



**2018/0171(COD)**

19.10.2018

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on sovereign bond-backed securities  
(COM(2018)0339 – C8-0206/2018 – 2018/0171(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Jakob von Weizsäcker

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on sovereign bond-backed securities

(COM(2018)0339 – C8-0206/2018 – 2018/0171(COD))

(Ordinary legislative procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0339),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0206/2018),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Central Bank of ...<sup>1</sup>,
  - having regard to the opinion of the European Economic and Social Committee of ...<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### Amendment 1

#### Proposal for a regulation

#### Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) A first-loss tranche outside the banking system will be key to reducing the bank-sovereign nexus. Accordingly, only***

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<sup>1</sup> [OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal].

<sup>2</sup> [OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal].

*the senior tranche of SBBSs and the fully balanced holding of all tranches of an SBBS should enjoy the full removal of regulatory restrictions for securitisation provided for in this Regulation.*

Or. en

## Amendment 2

### Proposal for a regulation

#### Recital 6

##### *Text proposed by the Commission*

(6) To provide for a high quality low-risk asset and at the same time cater for investors' different levels of risk appetite, an SBBS issue should be composed of both a senior tranche and one or more subordinated tranches. The senior tranche, corresponding to seventy percent of the nominal value of an SBBS issue, should keep the SBBS issue expected loss rate in line with that of the safest euro area sovereign bonds, taking into account the risk and correlation of the sovereign bonds in the SBBSs underlying portfolio of sovereign bonds. The subordinated tranches should provide for protection to the senior tranche. The seniority of the tranches should determine the order in which losses on the underlying portfolio of sovereign bonds should be borne by investors. To limit the risk of the junior tranche (the tranche bearing losses before any other tranche), the nominal value of the junior tranche should however be at least **2** percent of the outstanding nominal value of the entire SBBSs issue.

##### *Amendment*

(6) To provide for a high quality low-risk asset and at the same time cater for investors' different levels of risk appetite, an SBBS issue should be composed of both a senior tranche and one or more subordinated tranches. The senior tranche, corresponding to seventy percent of the nominal value of an SBBS issue, should keep the SBBS issue expected loss rate in line with that of the safest euro area sovereign bonds, taking into account the risk and correlation of the sovereign bonds in the SBBSs underlying portfolio of sovereign bonds. The subordinated tranches should provide for protection to the senior tranche. The seniority of the tranches should determine the order in which losses on the underlying portfolio of sovereign bonds should be borne by investors. To limit the risk of the junior tranche (the tranche bearing losses before any other tranche), the nominal value of the junior tranche should however be at least **five** percent of the outstanding nominal value of the entire SBBSs issue.

Or. en

### Amendment 3

#### Proposal for a regulation

##### Recital 8

*Text proposed by the Commission*

(8) The standardised composition of the underlying portfolio of an SBBSs may render difficult or impede the issuance of an SBBS issue when sovereign bonds of one or more Member States are not available on the market. For that reason, it should be possible to exclude sovereign bonds of a particular Member State from future issuances of SBBSs where and as long as the issuance of sovereign bonds by that Member State is significantly limited due to a reduced need for public debt or impaired market access.

*Amendment*

(8) The standardised composition of the underlying portfolio of an SBBSs may render difficult or impede the issuance of an SBBS issue when sovereign bonds of one or more Member States are not available on the market. For that reason, it should be possible to exclude sovereign bonds of a particular Member State from future issuances of SBBSs where and as long as the issuance of sovereign bonds by that Member State is significantly limited due to a reduced need for public debt or impaired market access. ***In order to ensure the continuity of the issuance of SBBSs on the market, a timely decision-making mechanism to adjust the underlying portfolio of SBBSs in situations where a Member State no longer enjoys market access is warranted.***

Or. en

### Amendment 4

#### Proposal for a regulation

##### Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) In order to ensure that Member States do not selectively default depending on the identity of the bond holder and to ensure that SBBSs retain the same market access as the underlying portfolio, equal treatment of directly-held sovereign bonds and SBBSs should be guaranteed.***

Or. en

## Amendment 5

### Proposal for a regulation Recital 12 b (new)

*Text proposed by the Commission*

*Amendment*

***(12b) An SPE should appoint a third-party trustee to instruct the SPE on how to exercise its vote on a proposed modification of sovereign bonds in the event of a sovereign debt restructuring. Mandating the third-party trustee to maximise the value of the whole SBBS issue properly protects its investors, rather than, for example, the interests of holdout investors.***

Or. en

## Amendment 6

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

*Amendment*

(13) Only products that fulfil the requirements regarding the composition and maturity of the underlying portfolio ***as well as*** the size of the senior and the subordinated tranches as provided for in this Regulation should enjoy ***the same regulatory treatment as*** the regulatory treatment ***granted to sovereign exposures*** in terms of capital requirements, concentration limits, and liquidity.

(13) Only products that fulfil the requirements regarding the composition and maturity of the underlying portfolio, the size of the senior and the subordinated tranches as provided for in this Regulation, ***and whose issue complies with the supervisory regime,*** should enjoy the regulatory treatment ***provided for in this Regulation*** in terms of capital requirements, concentration limits, and liquidity.

Or. en

## Amendment 7

### Proposal for a regulation Recital 14



*Text proposed by the Commission*

(14) A system of ***self-attestation by SPEs*** should ensure that an SBBS issue complies with the requirements of this Regulation. ESMA should therefore keep a list of SBBSs ***issued***, enabling investors to verify whether a product that is offered for sale as an SBBS is indeed an SBBS. For the same reason, ESMA should indicate in that list whether any sanction in relation to a SBBS has been imposed and remove from that list those products that are found to be in violation of this Regulation.

*Amendment*

(14) A system of ***certification by ESMA*** should ensure that an SBBS issue complies with the requirements of this Regulation. ESMA should therefore keep a list of ***certified*** SBBSs, enabling investors to verify whether a product that is offered for sale as an SBBS is indeed an SBBS. For the same reason, ESMA should indicate in that list whether any sanction in relation to a SBBS has been imposed and remove from that list those products that are found to be in violation of this Regulation.

Or. en

## Amendment 8

### Proposal for a regulation Recital 15

*Text proposed by the Commission*

(15) Investors should be able to rely on the ***notification*** of SBBSs by ***SPEs to*** ESMA and on the information provided by SPEs. Information on SBBSs and the sovereign bonds in the SBBSs underlying portfolio should empower investors to understand, assess and compare SBBSs transactions and not to rely solely on third parties, including credit rating agencies. That possibility should enable investors to act prudently and to carry out their due diligence efficiently. Information on SBBSs should therefore be freely available to investors, via standardised templates, on a website that ensures continuous accessibility.

*Amendment*

(15) Investors should be able to rely on the ***certification*** of SBBSs by ESMA and on the information provided by SPEs. Information on SBBSs and the sovereign bonds in the SBBSs underlying portfolio should empower investors to understand, assess and compare SBBSs transactions and not to rely solely on third parties, including credit rating agencies. That possibility should enable investors to act prudently and to carry out their due diligence efficiently. Information on SBBSs should therefore be freely available to investors, via standardised templates, on a website that ensures continuous accessibility.

Or. en

## Amendment 9

### Proposal for a regulation

#### Recital 16

*Text proposed by the Commission*

(16) To prevent abusive behaviour and to ensure that trust in SBBSs is maintained, appropriate administrative sanctions and remedial measures should be provided for by **Member States** for cases of negligent or intentional infringements of notification or product requirements for SBBSs.

*Amendment*

(16) To prevent abusive behaviour and to ensure that trust in SBBSs is maintained, appropriate administrative sanctions and remedial measures should be provided for by **ESMA** for cases of negligent or intentional infringements of notification or product requirements for SBBSs.

Or. en

## Amendment 10

### Proposal for a regulation

#### Recital 17

*Text proposed by the Commission*

(17) Investors in different financial sectors should be able to invest in SBBSs under the same conditions as they invest in the underlying euro area sovereign bonds. Directive 2009/65/EC of the European Parliament and of the Council<sup>15</sup>, Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>16</sup>, Directive 2009/138/EC of the European Parliament and of the Council<sup>17</sup> and Directive (EU) 2016/2341 of the European Parliament and of the Council<sup>18</sup> should therefore be amended to ensure that SBBS are granted the same regulatory treatment as their underlying assets across the various regulated financial sectors.

*Amendment*

(17) Investors in different financial sectors should be able to invest in SBBSs under the same conditions as they invest in the underlying euro area sovereign bonds. Directive 2009/65/EC of the European Parliament and of the Council<sup>15</sup>, Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>16</sup>, Directive 2009/138/EC of the European Parliament and of the Council<sup>17</sup> and Directive (EU) 2016/2341 of the European Parliament and of the Council<sup>18</sup> should therefore be amended to ensure that SBBS are granted the same regulatory treatment as their underlying assets across the various regulated financial sectors. ***The exception to that should be holdings of SBBSs by banks, for which the regulatory privilege should only be granted to the senior tranche or to the fully balanced holding of all tranches of an SBBS, which is the economic equivalent of the holding of the underlying fully diversified SBBS***

*portfolio.*

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<sup>15</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investments in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>16</sup> 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 (CRR) (OJ L 176, 27.6.2013, p.1).

<sup>17</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335 17.12.2009, p. 1).

<sup>18</sup> Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p.37).

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<sup>18</sup> Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p.37).

Or. en

## Amendment 11

### Proposal for a regulation

#### Recital 18

*Text proposed by the Commission*

(18) To safeguard financial stability, ensure investors' confidence and promote liquidity, a proper and effective supervision of SBBSs markets is important. To that end, **competent authorities** should be informed about the issuance of SBBSs and should receive

*Amendment*

(18) To safeguard financial stability, ensure investors' confidence and promote liquidity, a proper and effective supervision of SBBSs markets is important. To that end, **ESMA** should be informed about the issuance of SBBSs and should receive from SPEs all the relevant

from SPEs all the relevant information needed to perform *their* supervisory tasks. Supervision of compliance with this Regulation should primarily be performed to ensure investors' protection and, where applicable, on aspects that may be linked to the issuance and holding of SBBSs by regulated financial entities.

information needed to perform *its* supervisory tasks. Supervision of compliance with this Regulation should primarily be performed to ensure investors' protection and, where applicable, on aspects that may be linked to the issuance and holding of SBBSs by regulated financial entities.

Or. en

## Amendment 12

### Proposal for a regulation Recital 19

#### *Text proposed by the Commission*

(19) Competent authorities should closely coordinate their supervision and ensure that their decisions are consistent. ***Where an infringement of this Regulation concerns the fulfilment of the obligations required for a product to be qualified as an SBBS, the competent authority identifying that infringement should inform ESMA, as well as the competent authorities of the other Member States concerned. In the event of disagreement between the competent authorities, ESMA should exercise its binding mediation powers in accordance with Article 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>19</sup>.***

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<sup>19</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L331, 15.12.2010, p. 84).

#### *Amendment*

(19) Competent authorities ***of the entities involved in assembling SBBSs or in the SBBS market*** should closely coordinate their supervision and ensure that their decisions are consistent.

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<sup>19</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L331, 15.12.2010, p. 84).

Or. en

## Amendment 13

### Proposal for a regulation

#### Recital 21

##### *Text proposed by the Commission*

(21) As a body with highly specialised expertise regarding securities markets, it is appropriate to entrust ESMA with the development of draft regulatory technical standards concerning the types of investment that the SPE may conduct with the proceeds from the payments of principal or interest of the SBBSs' underlying portfolio, the information to be provided by the SPE for the notification to ESMA of an issuance of SBBSs issues, the information to be provided before transferring **a** an SBBS **and** the cooperation and information exchange obligations among competent authorities. The Commission should be empowered to adopt those standards in accordance with Article 290 of the Treaty on the Functioning of the European Union ('TFEU') and with Articles 10 to 14 of Regulation (EU) No 1095/2010.

##### *Amendment*

(21) As a body with highly specialised expertise regarding securities markets, it is appropriate to entrust ESMA with the development of draft regulatory technical standards concerning the types of investment that the SPE may conduct with the proceeds from the payments of principal or interest of the SBBSs' underlying portfolio, the information to be provided by the SPE for the notification to ESMA of an issuance of SBBSs issues, the information to be provided before transferring an SBBS, the cooperation and information exchange obligations among competent authorities, **and the legal and professional qualifications of the third-party trustee**. The Commission should be empowered to adopt those standards in accordance with Article 290 of the Treaty on the Functioning of the European Union ('TFEU') and with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

## Amendment 14

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 10 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

**(10a) 'sovereign debt restructuring' means the exchange of outstanding sovereign bonds for new or modified debt instruments or cash, or the modification of such bonds, through a formal process with any of the following effects on bond**

*holders:*

*(a) a reduction in interest payable to the bond holder;*

*(b) a reduction in principal or premium payable at maturity;*

*(c) a deferral of dates for the payment of interest, principal or premium;*

*(d) a change in the currency in which interest, principal or any premium will be payable.*

Or. en

## Amendment 15

### Proposal for a regulation

#### Article 4 – paragraph 3 – subparagraph 1 – point a

*Text proposed by the Commission*

(a) over the previous twelve months ('period of reference'), the Member State has issued less than half of the amount of sovereign bonds resulting from its relative weight determined in accordance with paragraph 1, multiplied by the aggregate amount of SBBSs issued in the twelve months prior to the period of reference;

*Amendment*

(a) over the previous twelve months ('period of reference'), the Member State has issued less than half of the amount of sovereign bonds resulting from its relative weight determined in accordance with paragraph 2, multiplied by the aggregate amount of SBBSs issued in the twelve months prior to the period of reference;

Or. en

## Amendment 16

### Proposal for a regulation

#### Article 4 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

Where the first subparagraph applies, ***SPEs shall determine*** the baseline weights of sovereign bonds of the remaining Member States by excluding the sovereign bonds of the Member referred to in the first subparagraph and applying the calculation

*Amendment*

Where the first subparagraph applies, the baseline weights of sovereign bonds of the remaining Member States ***shall be determined*** by excluding the sovereign bonds of the Member referred to in the first subparagraph and applying the calculation

method of paragraph 1.

method of paragraph 2.

Or. en

## Amendment 17

### Proposal for a regulation Article 4 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. ESMA shall on an ongoing basis monitor and assess whether a Member State whose sovereign bonds are included in the underlying portfolio of an SBBS no longer enjoys market access and whether the baseline weights of Member States with limited availability of sovereign bonds impede the issuance of new SBBSs.**

**Where ESMA, in consultation with the ESRB, finds that a situation referred to in the first subparagraph exists and that, notwithstanding paragraph 3, continued SBBS issuance is not possible, ESMA may request the Commission either to exclude the Member State from the underlying portfolio of an SBBS if market access has been lost or to adjust the baseline weights of Member States if the scarce supply of the sovereign bonds in question warrants such adjustment.**

**The Commission shall, within 48 hours of the request referred to in the second subparagraph and based on the reasons and evidence provided by ESMA, do one of the following:**

**(a) adopt an implementing act that either excludes sovereign bonds of the Member State from the underlying portfolio of the SBBS or adjusts the baseline weights of relevant Member States; or**

**(b) reject the requested exclusion.**

**Any implementing act adopted pursuant to the third subparagraph of this paragraph shall be adopted in accordance**

*with the examination procedure referred to in Article 26(2).*

*Where an implementing act under the third subparagraph applies and a Member State is excluded from the underlying portfolio of an SBBS, the baseline weights of sovereign bonds of the remaining Member States shall be determined by excluding the sovereign bonds of the Member State referred to in the first subparagraph and applying the calculation method set out in paragraph 2. Where an implementing act under the third subparagraph applies and the baseline weights are adjusted, the baseline weights shall be applied in accordance with the implementing act.*

*The exclusion or adjustment shall be valid for an initial period of one month. The Commission may, after consulting ESMA, extend the exclusion or adjustment of the baseline weights referred to in this Article for additional periods of one month by way of an implementing act. Where the exclusion or adjustment is not renewed by the end of the initial period or by the end of any subsequent renewal period, it shall automatically expire.*

*The Commission shall adopt a delegated act in accordance with Article 24a to supplement this Regulation by determining the criteria by which ESMA shall assess whether a Member State no longer enjoys market access for the purposes of the first subparagraph of this paragraph.*

Or. en

## **Amendment 18**

### **Proposal for a regulation Article 5 – paragraph 2**



*Text proposed by the Commission*

2. The remaining maturity of any sovereign bond in an SBBSs' underlying portfolio shall not be shorter than six months than the remaining maturity of the sovereign bond with the longest remaining maturity in that portfolio.

*Amendment*

2. The remaining maturity of any sovereign bond in an SBBSs' underlying portfolio shall not be shorter **by more** than six months than the remaining maturity of the sovereign bond with the longest remaining maturity in that portfolio.

Or. en

**Amendment 19**

**Proposal for a regulation  
Article 6 – paragraph 1**

*Text proposed by the Commission*

1. An SBBSs issue shall be composed of one senior tranche and one or more subordinated tranches. The outstanding nominal value of the senior tranche shall be seventy percent of the outstanding nominal value of the entire SBBSs issue. The number and the outstanding nominal values of the subordinated tranches shall be determined by the SPE, subject to the limitation that the nominal value of the junior tranche shall be at least **two** percent of the outstanding nominal value of the entire SBBSs issue.

*Amendment*

1. An SBBSs issue shall be composed of one senior tranche and one or more subordinated tranches. The outstanding nominal value of the senior tranche shall be seventy percent of the outstanding nominal value of the entire SBBSs issue. The number and the outstanding nominal values of the subordinated tranches shall be determined by the SPE, subject to the limitation that the nominal value of the junior tranche shall be at least **five** percent of the outstanding nominal value of the entire SBBSs issue.

Or. en

**Amendment 20**

**Proposal for a regulation  
Article 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 7a  
Debt restructuring**

***1. Member States shall ensure that holdings of sovereign bonds by SPEs enjoy the same treatment in the event of a sovereign debt restructuring as any other holdings of the same sovereign bond or of other sovereign bonds issued with the same terms.***

***2. If any action by which Member States influence the returns or value of sovereign bonds provides an advantage to some holders of a sovereign bond, that advantage shall automatically apply to holdings of the same sovereign bond by SPEs.***

***3. An SPE shall appoint a third-party trustee to instruct the SPE on how to exercise any rights in the event of a sovereign debt restructuring. The third-party trustee shall have a fiduciary duty to maximise the value of the SBBS issue as a whole. The trustee shall be a fit and proper person with sufficient legal and professional qualifications.***

***4. ESMA shall develop draft regulatory technical standards specifying the legal and professional qualifications referred to in paragraph 3. ESMA shall submit those draft regulatory technical standards to the Commission by [6 months from the date of entry into force of this Regulation].***

***Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.***

Or. en

## **Amendment 21**

**Proposal for a regulation  
Article 9 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the SPE complies on an ongoing basis with Articles 7, 7a and 8;**

Or. en

## **Amendment 22**

### **Proposal for a regulation Article 9 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) ESMA has ***been notified of*** that financial product in accordance with Article 10(1) and the financial product has been included in the list referred to in Article 10(2).

(b) ESMA has ***certified*** that financial product in accordance with Article 10(1) and the financial product has been included in the list referred to in Article 10(2).

Or. en

## **Amendment 23**

### **Proposal for a regulation Article 10 – title**

*Text proposed by the Commission*

*Amendment*

SBBS notification requirements

SBBS notification requirements ***and certification***

Or. en

## **Amendment 24**

### **Proposal for a regulation Article 10 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. An SPE shall ***notify*** ESMA at least one week before issuance of an SBBSs

1. An SPE shall ***submit an application for certification of an SBBS***

issue by means of the template referred to in paragraph 5 of this Article that an SBBSs issue meets the requirements of Articles 4, 5 and 6. ***ESMA shall inform the SPE's competent authority thereof without undue delay.***

***issue by notifying*** ESMA at least one week before issuance of an SBBSs issue by means of the template referred to in paragraph 5 of this Article that an SBBSs issue meets the requirements of Articles 4, 5 and 6.

Or. en

## **Amendment 25**

### **Proposal for a regulation Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The notification provided for in paragraph 1 of this Article shall include an explanation by the SPE of how it has complied with each of the requirements set out in Articles 4, 5, 6, 7, 7a and 8.***

Or. en

## **Amendment 26**

### **Proposal for a regulation Article 10 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. ESMA shall certify an SBBS issue only where it is fully satisfied that the applicant SPE and the SBBS issue comply with all the requirements laid down in this Regulation. ESMA shall inform the applicant SPE without undue delay whether certification has been granted or refused.***

Or. en

## Amendment 27

### Proposal for a regulation Article 10 – paragraph 2

*Text proposed by the Commission*

2. ESMA shall maintain on its official website a list of all SBBSs issues that have been **notified by SPEs**. ESMA shall update that list instantly and remove any SBBSs issue that is no longer considered to be an SBBSs issue following a decision of **competent authorities** in accordance with Article 15.

*Amendment*

2. ESMA shall maintain on its official website a list of all SBBSs issues that have been **certified by ESMA**. ESMA shall update that list instantly and remove any SBBSs issue that is no longer considered to be an SBBSs issue following a decision of **ESMA** in accordance with Article 15.

Or. en

## Amendment 28

### Proposal for a regulation Article 10 – paragraph 3

*Text proposed by the Commission*

3. ***A competent authority that has imposed remedial measures or administrative sanctions as referred to in Article 15 shall immediately notify ESMA thereof.*** ESMA shall immediately indicate on the list referred to in paragraph 2 of this Article ***that a competent authority*** has imposed administrative sanctions for which there is no longer a right of appeal, in relation to the SBBS concerned.

*Amendment*

3. ESMA shall immediately indicate on the list referred to in paragraph 2 of this Article ***whenever it*** has imposed administrative sanctions ***referred to in Article 16*** for which there is no longer a right of appeal, in relation to the SBBS concerned.

Or. en

## Amendment 29

### Proposal for a regulation Article 10 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. ESMA shall withdraw the certification for an SBBS issue where any of the following conditions is met:**

**(a) the SPE has expressly renounced the certification or has not made use of it within six months after the certification has been granted;**

**(b) the SPE has obtained the certification by making false statements or by any other irregular means;**

**(c) the SBBS issue no longer meets the conditions under which it was certified.**

**The withdrawal of the certification shall have immediate effect throughout the Union.**

Or. en

### **Amendment 30**

#### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

An SPE shall, without undue delay, provide investors and **competent authorities** with the following information:

An SPE shall, without undue delay, provide investors and **ESMA** with the following information:

Or. en

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – subparagraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

(d) the notification referred to in Article 10(1).

(d) the notification **and certification** referred to in Article 10(1) **and in Article**

*10(1b) respectively.*

Or. en

### **Amendment 32**

#### **Proposal for a regulation**

##### **Article 13 – title**

*Text proposed by the Commission*

*Amendment*

Supervision

Supervision **by ESMA**

Or. en

### **Amendment 33**

#### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***Member States shall designate one or more competent authorities to supervise the compliance of SPEs with this Regulation. Member States shall inform the Commission and ESMA about those competent authorities and, where relevant, about how their functions and duties are divided.***

***ESMA shall be the competent authority to supervise the compliance of SPEs with this Regulation.***

Or. en

### **Amendment 34**

#### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***The competent authority of the Member State of where the SPE is established shall supervise compliance with the***

***ESMA shall supervise compliance with the requirements laid down in this Regulation.***

requirements laid down in this Regulation.

Or. en

### **Amendment 35**

#### **Proposal for a regulation**

#### **Article 13 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***Member States shall ensure that competent authorities have the supervisory, investigatory and sanctioning powers to fulfil their duties under this Regulation.***

***deleted***

Or. en

### **Amendment 36**

#### **Proposal for a regulation**

#### **Article 13 – paragraph 2 – subparagraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

***They*** shall have the power to, at least:

***ESMA*** shall have the power to, at least:

Or. en

### **Amendment 37**

#### **Proposal for a regulation**

#### **Article 13 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. ESMA shall publish and keep up-to-date on its website a list of competent authorities.***

***deleted***

Or. en



## Amendment 38

### Proposal for a regulation

#### Article 14 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

Competent authorities and ESMA shall cooperate closely and exchange information to carry out their duties. In particular, they shall closely coordinate their supervision to identify and remedy infringements of this Regulation, develop and promote best practices, facilitate collaboration, foster consistency of interpretation and provide cross-jurisdictional assessments in the event of any disagreements.

##### *Amendment*

Competent authorities ***responsible for the supervision of entities assembling SBBSs or otherwise engaged in the SBBS market*** and ESMA shall cooperate closely and exchange information to carry out their duties. In particular, they shall closely coordinate their supervision to identify and remedy infringements of this Regulation, develop and promote best practices, facilitate collaboration, foster consistency of interpretation and provide cross-jurisdictional assessments in the event of any disagreements.

Or. en

## Amendment 39

### Proposal for a regulation

#### Article 14 – paragraph 2

##### *Text proposed by the Commission*

2. A competent authority that has clear and demonstrable grounds that an SPE is in breach of this Regulation shall promptly inform in a detailed manner ***the competent authority of the Member State where the SPE is established. The competent authority of the Member State where the SPE is established*** shall take appropriate measures, including the decision referred to in Article 15.

##### *Amendment*

2. A competent authority that has clear and demonstrable grounds that an SPE is in breach of this Regulation shall promptly inform ***ESMA*** in a detailed manner. ***ESMA*** shall take appropriate measures, including the decision referred to in Article 15.

Or. en

## Amendment 40

### Proposal for a regulation

#### Article 14 – paragraph 3

*Text proposed by the Commission*

3. Where the SPE persists in acting in a manner that is clearly in breach of this Regulation despite measures taken by ***the competent authority of the Member State where it is established, or because that competent authority has failed to take measures within a reasonable time, the competent authority that has detected a breach of this Regulation may, after informing the competent authority of the Member State where the SPE is established and ESMA***, take all appropriate measures to protect investors, including prohibiting the SPE from carrying out any further marketing of SBBSs within its territory and taking the decision referred to in Article 15.

*Amendment*

3. Where the SPE persists in acting in a manner that is clearly in breach of this Regulation despite measures taken by ***ESMA, ESMA may*** take all appropriate measures to protect investors, including prohibiting the SPE from carrying out any further marketing of SBBSs within its territory and taking the decision referred to in Article 15.

Or. en

## Amendment 41

### Proposal for a regulation

#### Article 15 – paragraph 1

*Text proposed by the Commission*

1. Where there are reasons to believe that an SPE in infringement of Article 9 has used the designation ‘SBBS’ to market a product that fails to comply with the requirements set out in that Article, ***the competent authority of the Member State where the SPE is established*** shall follow the procedure provided for in paragraph 2.

*Amendment*

1. Where there are reasons to believe that an SPE in infringement of Article 9 has used the designation ‘SBBS’ to market a product that fails to comply with the requirements set out in that Article, ***ESMA*** shall follow the procedure provided for in paragraph 2.

Or. en

## Amendment 42

### Proposal for a regulation

#### Article 15 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

Within 15 days after becoming aware of the possible infringement referred to in paragraph 1 ***the competent authority of the Member State where the SPE suspected of the infringement is established*** shall decide whether Article 9 has been infringed and shall notify ***ESMA and the other relevant competent authorities thereof, including the competent authorities of the investors, when known. A competent authority that disagrees with the decision taken shall notify all other relevant competent authorities about its disagreement without undue delay. Where that disagreement is not resolved within three months of the date on which all relevant competent authorities have been notified, the matter shall be referred to ESMA in accordance with Article 19 and, where applicable, Article 20 of Regulation (EU) No 1095/2010. The conciliation period referred to in Article 19(2) of Regulation (EU) No 1095/2010 shall be one month.***

*Amendment*

Within 15 days after becoming aware of the possible infringement referred to in paragraph 1 ***ESMA*** shall decide whether Article 9 has been infringed and shall notify other relevant competent authorities thereof, including the competent authorities of the investors, when known.

Or. en

## Amendment 43

### Proposal for a regulation

#### Article 15 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

***Where the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in the first subparagraph, ESMA shall take the decision referred to in Article 19(3) of Regulation (EU) No 1095/2010***

*Amendment*

***deleted***

*within one month. During the procedure set out in this paragraph, an SBBS appearing on the list maintained by ESMA pursuant to Article 10(2) shall continue to be considered a SBBS and shall be kept on that list.*

Or. en

#### **Amendment 44**

##### **Proposal for a regulation Article 15 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

Where *the relevant competent authorities agree* that the infringement by the SPE is related to non-compliance with Article 9 in good faith, *they* may decide to grant the SPE a period of maximum *three months* to remedy the identified infringement, starting from the day the SPE was informed of the infringement by *the competent authority*. During that period, an SBBS appearing on the list maintained by ESMA pursuant to Article 10(2) shall continue to be considered an SBBS and shall be kept on that list.

*Amendment*

Where *ESMA finds* that the infringement by the SPE is related to non-compliance with Article 9 in good faith, *it* may decide to grant the SPE a period of maximum *one month* to remedy the identified infringement, starting from the day the SPE was informed of the infringement by *ESMA*. During that period, an SBBS appearing on the list maintained by ESMA pursuant to Article 10(2) shall continue to be considered an SBBS and shall be kept on that list.

Or. en

#### **Amendment 45**

##### **Proposal for a regulation Article 16 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Without prejudice to the right for Member States to lay down criminal sanctions pursuant to Article 17, *competent authorities* shall impose on the SPE or the natural person managing the SPE the appropriate remedial measures, including

*Amendment*

1. Without prejudice to the right for Member States to lay down criminal sanctions pursuant to Article 17, *ESMA* shall impose on the SPE or the natural person managing the SPE the appropriate remedial measures, including the decision

the decision referred to in Article 15, and the appropriate administrative sanctions set out in paragraph 3 where SPEs:

referred to in Article 15, and the appropriate administrative sanctions set out in paragraph 3 where SPEs:

Or. en

#### **Amendment 46**

##### **Proposal for a regulation Article 16 – paragraph 3 – introductory part**

*Text proposed by the Commission*

3. **Competent authorities**, when determining the type and level of administrative sanctions, shall take into account the extent to which the infringement was intentional or results from negligence and all other relevant circumstances, including, where appropriate:

*Amendment*

3. **ESMA**, when determining the type and level of administrative sanctions, shall take into account the extent to which the infringement was intentional or results from negligence and all other relevant circumstances, including, where appropriate:

Or. en

#### **Amendment 47**

##### **Proposal for a regulation Article 16 – paragraph 4**

*Text proposed by the Commission*

4. **Member States** shall ensure that any decision imposing the remedial measures or administrative sanctions is properly reasoned and is subject to a right of appeal.

*Amendment*

4. **ESMA** shall ensure that any decision imposing the remedial measures or administrative sanctions is properly reasoned and is subject to a right of appeal.

Or. en

#### **Amendment 48**

##### **Proposal for a regulation Article 17 – paragraph 1**

*Text proposed by the Commission*

Member States that have laid down criminal sanctions for the infringement referred to in Article 16(1) shall **give their competent authorities all the necessary powers** to liaise with judicial, prosecuting, or criminal justice authorities within their jurisdiction to receive from, and to provide to, **other competent authorities and ESMA** specific information about criminal investigations or proceedings commenced for the infringements referred to in Article 16(1).

*Amendment*

Member States that have laid down criminal sanctions for the infringement referred to in Article 16(1) shall **allow ESMA** to liaise with judicial, prosecuting, or criminal justice authorities within their jurisdiction **and** to receive from, and to provide to, **relevant** authorities specific information about criminal investigations or proceedings commenced for the infringements referred to in Article 16(1).

Or. en

**Amendment 49**

**Proposal for a regulation**

**Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

**Competent authorities** shall publish on **their** website any decision imposing an administrative sanction in respect of which there is no longer a right of appeal and which is imposed for an infringement as referred to in Article 16(1) without undue delay and after the person concerned has been informed.

*Amendment*

**ESMA** shall publish on **its** website any decision imposing an administrative sanction in respect of which there is no longer a right of appeal and which is imposed for an infringement as referred to in Article 16(1) without undue delay and after the person concerned has been informed.

Or. en

**Amendment 50**

**Proposal for a regulation**

**Article 18 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

**Competent authorities** shall publish the administrative sanction on an anonymous

*Amendment*

**ESMA** shall publish the administrative sanction on an anonymous basis, in any of

basis, in *accordance with national law*, in any of the following circumstances:

the following circumstances:

Or. en

## Amendment 51

### Proposal for a regulation Article 18 – paragraph 3

*Text proposed by the Commission*

3. **Competent authorities** shall ensure that information published under paragraph 1 or 2 remains on **their** official website for five years. Personal data shall be retained on the official website of **the competent authority** only for the period necessary.

*Amendment*

3. **ESMA** shall ensure that information published under paragraph 1 or 2 remains on **its** official website for five years. Personal data shall be retained on the official website of **ESMA** only for the period necessary.

Or. en

## Amendment 52

### Proposal for a regulation Article 20

*Text proposed by the Commission*

#### *Article 20*

#### *Member States notifications*

**Member States shall notify the laws, regulations and administrative provisions referred to in Articles 13 and 16 to the Commission and ESMA by [one year from the date of entry into force of this Regulation]. Member States shall notify the Commission and ESMA of any subsequent amendments thereto without undue delay.**

*Amendment*

**deleted**

Or. en

## Amendment 53

### Proposal for a regulation

Article 23 – paragraph 1 – point -1 (new)

Regulation (EU) No 575/2013

Article 254 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***(-1) in Article 254, the following paragraph is inserted:***

***“6a. By way of derogation from paragraph 1, for positions held in a subordinated tranche of sovereign bond-backed securities as defined in Article 3(3) of Regulation [reference of the SBBS Regulation to be inserted], institutions shall use the SEC-ERBA in accordance with Articles 263 and 164 of this Regulation.***

***The exemption in the first subparagraph for the senior tranche shall also apply to positions where institutions hold all tranches of a sovereign-bond backed security and the holdings of all those tranches are proportional to the share of the outstanding nominal values of those tranches in the entire security, determined pursuant to Article 6(1) of Regulation [reference of the SBBS Regulation to be inserted].”***

Or. en

## Amendment 54

### Proposal for a regulation

Article 23 – paragraph 1 – point 1

Regulation (EU) No 575/2013

Article 268 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***(1) in Article 268 , the following paragraph 5 is added:***

***deleted***

***‘5. By way of derogation from the first***



*paragraph, sovereign bond-backed securities as defined in Article 3(3) of Regulation [reference of the SBBS Regulation to be inserted] may always be treated in accordance with the first paragraph of this Article.;*

Or. en

## Amendment 55

### Proposal for a regulation

#### Article 23 – paragraph 1 – point 2

Regulation (EU) No 575/2013

Article 325 – paragraph 4

#### *Text proposed by the Commission*

4. For the purpose of this Title, institutions shall treat exposures in the form of sovereign bond-backed securities as defined in Article 3(3) of Regulation [reference of the SBBS Regulation to be inserted] as exposures to the central government of a Member State.;

#### *Amendment*

4. For the purpose of this Title, institutions shall treat exposures in the form of ***the senior tranche of*** sovereign bond-backed securities as defined in Article 3(8) of Regulation [reference of the SBBS Regulation to be inserted] as exposures to the central government of a Member State.;

Or. en

## Amendment 56

### Proposal for a regulation

#### Article 23 – paragraph 1 – point 2 a (new)

Regulation (EU) No 575/2013

Article 325 – paragraph 4 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(2a) in Article 325, the following paragraph 4a is added:***

***‘4a. The treatment of the senior tranche in the first subparagraph shall also apply to positions where institutions hold all tranches of a sovereign-bond backed security and the holdings of all***

*those tranches are proportional to the share of the outstanding nominal values of those tranches in the entire security, determined pursuant to Article 6(1) of Regulation [reference of the SBBS Regulation to be inserted].’*

Or. en

## **Amendment 57**

### **Proposal for a regulation Article 24 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 24a*

##### *Exercise of the delegation*

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 4(5a) shall be conferred on the Commission for a period of five years from [date of entry into force of this regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
- 3. The delegation of power referred to in Article 4 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the*

*validity of any delegated acts already in force.*

*4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.*

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

*6. A delegated act adopted pursuant to Article 4 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.*

Or. en

## EXPLANATORY STATEMENT

Sovereign Bond-Backed Securities (SBBS) are privately placed securities, divided into tranches with different seniority and backed by an underlying portfolio of euro-denominated sovereign bonds. The Regulation envisages private issuance of SBBS via special purpose entities without joint liability. SBBS could, if widely adopted, lead to a number of significant improvements in the functioning of the Euro area.

First, with the help of the senior tranche, the supply of safe assets for the Eurozone would increase significantly. Currently, the Euro area provides only €1.9tn safe assets, compared to the US with \$11.7tn safe assets.

Second, the senior tranche of the SBBS prepares a means to tackle the sovereign bank nexus once a political consensus emerges to do so. If banks alter their portfolio of sovereign bonds by investing in the senior tranche of the SBBS safe asset, the Euro area financial stability will improve thanks to diversification and a reduced home bias, and from a first-loss tranche outside the banking system.

Third, SBBS could help to reduce destabilising cross-border flight to safety phenomena. The capital flight from vulnerable to non-vulnerable Member States during the last crisis led to increased borrowing costs for vulnerable countries and decreased funding costs for non-vulnerable countries.

Overall, the proposed sovereign bond-backed securities constitute a useful building block to enhance the resilience of the euro area. It is proposed to amend the Commission text mainly in four areas:

### *Regulatory treatment*

It is proposed that not all SBBS tranches are to receive regulatory treatment as a risk-free asset. Otherwise, one would risk creating flawed incentives for banks to amass concentrated holdings of the risky first-loss tranche, thereby making the bank-sovereign nexus worse rather than better. For banks, only holdings of the senior tranche of SBBS or a fully diversified holding of all tranches are to enjoy the removal of regulatory restrictions as part of this regulation.

### *Supervision*

It is proposed that SBBS issuers be supervised by ESMA and SBBS issues are to be certified by ESMA in order to ensure uniform supervisory practice and to enhance product quality.

### *Portfolio composition*

It is proposed to put an orderly process to alter the SBBS portfolio composition into place in case a Member State were to lose market access. This is to ensure continuity of SBBS issuance in times of stress, complementing the backward-looking mechanism envisaged by the Commission for changes in portfolio composition. In addition, it is proposed to increase the minimum size of the junior tranche to 5% in order to enhance loss absorption capacity of

the junior tranche.

*Debt restructuring*

In line with a recommendation of the ESRB report, it is proposed that private issuers of SBBS must appoint a third-party trustee mandated to maximise the value of the SBBS issue overall in case of debt restructuring. This will address the problem of creditor representation and prevent the manifestation of conflicts of interest between investors holding securities of differing seniority. Additionally, to prevent a selective default of Member States on SBBS debt, an explicit non-discrimination clause for SBBS issues is proposed.