIFD II is prudent in order to avoid regulatory arbitrage.

Amendment 283

Danuta Maria Hübner, Dariusz Rosati

Proposal for a regulation

Article 5 – paragraph 1 – point 12

Text proposed by the Commission

12. 'market making' means a financial institution's commitment ***to provide market liquidity on a regular and on-going basis***, by posting ***two-way*** quotes ***with regard to a certain financial instrument***, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade, ***but in both cases without being exposed to material market risk***;

Amendment

12. 'market making' means a financial institution's commitment ***to deal as principal in a financial instrument, whether listed or not listed on a regulated market, a multilateral trading facility or an organized trading facility within the meaning of respectively points (21), (22) and (23) of Article 4(1) of Directive 2014/65/EU, whether traded on or outside a trading venue, (i) either by posting firm, simultaneous two-ways quotes of comparable size at comparable prices or by posting one-way quote with the result of providing liquidity on a regular and ongoing basis to the market, (ii) or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade, (iii) or by hedging positions arising from the fulfilment of tasks under points (i), (ii)***;

Or. en

Justification

The purpose of the amendment is to define with a high degree of granularity the scope of market-making activities. The suggested change is based mostly on the definition provided for in Regulation (EU) n° 236/2012 on short selling. The definition of market-making covers the activities which can be analysed as a service provided to the client or as hedging positions arising from the fulfilment of said activities.

Amendment 284
Fulvio Martusciello

Proposal for a regulation
Article 5 – paragraph 1 – point 12

Text proposed by the Commission

12. ‘market making’ means a financial institution's commitment to ***provide market liquidity on a regular and on-going basis***, by posting ***two-way*** quotes ***with regard to a certain financial instrument***, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients’ requests to trade, ***but in both cases without being exposed to material market risk***;

Amendment

12. ‘market making’ means a financial institution's commitment to ***deal as principal in a financial instrument, whether listed or not listed on a regulated market, a multilateral trading facility or an organised trading facility within the meaning of respectively points (21), (22) and (23) of Article 4(1) of Directive 2014/65/EU, whether traded on or outside a trading venue, either***

(i) by posting firm, simultaneous two-ways quotes of comparable size at comparable prices or by posting one-way quote with the result of providing liquidity on a regular and ongoing basis to the market,

(ii) as part of its usual business, by fulfilling orders initiated by clients or in response to clients’ requests to trade,

(iii) in reasonable anticipation of potential client activity, or

(iv) by hedging positions arising from the fulfilment of tasks under points (i), (ii) and (iii);

Or. en

Amendment 285
Jakob von Weizsäcker, Hugues Bayet

Proposal for a regulation
Article 5 – paragraph 1 – point 12

Text proposed by the Commission

12. ‘market making’ means a financial institution's commitment to provide market

Amendment

12. ‘market making’ means a financial institution's commitment to provide market

liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade, ***but in both cases*** without being exposed to material market risk;

liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade. ***Both activities shall be carried out by the financial institution*** without being exposed to material market risk;

Or. en

Amendment 286

Morten Messerschmidt

Proposal for a regulation

Article 5 – paragraph 1 – point 12

Text proposed by the Commission

12. 'market making' means a financial institution's commitment to provide market liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade, ***but in both cases without being exposed to material market risk;***

Amendment

12. 'market making' means a financial institution's commitment to provide market liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients' requests to trade, ***or in anticipation of potential client activity, and by hedging positions arising from the fulfilment of those tasks;***

Or. en

Justification

The definition of market making should be amended to capture the whole spectrum of market related activities that banks' market making generate.

Amendment 287

Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation

Article 5 – paragraph 1 – point 12

Text proposed by the Commission

12. ‘market making’ means a financial institution's commitment to provide market liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients’ requests to trade, ***but in both cases without being exposed to material market risk;***

Amendment

12. ‘market making’ means a financial institution's commitment to provide market liquidity on a regular and on-going basis, by posting two-way quotes with regard to a certain financial instrument, or as part of its usual business, by fulfilling orders initiated by clients or in response to clients’ requests to trade, ***or in reasonable anticipation of potential client activity, and by hedging positions arising from the fulfilment of these tasks;***

Or. en

Justification

(ECB) In contrast to proprietary trading, market making is a client-driven activity and therefore related to standard bank activities. Market making is sometimes also carried out in anticipation of client business.

Amendment 288

Markus Ferber

Proposal for a regulation

Article 5 – paragraph 1 – point 16

Text proposed by the Commission

16. ‘core credit institution’ means a credit institution that at the minimum takes deposits ***eligible under the Deposit Guarantee Scheme in accordance with Directive 94/19/EC***³³ ;

Amendment

16. ‘core credit institution’ means a credit institution that at the minimum takes ***retail deposits as defined in Article 411(2) of Regulation (EU) No 575/2013***³³;

³³ *Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, OJ L 135, 31.05.1994 pages 0005 to 0014.*

³³ *Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176,*

Or. en

Justification

The proposed amendment would limit the scope of deposits required to be held in a Core Credit Institution to purely retail deposits. This would limit the scope of any remaining implicit guarantee resulting from the creation of the CCI and retain flexibility for sophisticated corporate depositors to determine which entity they wish to deal with.

Amendment 289

Syed Kamall, Beatrix von Storch, Sampo Terho

Proposal for a regulation

Article 5 – paragraph 1 – point 16

Text proposed by the Commission

16. ‘core credit institution’ means a credit institution that at the minimum takes deposits ***eligible under the Deposit Guarantee Scheme in accordance with Directive 94/19/EC³³*** ;

Amendment

16. ‘core credit institution’ means a credit institution that at the minimum takes ***qualifying*** deposits;

³³ ***Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, OJ L 135, 31.05.1994 pages 0005 to 0014.***

Or. en

Justification

This amendment would have the effect of balancing protection for retail depositors, with choice for larger companies and sophisticated private investors based on their preferences and needs, by allowing larger deposits, not just those guaranteed by the DGSD, to be held in the CCI or the trading entity.

Amendment 290

Anneliese Dodds, Richard Corbett

Proposal for a regulation

Article 5 – paragraph 1 – point 16

Text proposed by the Commission

16. ‘core credit institution’ means a credit institution that at the minimum ***takes deposits eligible under the Deposit Guarantee Scheme in accordance with Directive 94/19/EC***³³ ;

Amendment

16. ‘core credit institution’ means a credit institution that at the minimum ***holds qualifying deposits***;

³³ ***Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, OJ L 135, 31.05.1994 pages 0005 to 0014.***

Or. en

Amendment 291

Syed Kamall, Beatrix von Storch, Sampo Terho

Proposal for a regulation

Article 5 – paragraph 1 – point 16 a (new)

Text proposed by the Commission

Amendment

16 a. "qualifying deposits" are deposits eligible under the Deposit Guarantee Scheme in accordance with Directive 2014/49/EU^{1a}, excluding deposits from individuals who have held assets to the value of at least €250,000 for a period of at least 12 months and excluding deposits from large undertakings with income of not less than €6.5m, a balance sheet not less than €3.25m, or not less than 50 employees.

^{1a} ***Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit-guarantee schemes. OJ L 173, 12.06.2014, p.149***

Or. en

Justification

This amendment would have the effect of balancing protection for retail depositors, with choice for larger companies and sophisticated private investors based on their preferences and needs, by allowing larger deposits, not just those guaranteed by the DGSD, to be held in the CCI or the trading entity.

Amendment 292

Anneliese Dodds, Richard Corbett

Proposal for a regulation

Article 5 – paragraph 1 – point 16 a (new)

Text proposed by the Commission

Amendment

16 a. "qualifying deposits" are deposits eligible under the Deposit Guarantee Scheme in accordance with Directive 2014/49/EU^{1a}, excluding deposits from individuals who have held assets to the value of at least €250,000 for a period of at least 12 months and excluding deposits from large undertakings with income of not less than €6.5m, a balance sheet not less than €3.25m, or not less than 50 employees. This exclusion may be further narrowed in domestic law;

^{1a} Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit-guarantee schemes. OJ L 173, 12.06.2014, p.149

Or. en

Amendment 293

Frank Engel

Proposal for a regulation

Article 5 – paragraph 1 – point 19 – indent 2

Text proposed by the Commission

Amendment

– closed-ended and unleveraged

– alternative investment funds ("AIF")

alternative investment funds ("AIF") as defined in Directive 2011/61/EU, where those AIFs are established in the Union or, if they are not established in the Union, they are marketed in the Union according to Articles 35 or 40 of Directive 2011/61/EU of the European Parliament and of the Council³⁵, qualifying venture capital funds as defined in Article 3(b) of Regulation (EU) No 345/2013 of the European Parliament and of the Council³⁶, qualifying social entrepreneurship funds as defined in Article 3(b) of Regulation (EU) No 346/2013³⁷ and AIF authorized as European long term investment funds (ELTIF) in accordance with Regulation (EU) No [XXX/XXXX]³⁸;

which are not leveraged on a substantial basis as defined in Directive 2011/61/EU, *and more specifically in Article 111 of Commission Delegated Regulation (EU) No 231/2013*^{34a}, where those AIFs are established in the Union or, if they are not established in the Union, they are marketed in the Union according to Articles 35 or 40 of Directive 2011/61/EU of the European Parliament and of the Council, qualifying venture capital funds as defined in Article 3(b) of Regulation (EU) No 345/2013 of the European Parliament and of the Council, qualifying social entrepreneurship funds as defined in Article 3(b) of Regulation (EU) No 346/2013 and AIF authorized as European long term investment funds (ELTIF) in accordance with Regulation (EU) No [XXX/XXXX];

34a Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).

³⁵ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p.1).

³⁶ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p.1).

³⁷ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).

³⁸ Regulation (EU) No xx/xxxx of the

³⁵ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

³⁶ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p.1).

³⁷ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).

³⁸ Regulation (EU) No xx/xxxx of the

European Parliament and of the Council on
European Long-term Investment funds, OJ
L xx/xx.

European Parliament and of the Council on
European Long-term Investment funds, OJ
L xx/xx.

Or. fr

Justification

This amendment is related to the amendment to Article 6(3), where it is proposed that only AIFs employing leverage on a substantial basis be excluded.

Amendment 294

Marco Valli, Marco Zanni

Proposal for a regulation

Article 5 – paragraph 1 – point 22

Text proposed by the Commission

Amendment

22. "consolidating supervisor" means a competent authority responsible for the exercise of supervision of an EU parent and its subsidiaries on a consolidated basis as defined in point (48) of Article 4(1) of Regulation (EU) No 575/2013.

deleted

Or. it

Amendment 295

Fabio De Masi

Proposal for a regulation

Article 5 – paragraph 1 – point 22 a (new)

Text proposed by the Commission

Amendment

22 a. "real economy" means all activities that contribute in a sustainable manner to the provision of goods and services;

Or. en

Amendment 296
Markus Ferber

Proposal for a regulation
Article 5 – paragraph 1 – point 22 a (new)

Text proposed by the Commission

Amendment

22 a. "trading activities" means market making, investments in and acting as a sponsor for securitisation, and trading in derivatives and does not comprise any activities related to the management of liquidity, interest rate, currency and credit risk;

Or. en

Justification

A general definition of trading activities should make it clear that any provision of services for management of liquidity, interest rate, currency and credit risk are not covered.

Amendment 297
Sylvie Goulard, Norica Nicolai, Nils Torvalds

Proposal for a regulation
Article 5 – paragraph 1 – point 22 a (new)

Text proposed by the Commission

Amendment

22 a. "concentration" means a concentration as determined in accordance with Council Regulation (EC) No 139/2004.

Or. en

Justification

(ECB) To cover potential markets structure evolutions such as merger.

Amendment 298
Fabio De Masi

Proposal for a regulation
Article 5 – paragraph 1 – point 22 b (new)

Text proposed by the Commission

Amendment

22 b. "excessive speculation" means any activity which causes or is intended to cause sudden or unreasonable fluctuations or unwarranted changes in the price of the traded financial instrument and has potential negative consequences for the real economy;

Or. en

Amendment 299
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5 a

Permitted activities for a core credit institution

The following activities are permitted for the core credit institution:

(1) core activities

(a) taking deposits that are eligible under the Deposit Guarantee Scheme in accordance with Directive 2014/49/EU of the European Parliament and of the Council^{1a} ;

(b) lending including, consumer credit, credit agreements relating to immovable property, factoring with or without recourse, financing of commercial transactions (including forfeiting);

- (c) financial leasing;*
- (d) payment services as defined in Article 4(3) of Directive 2007/64/EC of the European Parliament and of the Council;*
- (e) issuing and administering other means of payment such as travellers' cheques and bankers' drafts insofar as such activity is not covered by point (d);*
- (f) money broking, safekeeping and administration of securities;*
- (g) credit reference services;*
- (h) safe custody services;*
- (i) issuing electronic money ;*
- (j) advising on and selling products of other regulated financial institutions without acting as a principal, subject to the requirements of (MIFID/MIFIR);*
- (2) prudent risk, liquidity and capital management activities as defined in Article 11.*

^{1a} Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit-guarantee schemes (OJ L 173, 12.06.2014, p.149).

Or. en

Amendment 299a
Philippe Lamberts
 on behalf of the Verts/ALE Group

Proposal for a regulation
Article 5 b (new)

Text proposed by the Commission

Amendment

Article 5 b

***Disclosure Requirements Permitted
 activities of for Core Credit Institutions***

A core credit institution shall publish, at least semi-annually, a separate balance sheet pertaining to the activities described in Article 5a(2).

Or. en