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2014 - 2019

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*Committee on Economic and Monetary Affairs*

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**2014/0017(COD)**

4.2.2015

# **AMENDMENTS**

## **91 - 251**

**Draft report**  
**Renato Soru**  
(PE544.170v01-00)

on the proposal for a regulation of the European Parliament and of the Council  
on reporting and transparency of securities financing transactions

Proposal for a regulation  
(COM(2014)0040 – C7-0023/2014 – (2014)0017(COD))



**Amendment 91**  
**Jonás Fernández**

**Proposal for a regulation**  
**Recital 1**

*Text proposed by the Commission*

(1) The **2008** global financial crisis revealed important regulatory gaps, ineffective supervision, opaque markets and overly-complex products in the financial system. The Union has adopted a range of measures in order to render the banking system more solid and more stable, including strengthening capital requirements, rules on improved governance and supervision and resolution regimes. The progress made on the establishment of the banking union is also decisive in this context. However, the crisis also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities take place, called “shadow banking”.

*Amendment*

(1) The global financial crisis **that broke out in 2007-2008 has** revealed **excessive speculative activities**, important regulatory gaps, ineffective supervision, opaque markets and overly-complex products in the financial system. The Union has adopted a range of measures in order to render the banking system more solid and more stable, including strengthening capital requirements, rules on improved governance and supervision and resolution regimes. The progress made on the establishment of the banking union is also decisive in this context. However, the crisis also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities take place, called “shadow banking”.

Or. es

**Amendment 92**  
**Miguel Viegas**

**Proposal for a regulation**  
**Recital 1**

*Text proposed by the Commission*

(1) The 2008 global financial crisis revealed important regulatory gaps, ineffective supervision, opaque markets and **overly-complex** products in the financial system. The Union has adopted a

*Amendment*

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range of measures in order to render the banking system more solid and more stable, including strengthening capital requirements, rules on improved governance and supervision and resolution regimes. The progress made on the establishment of the banking union is also decisive in this context. However, the crisis also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities take place, called “shadow banking”.

range of measures in order to render the banking system more solid and more stable, including strengthening capital requirements, rules on improved governance and supervision and resolution regimes. The progress made on the establishment of the banking union is also decisive in this context. However, the crisis also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities take place, called “shadow banking”, ***the scale of which is alarming, corresponding as it already does to half of the regulated banking system.***

Or. pt

**Amendment 93**  
**Cătălin Sorin Ivan**

**Proposal for a regulation**  
**Recital 1**

*Text proposed by the Commission*

(1) The 2008 global financial crisis revealed important regulatory gaps, ineffective supervision, opaque markets and overly-complex products in the financial system. The Union has adopted a range of measures in order to render the banking system more solid and more stable, including strengthening capital requirements, rules on improved governance and supervision and resolution regimes. The progress made on the establishment of the banking union is also decisive in this context. However, the crisis also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities take place, called “shadow banking”.

*Amendment*

(1) The 2008 global financial crisis revealed important regulatory gaps, ineffective supervision, opaque markets and overly-complex products in the financial system. The Union has adopted a range of measures in order to render the banking system more solid and more stable, including strengthening capital requirements, rules on improved governance and supervision and resolution regimes. The progress made on the establishment of the banking union is also decisive in this context. However, the crisis also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities take place, called “shadow banking”. ***Any shortcomings with regard to these***

*activities, which are similar to those carried out by banks, have the potential to contaminate the regulated financial sector.*

Or. ro

**Amendment 94**  
**Jonás Fernández**

**Proposal for a regulation**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*(1a) It is important to recall in this context that the chief function of the financial sector should be to direct capital towards financing the productive economy, and not asset speculation.*

Or. es

**Amendment 95**  
**Jonás Fernández**

**Proposal for a regulation**  
**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*(1b) Financial stability is a supranational public asset that is necessary for economic stability and growth. Guaranteeing financial stability entails adequately regulating and supervising the capital and asset markets, and ensuring that they are geared to financing the real economy.*

Or. es

**Amendment 96**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

**Proposal for a regulation**

**Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) Subsequently on 14 October 2014 the FSB published a regulatory framework for haircuts on collateral posted in non-centrally cleared SFTs. In the absence of clearing, such operations can cause risks if they are not properly collateralised. While enhancing transparency on the re-use of collateral is a first step towards facilitating counterparties' capacity to analyse and prevent the build-up of risks, the FSB also considered it necessary to propose further reforms in the area of haircuts on assets received as collateral for non-centrally cleared SFTs with non-banks. These proposals are intended to prevent excessive leverage and mitigate concentration and default risk. The FSB is due to complete its work on those collateral haircuts by 2016, with the development of a final set of recommendations on haircuts for collateral delivered in non-centrally cleared non-bank-to-non-bank SFTs. It is therefore appropriate to wait for these proposals to be agreed upon and be subjected to a full impact assessment by ESMA and the EBA to assess the most appropriate way to introduce these internationally agreed provisions into the EU. A coherent approach for transactions involving financial and non-financial counterparties as well as those involving only non-financial counterparties should be considered so as to avoid market distorting behaviour.***

Or. en

*Justification*

*To be read alongside Rapporteur's amendment 3*

**Amendment 97**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) Subsequently, on 14 October 2014, the FSB published a regulatory framework for haircuts on collateral posted in non-centrally cleared SFTs in which the FSB recommended a set of numerical haircut floors for securities-against-cash transactions.***

Or. en

**Amendment 98**  
**Miguel Viegas**

**Proposal for a regulation**  
**Recital 4**

*Text proposed by the Commission*

*Amendment*

(4) A High-Level Expert Group chaired by Erkki Liikanen adopted a report on reforming the structure of the Union banking sector in October 2012. It discussed among other things the interaction between the traditional and the shadow banking systems. The report recognised the risks of shadow banking activities such as high leverage and pro-cyclicality, and it called for a reduction of the interconnectedness between banks and the shadow banking system, which had been a source of contagion in a system-wide banking crisis. The report also

(4) A High-Level Expert Group chaired by Erkki Liikanen adopted a report on reforming the structure of the Union banking sector in October 2012. It discussed among other things the interaction between the traditional and the shadow banking systems. The report recognised the risks of shadow banking activities such as high leverage and pro-cyclicality, and it called for a reduction of the interconnectedness between banks and the shadow banking system, which had been a source of contagion in a system-wide banking crisis. The report also

suggested certain structural measures to deal with remaining weaknesses in the Union banking sector.

suggested certain structural measures to deal with remaining weaknesses in the Union banking sector, ***including complete separation of deposit services and investment activity.***

Or. pt

**Amendment 99**  
**Burkhard Balz**

**Proposal for a regulation**  
**Recital 8**

*Text proposed by the Commission*

(8) The new rules on transparency therefore provide for the reporting of details regarding SFTs concluded by all market participants, whereas they are financial or non-financial entities, including the composition of the underlying collateral, if the underlying collateral is available for use or has been used, and the haircuts applied. For reasons of efficiency, respective operational costs for market participants should be minimised and, thus, the new rules should build on pre-existing infrastructures and processes. Therefore, it is important that this legal framework is, to the extent possible, identical to that of Regulation (EU) No 648/2012/EC of the European Parliament and of the Council<sup>12</sup> in respect of the reporting of derivative contracts to trade repositories registered for that purpose. This should also enable trade repositories authorised in accordance with Regulation (EU) No 648/2012/EC to fulfil the repository function assigned by the new rules, if they comply with certain additional criteria.

*Amendment*

(8) The new rules on transparency therefore provide for the reporting of details regarding SFTs concluded by all market participants, whereas they are financial or non-financial entities, including the composition of the underlying collateral, if the underlying collateral is available for use or has been used, and the haircuts applied. For reasons of efficiency, respective operational costs for market participants should be minimised and, thus, the new rules should build on pre-existing infrastructures and processes. Therefore, it is important that this legal framework ***avoids a doubling of reporting standards and*** is, to the extent possible, identical to that of Regulation (EU) No 648/2012/EC of the European Parliament and of the Council<sup>12</sup> in respect of the reporting of derivative contracts to trade repositories registered for that purpose ***as well as in respect of reporting modalities.*** This should also enable trade repositories authorised in accordance with Regulation (EU) No 648/2012/EC to fulfil the repository function assigned by the new rules, if they comply with certain additional criteria.



<sup>12</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

<sup>12</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

Or. en

#### **Amendment 100**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

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

#### **Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8a) In order to ensure the effective implementation of the reporting of securities financing transactions a phased implementation of the requirements by counterparty is necessary. This should consider the effective ability of the counterparty to comply with the reporting obligations and so start with more advanced counterparties such as broker dealers, followed by different categories for different sizes of asset managers and finally non-financial counterparties.***

Or. en

#### **Amendment 101**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

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

#### **Recital 8 b (new)**

*Text proposed by the Commission*

*Amendment*

***(8b) In order to reduce the administrative burden faced by both financial and non-financial counterparties, the ability to delegate the reporting requirements should be reinforced in order to make***

*clear that any delegation of the requirement to report a transaction would also cause all legal liability for reporting the transaction to pass to the delegate.*

Or. en

**Amendment 102**  
**Kay Swinburne, Danuta Maria Hübner**

**Proposal for a regulation**  
**Recital 8 c (new)**

*Text proposed by the Commission*

*Amendment*

*(8c) In the case of certain activities such as securities lending and margin lending, detailed position reporting may be a better indication to supervisors of build-up of systemic risk and it should allow for simpler aggregation of data.*

Or. en

**Amendment 103**  
**Philippe De Backer**

**Proposal for a regulation**  
**Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) SFTs are used extensively by fund managers for efficient portfolio management. This use can have a significant impact on the performance of those funds. They can be used either to fulfil investment objectives or to enhance returns. *Managers also have the possibility to use other financing structures that have effects equivalent to SFTs. Those other financing structures* include total return swaps, liquidity swaps or collateral swaps. They are also extensively used by

(11) SFTs are used extensively by fund managers for efficient portfolio management. This use can have a significant impact on the performance of those funds. They can be used either to fulfil investment objectives or to enhance returns. *SFTs may* include total return swaps, liquidity swaps or collateral swaps. They are also extensively used by fund managers to get exposure to certain strategies or to enhance the returns. *SFTs* increase the general risk profile of the fund

fund managers to get exposure to certain strategies or to enhance the returns. **Both SFTs and other financing structures have in common that they** increase the general risk profile of the fund whereas their use is not properly disclosed to investors. It is crucial to ensure that investors in such funds are able to make informed choices and to assess the overall risk and reward profile of investment funds.

whereas their use is not properly disclosed to investors. It is crucial to ensure that investors in such funds are able to make informed choices and to assess the overall risk and reward profile of investment funds.

Or. en

#### **Amendment 104**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

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

#### **Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) In addition, SFTs are also used by some other financial and non-financial counterparties. Information in a high level, aggregate form should be given to shareholders about these transactions as part of disclosures as provided for in Directive 2014/95/EU of the European Parliament and of the Council<sup>1a</sup>.***

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***<sup>1a</sup> Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1)***

Or. en

#### *Justification*

*The administrative burden of reporting all SFTs to shareholders and the public would be disproportionate to the gains, therefore all attempts should be made to ensure that these*

*reporting requirements do not burden companies.*

**Amendment 105**  
**Cătălin Sorin Ivan**

**Proposal for a regulation**  
**Recital 12**

*Text proposed by the Commission*

(12) Investments made on the basis of incomplete or inaccurate information as regards a fund's investment strategy can result in significant investor losses. It is therefore essential that investment funds disclose all **relevant** information linked to their use of SFTs. In addition, full transparency is especially relevant in the area of investment funds as the entirety of assets that are subject to SFTs are not owned by the fund managers but by the fund investors. Full disclosure as regards SFTs is therefore an essential tool to safeguard against possible conflicts of interest.

*Amendment*

(12) Investments made on the basis of incomplete or inaccurate information as regards a fund's investment strategy can result in significant investor losses. It is therefore essential that investment funds disclose all **reliable and detailed** information linked to their use of SFTs. In addition, full transparency is especially relevant in the area of investment funds as the entirety of assets that are subject to SFTs are not owned by the fund managers but by the fund investors. Full disclosure as regards SFTs is therefore an essential tool to safeguard against possible conflicts of interest.

Or. ro

**Amendment 106**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Recital 15 a (new)**

*Text proposed by the Commission*

*Amendment*

***(15a) The existing guidelines for competent authorities and UCITs management companies (ESMA/2012/832) produced by ESMA apply an optional framework to UCITs management companies regarding reporting obligations. In order to increase the effectiveness of this regime, these provisions have been incorporated as***

*draft regulatory technical standards. In order to reduce administrative burden for those UCITs management companies and AIF that have already adopted these guidelines, it is appropriate not to require the re-submission of any prospectus that already complies with the existing guidelines.*

Or. en

#### *Justification*

*There are already ESMA guidelines which cover the reporting considered in the SFTR. These guidelines should be made mandatory by converting them into RTS, however those firms that have already adopted the approach recommended by ESMA should not face additional costs of re-issuing a prospectus when they have been "early adopters" of a more transparent regime.*

#### **Amendment 107** **Miguel Viegas**

#### **Proposal for a regulation** **Recital 17**

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

(17) Re-hypothecation **provides** liquidity and **enables** counterparties **reducing** funding costs. However, it creates complex collateral chains between traditional banking and shadow banking, posing financial stability risks. The lack of transparency on the extent to which financial instruments provided as collateral have been re-hypothecated and the respective risks in case of bankruptcy can undermine confidence in counterparties and magnify risks to financial stability.

##### *Amendment*

(17) Re-hypothecation **is intended to provide** liquidity and **enable** counterparties **to reduce** funding costs. However, it creates complex collateral chains between traditional banking and shadow banking, posing financial stability risks. The lack of transparency on the extent to which financial instruments provided as collateral have been re-used and the respective risks in case of bankruptcy can undermine confidence in counterparties and magnify risks to financial stability.

Or. pt

**Amendment 108**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Recital 17**

*Text proposed by the Commission*

(17) Re-hypothecation provides liquidity and enables counterparties reducing funding costs. However, it creates complex collateral chains between traditional banking and shadow banking, posing financial stability risks. The lack of transparency on the extent to which financial instruments provided as collateral have been re-hypothecated and the respective risks in case of bankruptcy can undermine confidence in counterparties and magnify risks to financial stability.

*Amendment*

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***Therefore, establishing the FSB recommendation of 6 percent as a mandatory minimum haircut and not allowing collateral to be subject to another collateral re-use transaction are necessary steps to ensure financial stability.***

Or. en

**Amendment 109**  
**Miguel Viegas**

**Proposal for a regulation**  
**Recital 18**

*Text proposed by the Commission*

(18) This Regulation ***establishes information rules towards*** counterparties on re-hypothecation ***which should not prejudice the application of sectorial rules adapted to specific actors, structures and situations.*** Therefore, the rules on re-hypothecation provided for in this Regulation should apply, for example, to

*Amendment*

(18) This Regulation ***seeks to establish stricter rules on information for*** counterparties on re-hypothecation. Therefore, the rules on re-hypothecation provided for in this Regulation should apply, for example, to funds and depositories only insofar as there are no more stringent rules on re-use ***laid down***

funds and depositories only insofar as there are no more stringent rules on re-use *foreseen* within the framework for investment funds constituting a *lex specialis* and taking precedence over the rules contained in this Regulation. In particular, this Regulation should be without prejudice to any rule restricting the ability of counterparties to engage in re-hypothecation of financial instruments that are provided as collateral by counterparties or persons other than counterparties.

within the framework for investment funds constituting a *lex specialis* and taking precedence over the rules contained in this Regulation. In particular, this Regulation should be without prejudice to any rule restricting the ability of counterparties to engage in re-hypothecation of financial instruments that are provided as collateral by counterparties or persons other than counterparties.

Or. pt

**Amendment 110**  
**Jonás Fernández**

**Proposal for a regulation**  
**Recital 19**

*Text proposed by the Commission*

(19) In order to ensure compliance by counterparties, with the obligations deriving from this Regulation and to ensure that they are subject to similar treatment across the Union, administrative sanctions and measures which are effective, proportionate and dissuasive should be ensured. Therefore, administrative sanctions and measures set by this Regulation should satisfy certain essential requirements in relation to addressees, criteria to be taken into account when applying a sanction or measure, publication of sanctions or measures, key sanctioning powers and levels of administrative pecuniary sanctions. It is appropriate that measures and sanctions established under Directives 2009/65/EC and 2011/61/EU apply to infringements of the investment funds transparency obligations under this Regulation.

*Amendment*

*(Does not affect the English version.)*

Or. es

**Amendment 111**  
**Romana Tomc**

**Proposal for a regulation**  
**Recital 19**

*Text proposed by the Commission*

(19) In order to ensure compliance by counterparties, with the obligations deriving from this Regulation and to ensure that they are subject to similar treatment across the Union, administrative sanctions and measures which **are** effective, proportionate and dissuasive should be ensured. Therefore, administrative sanctions and measures set by this Regulation should satisfy certain essential requirements in relation to addressees, criteria to be taken into account when applying a sanction or measure, publication of sanctions or measures, key sanctioning powers and levels of administrative pecuniary sanctions. It is appropriate that measures and sanctions established under Directives 2009/65/EC and 2011/61/EU apply to infringements of the investment funds transparency obligations under this Regulation.

*Amendment*

(19) In order to ensure compliance by counterparties, with the obligations deriving from this Regulation and to ensure that they are subject to similar treatment across the Union, **the appropriate** administrative sanctions and measures, which **should be** effective, proportionate and dissuasive, should be ensured. Therefore, administrative sanctions and measures set by this Regulation should satisfy certain essential requirements in relation to addressees, criteria to be taken into account when applying a sanction or measure, publication of sanctions or measures, key sanctioning powers and levels of administrative pecuniary sanctions. It is appropriate that measures and sanctions established under Directives 2009/65/EC and 2011/61/EU apply to infringements of the investment funds transparency obligations under this Regulation.

Or. sl

**Amendment 112**  
**Jonás Fernández**

**Proposal for a regulation**  
**Recital 20**

*Text proposed by the Commission*

(20) Technical standards in the financial services sector should ensure consistent harmonisation and adequate protection of

*Amendment*

*(Does not affect the English version.)*



depositors, investors and consumers across the Union. As a body with highly specialised expertise, it is efficient and appropriate to entrust the ESMA with the elaboration of draft regulatory technical and implementing standards, which do not involve policy choices. ESMA should ensure efficient administrative and reporting processes when drafting technical standards. The Commission should be empowered to adopt regulatory technical standards by means of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>15</sup> in the following areas: the details of the different types of SFTs, the details of the application for registration of a trade repository, and the frequency and the details of publication of and access to trade repositories' data.

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<sup>15</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 L 331, 15.12.2010, p. 84).

Or. es

**Amendment 113**  
**Romana Tomc**

**Proposal for a regulation**  
**Recital 20**

*Text proposed by the Commission*

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*Amendment*

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harmonisation and adequate protection of depositors, investors and consumers across the Union. As a body with highly specialised expertise, it is efficient and appropriate to entrust the ESMA with the elaboration of draft regulatory technical and implementing standards, which do not involve policy choices. ESMA should ensure *efficient* administrative and reporting processes when drafting technical standards. The Commission should be empowered to adopt regulatory technical standards by means of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>15</sup> in the following areas: the details of the different types of SFTs, the details of the application for registration of a trade repository, and the frequency and the details of publication of and access to trade repositories' data.

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harmonisation and adequate protection of depositors, investors and consumers across the Union. As a body with highly specialised expertise, it is efficient and appropriate to entrust the ESMA with the elaboration of draft regulatory technical and implementing standards, which do not involve policy choices. ESMA should ensure *proper* administrative and reporting processes when drafting technical standards. The Commission should be empowered to adopt regulatory technical standards by means of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>15</sup> in the following areas: the details of the different types of SFTs, the details of the application for registration of a trade repository, and the frequency and the details of publication of and access to trade repositories' data.

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<sup>15</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 L 331, 15.12.2010, p. 84).

Or. sl

**Amendment 114**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Recital 21**

*Text proposed by the Commission*

(21) The Commission should be empowered to adopt implementing

*Amendment*

(21) The Commission should be empowered to adopt implementing

technical standards developed by ESMA by means of implementing acts pursuant to Article 291 of the Treaty on the Functioning of the European Union and in accordance with the procedure set out in Article 15 of Regulation (EU) No 1095/2010 with regard to the format and frequency of the reports, , the format of the application for registration of a trade repository, as well as the procedures and forms for exchange of information on sanctions with ESMA.

technical standards developed by ESMA by means of implementing acts pursuant to Article 291 of the Treaty on the Functioning of the European Union and in accordance with the procedure set out in Article 15 of Regulation (EU) No 1095/2010 with regard to the format and frequency of the reports, , the format of the application for registration of a trade repository, as well as the procedures and forms for exchange of information on sanctions with ESMA. ***However, the format and frequency for reporting, which is to be developed by ESMA, should allow for the reporting of real time data to the public.***

Or. en

**Amendment 115**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Recital 22**

*Text proposed by the Commission*

(22) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of entities that should be excluded from the scope of this Regulation in order to avoid limiting their power to perform their tasks of common interest; specific details concerning ***definitions***; the type of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid by trade repositories, ***and of the amendment of the Annex in order to update information on SFT as well as other financing structures*** and information to investors. It is of particular importance that the Commission carries out appropriate consultations during its

*Amendment*

(22) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of entities that should be excluded from the scope of this Regulation in order to avoid limiting their power to perform their tasks of common interest; specific details concerning the type of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid by trade repositories, and information to investors. 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

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.

and appropriate transmission of relevant documents to the European Parliament and to the Council.

Or. en

**Amendment 116**  
**Burkhard Balz**

**Proposal for a regulation**  
**Recital 23 a (new)**

*Text proposed by the Commission*

*Amendment*

***(23a) In order to ensure an efficient regulatory framework for shadow banking, the progress on introducing and implementing coherent requirements on the international level remains vital. The Commission should regularly report to the European Parliament and Council on the G20 roadmap towards strengthened oversight and regulation of shadow banking and thereby also present a state of play of the measures taken by the European Union and by major third country jurisdictions.***

Or. en

**Amendment 117**  
**Kay Swinburne, Philippe De Backer**

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

*Text proposed by the Commission*

*Amendment*

This Regulation lays down rules on the transparency of securities financing transactions (SFTs), ***other financing***

This Regulation lays down rules on the transparency of securities financing transactions (SFTs) ***and reuse***.

*structures and rehypothecation.*

Or. en

**Amendment 118**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point d – introductory part**

*Text proposed by the Commission*

*Amendment*

*(d) a counterparty engaging in rehypothecation that is established:* *deleted*

Or. it

**Amendment 119**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point d – point 1**

*Text proposed by the Commission*

*Amendment*

*(1) in the Union, including all its branches irrespective of where they are located;* *deleted*

Or. it

**Amendment 120**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point d – point 2**

*Text proposed by the Commission*

*Amendment*

*(2) in a third country, in either of the following cases:* *deleted*

- i) the rehypothecation is effected in the course of the operations of an EU branch;*
- ii) the rehypothecation concerns financial instruments provided as collateral by a counterparty established in the Union or an EU branch of a counterparty established in a third country.*

Or. it

**Amendment 121**  
**Kay Swinburne, Philippe De Backer**

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

*Text proposed by the Commission*

*Amendment*

*(2) in a third country, in either of the following cases:* *deleted*

*(i.) the rehypothecation is effected in the course of the operations of an EU branch;*

*(ii.) the rehypothecation concerns financial instruments provided as collateral by a counterparty established in the Union or an EU branch of a counterparty established in a third country.*

Or. en

*Justification*

*The reach of this regulation should not be extra-territorial, therefore any effect on third country entities should be minimised*

**Amendment 122**  
**Danuta Maria Hübner, Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Article 2 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

2. This Regulation shall not apply to:

2. **Articles 4 and 15 of** this Regulation shall not apply to:

Or. en

**Amendment 123**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 2 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

2. This Regulation shall not apply to:

2. This Regulation shall, **with the exception of the transparency requirements laid down in Articles 4 and 14**, not apply to:

Or. it

**Amendment 124**

**Jonás Fernández**

**Proposal for a regulation**

**Article 2 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

a) the members of the ESCB and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt;

a) the members of the ESCB and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt, **including the European Central Bank, as well as the European Financial Stability Mechanism, the European Investment Bank and the European Fund for Strategic Investments**;

Or. es

**Amendment 125**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a regulation**

**Article 2 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the members of the ESCB and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt;

*Amendment*

(a) the members of the ESCB and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt, ***with the exception of the requirement to supply the data referred to in Article 16a;***

Or. en

*Justification*

*The ESCB need only report aggregate data for use in aggregate SFT reports made public by ESMA. This ensures that there is no publication of SFT in regard to central bank interactions with individual banks while still providing the widest possible overview of SFT use.*

**Amendment 126**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 2 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the members of the ESCB ***and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt;***

*Amendment*

(a) the members of the ESCB;

Or. it



**Amendment 127**  
**Burkhard Balz**

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

*Text proposed by the Commission*

*Amendment*

***(b a) securities financing transactions of counterparties that belong to the same group provided that those transactions are recorded in the group's own risk assessment and are part of the supervisory review process in relation to that group;***

Or. en

**Amendment 128**  
**Danuta Maria Hübner, Philippe De Backer, Kay Swinburne**

**Proposal for a regulation**  
**Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Article 4 of this Regulation shall not apply to transactions to which the bodies listed in points (a) and (b) of paragraph 2 are counterparty.***

Or. en

**Amendment 129**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 2 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to amend the list set out in paragraph 2 of this Article.***      ***deleted***

**Amendment 130**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 2 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to **amend** the list set out in paragraph 2 of this Article.

*Amendment*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to **expand** the list set out in paragraph 2 of this Article.

Or. it

**Amendment 131**  
**Eva Paunova**

**Proposal for a regulation**  
**Article 2 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to **amend** the list set out in paragraph 2 of this Article.

*Amendment*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to **add to** the list set out in paragraph 2 of this Article.

Or. bg

*Justification*

*The Commission should not have the option, via the delegated acts procedure, of excluding, Member States' central banks from the list of bodies to which the regulation shall not apply.*

**Amendment 132**  
**Eva Paunova**

**Proposal for a regulation**  
**Article 2 – paragraph 3 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***To that end, and before adopting such delegated acts, the Commission shall produce a report specifying the reasons for any addition to the list set out in paragraph 2 of this Article and analysing the potential effects of such a decision. It shall present this report to the European Parliament and the Council.***

Or. bg

**Amendment 133  
Danuta Maria Hübner**

**Proposal for a regulation  
Article 3 – paragraph 1 – point 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. "buy-sell back transaction" and "sell-buy back transaction" mean any transaction in which a counterparty buys or sells securities or commodities or guaranteed rights, agreeing respectively to sell or buy back securities or commodities or guaranteed rights of the same description at a specified price on a future date, that transaction being a buy-sell back transaction for the counterparty buying the securities or commodities or guaranteed rights and a sell-buy back transaction for the counterparty selling them. Buy-sell back transactions and sell-buy back transactions are not governed by a repurchase agreement or a reverse repurchase agreement as defined in point (82) of Article 4(1) of Regulation (EU) No 575/2013;***

Or. en

**Amendment 134**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 6 – indent 3**

*Text proposed by the Commission*

*Amendment*

*– any transaction having an equivalent economic effect and posing similar risks, in particular a buy-sell back or sell-back transaction;* **deleted**

Or. en

*Justification*

*This will have significant impact on the scope of the regulation and so should not be such open terminology.*

**Amendment 135**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 6 – indent 3**

*Text proposed by the Commission*

*Amendment*

*– any transaction having an equivalent economic effect and posing similar risks, in particular a buy-sell back or sell-back transaction;*

*– any transaction having an equivalent economic effect and posing similar risks, in particular a buy-sell back or sell-back transaction, **which shall be further defined by ESMA**;*

Or. en

*Justification*

*'any transaction...sell-back transaction' leaves too much room for interpretation, which is why ESMA should define it.*

**Amendment 136**  
**Ildikó Gáll-Pelcz**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 6 – indent 3**

*Text proposed by the Commission*

– any transaction having an equivalent economic effect and posing similar risks, in particular a buy-sell back or ***sell-back*** transaction;

*Amendment*

– any transaction having an equivalent economic effect and posing similar risks, in particular a buy-sell back or ***collateral swap*** transaction;

Or. en

**Amendment 137**  
**Danuta Maria Hübner, Kay Swinburne**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 6 – indent 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***- a margin lending transaction as defined in point (3) of Article 272 of Regulation (EU) No 575/2013. For the purposes of this Regulation, margin lending transactions are not limited to transactions governed by agreements between institutions as defined in Regulation (EU) No 575/2013 and their counterparties;***

Or. en

**Amendment 138**  
**Danuta Maria Hübner**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 6 – indent 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***- "total return swap" as defined in point (7) of Annex 1 to Regulation (EU) No 231/2013. For the purposes of this***

*regulation, total return swaps are not limited to transactions between counterparties as defined in Directive 2011/61/EU.*

Or. en

**Amendment 139**

**Kay Swinburne, Philippe De Backer, Danuta Maria Hübner**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 7**

*Text proposed by the Commission*

7. '*rehypothecation*' means the use by a receiving counterparty of financial instruments *received as collateral in its own name and for its own account or for the account of another counterparty*;

*Amendment*

7. '*reuse*' means the use by a receiving counterparty of financial instruments *delivered in one transaction as collateral*;

Or. en

*Justification*

*Building upon the rapporteur's amendment 25 in order to be slightly more precise*

**Amendment 140**

**Philippe De Backer, Danuta Maria Hübner, Kay Swinburne**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 7 a (new)**

*Text proposed by the Commission*

*Amendment*

*7a. Title Transfer Collateral Arrangement (TTCA) mean the transfer of collateral as defined in point (b) of Article 2(1) of Directive 2002/47/EC.*

Or. en

*Justification*

*This definition is linked to the exemption of Title Transfers (TTCA) under Art. 15.1*

**Amendment 141**

**Jonás Fernández**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 8**

*Text proposed by the Commission*

8. "financial instruments" means financial instruments as defined in section C of Annex I of Directive 2004/39/EC;

*Amendment*

8. "financial instruments" means financial instruments as defined in section C of Annex I of Directive 2004/39/EC, ***namely transferable securities, money-market instruments, units in collective investment undertakings, those listed in point (4), those listed in point (5), those listed in point (6), those listed in point (7), derivative instruments for the transfer of credit risk, financial contracts for differences, and those listed in point (10);***

Or. es

**Amendment 142**

**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 9**

*Text proposed by the Commission*

9. ***'other financing structures' means any instruments or measures that have effects equivalent to a SFT;***

*Amendment*

***deleted***

Or. en

**Amendment 143**

**Jonás Fernández**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 10**

*Text proposed by the Commission*

10. "commodity" means commodity as defined in point (1) of Article 2 of Commission Regulation (EC) No 1287/2006.

*Amendment*

10. "commodity" means commodity as defined in point (1) of Article 2 of Commission Regulation (EC) No 1287/2006, ***namely any goods of a fungible nature that are capable of being delivered, including metals and their ores and alloys, agricultural products, and energy such as electricity.***

Or. es

**Amendment 144**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***10a. 'haircut' means the margin applied by a collateral receiver that is subtracted from the market value of an asset used as collateral.***

Or. it

**Amendment 145**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***In order to reflect the evolution of market practices and technological developments, the Commission shall be empowered to adopt delegated acts in accordance with***

***deleted***



*Article 27 concerning measures to further specify the types of transactions which have an equivalent economic effect and pose similar risks to SFTs as set out in point (6).*

Or. en

**Amendment 146**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*In order to reflect the evolution of market practices and technological developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 27 concerning measures to further specify the types of transactions which have an equivalent economic effect and pose similar risks to SFTs as set out in point (6).*

*deleted*

Or. en

**Amendment 147**  
**Kay Swinburne, Philippe De Backer, Danuta Maria Hübner**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

1. Counterparties to SFTs shall report the details of such transactions to a trade repository registered in accordance with Article 5 or recognised in accordance with Article 19. The details shall be reported no later than the working day following the conclusion, modification or termination of the transaction.

1. Counterparties to SFTs shall report the details of such transactions *or positions* to a trade repository registered in accordance with Article 5 or recognised in accordance with Article 19. The details shall be reported no later than the *third* working day following the conclusion, modification or termination of the transaction *but as*

*soon as is practically possible.*

Or. en

*Justification*

*It makes sense to align the last possible time the trade report should be reported with that of T+2 in CSDR, however market participants should aim to report sooner wherever possible. In the case of margin lending and securities lending position data will be more useful than transaction data. Therefore ESMA should be able to allow for position reporting where appropriate*

**Amendment 148**  
**Burkhard Balz**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. Counterparties to SFTs shall report the details of such transactions to a trade repository registered in accordance with Article 5 or recognised in accordance with Article 19. The details shall be reported no later than the working day following the conclusion, modification or termination of the transaction.

*Amendment*

1. Counterparties to SFTs shall report the details of such transactions to a trade repository registered in accordance with Article 5 or recognised in accordance with Article 19. The details shall be reported no later than the working day following the conclusion, modification or termination of the transaction, ***or following the valuation of such transactions, in case the date of trade and valuation is different.***

Or. en

**Amendment 149**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. Counterparties to SFTs shall report the details of such transactions to a trade

*Amendment*

1. Counterparties to SFTs shall report the details of such transactions ***or positions*** to

repository registered in accordance with Article 5 or recognised in accordance with Article 19. The details shall be reported no later than the working day following the conclusion, modification or termination of the transaction.

a trade repository registered in accordance with Article 5 or recognised in accordance with Article 19. The details shall be reported no later than the *third* working day following the conclusion, modification or termination of the transaction *but as soon as is practically possible*.

Or. en

**Amendment 150**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

*(a) were concluded before the date referred to in the second subparagraph of Article 29 and remain outstanding on that date;*

*deleted*

Or. en

*Justification*

*Following the experience of EMIR, backloading caused significant legal uncertainty during the level 2 process. Retroactive application of this regulation to contracts that are already in existence is a negative precedent to set in this regulation.*

**Amendment 151**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*A counterparty which is subject to the reporting obligation may delegate the reporting of the details of SFTs.*

*deleted*

Or. it

**Amendment 152**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

**Proposal for a regulation**

**Article 4 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

A counterparty which is subject to the reporting obligation may delegate the reporting of the details of SFTs.

*Amendment*

A counterparty which is subject to the reporting obligation may delegate the reporting of the details of SFTs. ***All legal liability for reporting the transaction shall be passed to the delegated entity.***

Or. en

*Justification*

*In order to reduce administrative burden of double sided reporting as experienced in EMIR, particularly for non-financial counterparties, the ability to delegate responsibility for reporting should cover all legal liability to enforce the efficacy of this provision.*

**Amendment 153**

**Danuta Maria Hübner, Krišjānis Kariņš, Renato Soru**

**Proposal for a regulation**

**Article 4 – paragraph 1 – subparagraph 3a (new)**

*Text proposed by the Commission*

*Amendment*

***Where a financial counterparty concludes an SFT with a non-financial counterparty which on its balance sheet dates does not exceed the limits of at least two of the three criteria defined in Article 3(3) of Directive 2013/34/EU, the reporting obligations of both counterparties apply only to the financial counterparty.***

Or. en

*Justification*

*SMEs should be exempted from SFTs reporting requirements when engaging in a transaction with a financial counterparty. It should in this case be the obligation of the financial counterparty to report the transaction.*

**Amendment 154**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 4 – paragraph 2**

*Text proposed by the Commission*

2. Counterparties shall keep a record of any SFT that they have concluded, modified or terminated for at least ten years following the termination of the transaction.

*Amendment*

2. Counterparties shall keep a record of ***and make accessible to the competent authorities*** any SFT that they have concluded, modified or terminated for at least ten years following the termination of the transaction.

Or. it

**Amendment 155**

**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**

**Article 4 – paragraph 3**

*Text proposed by the Commission*

***3. Where a trade repository is not available to record the details of SFTs, counterparties shall ensure that those details are reported to European Securities and Markets Authority (ESMA).***

***In those cases, ESMA shall ensure that all the relevant entities referred to in Article 12(2) have access to all the details of SFTs they need to fulfil their respective responsibilities and mandates.***

*Amendment*

***deleted***

Or. en

*Justification*

*ESMA does not have an IT system capable of receiving transaction reports, therefore this paragraph sets an unrealistic expectation upon ESMA*

**Amendment 156**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 4 – paragraph 5**

*Text proposed by the Commission*

5. A counterparty that reports the details of a SFT to a trade repository or to ESMA, *or an entity that reports such details on behalf of a counterparty* shall not be considered in breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

*Amendment*

5. A counterparty that reports the details of a SFT to a trade repository or to ESMA shall not be considered in breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

Or. it

**Amendment 157**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 4 – paragraph 6 – subparagraph 1**

*Text proposed by the Commission*

*No liability resulting from that disclosure shall lie with the reporting entity or its directors or employees.*

*Amendment*

*deleted*

Or. it

**Amendment 158**

**Philippe De Backer**

## Proposal for a regulation

### Article 4 – paragraph 7 – subparagraph 1 – introductory part

#### *Text proposed by the Commission*

In order to ensure consistent application of this Article, ESMA, in close cooperation with the European System of Central Banks (ESCB) and taking into account its needs, shall develop draft regulatory technical standards specifying the details for the different types of SFTs that shall specify at least:

#### *Amendment*

In order to ensure consistent application of this Article, ESMA, in close cooperation with the European System of Central Banks (ESCB) and taking into account its needs, shall develop draft regulatory technical standards specifying the details for the different types of SFTs that shall specify ***the following, adapted to the type of SFT and taking into account the option of position-level reporting where all details provided for in point (b) are not necessary:***

Or. en

#### *Justification*

*Article 4 Transparency reporting should be appropriate.*

## Amendment 159

Marco Valli, Marco Zanni

## Proposal for a regulation

### Article 4 – paragraph 7 – subparagraph 1 – point b

#### *Text proposed by the Commission*

(b) the principal amount, currency, type, quality and value of collateral, the method used to provide collateral, ***where it is available for rehypothecation, if it has been rehypothecated,*** any substitution of the collateral, the repurchase rate or lending fee, counterparty, haircut, value date, maturity date and first callable date.

#### *Amendment*

(b) the principal amount, currency, type, quality and value of collateral, the method used to provide collateral, any substitution of the collateral, the repurchase rate or lending fee, counterparty, haircut, value date, maturity date and first callable date.

Or. it

**Amendment 160**

**Kay Swinburne, Philippe De Backer, Danuta Maria Hübner**

**Proposal for a regulation**

**Article 4 – paragraph 7 – subparagraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(b a) the date or dates from which the reporting obligation takes place using a phased implementation by types of counterparty;***

Or. en

*Justification*

*The reporting obligation under EMIR was implemented for all counterparties on the same day causing huge technological problems. It is therefore appropriate for ESMA to specify a phased in approach to the reporting obligation of SFTs by counterparty.*

**Amendment 161**

**Kay Swinburne, Philippe De Backer, Danuta Maria Hübner**

**Proposal for a regulation**

**Article 4 – paragraph 7 – subparagraph 1 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

***(b b) for which activities reporting of positions instead of transactions is appropriate.***

Or. en

**Amendment 162**

**Kay Swinburne**

**Proposal for a regulation**

**Article 4 – paragraph 8 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

8. In order to ensure uniform conditions of

8. In order to ensure uniform conditions of



application of paragraph 1, ESMA shall, in close cooperation with the ESCB and taking into account its needs, develop draft implementing technical standards specifying the format and frequency of the reports referred to in paragraphs 1 and 3 for the different types of SFTs;

application of paragraph 1, ESMA shall, in close cooperation with the ESCB and taking into account its needs, develop draft implementing technical standards specifying the format and frequency of the reports referred to in paragraphs 1 and 3 for the different types of SFTs; ***The format shall include global legal entity identifiers (LEIs) as required under Article 26 of Regulation No 648/2012, international securities identification numbers (ISINs), and a Unique Trade Identifier (UTI) for each transaction, where applicable.***

Or. en

*Justification*

*To be read alongside rapporteur's amendment 38. Pre-LEIs are no longer necessary as the global LEI is now standard and will be required for all counterparties after the implementation of MiFID.*

**Amendment 163**

**Philippe De Backer, Danuta Maria Hübner**

**Proposal for a regulation**

**Article 4 – paragraph 8 – subparagraph 1a (new)**

*Text proposed by the Commission*

*Amendment*

***These draft implementing technical standards shall also specify how reporting of duplicate transaction or position data can be avoided or managed. ESMA shall consider a number of approaches, including whether all counterparties to a transaction shall report to the trade repository.***

Or. en

*Justification*

*Article 4 Transparency Reporting: ESMA should consider how duplication can be avoided,*

*and whether dual reporting is necessary.*

**Amendment 164**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Article 4 – paragraph 8 – subparagraph 1**

*Text proposed by the Commission*

In order to ensure uniform conditions of application of paragraph 1, ESMA shall, in close cooperation with the ESCB and taking into account its needs, develop draft implementing technical standards specifying the format and frequency of the reports referred to in paragraphs 1 and 3 for the different types of SFTs;

*Amendment*

In order to ensure uniform conditions of application of paragraph 1, ESMA shall, in close cooperation with the ESCB and taking into account its needs, develop draft implementing technical standards specifying the format and frequency of the reports referred to in paragraphs 1 and 3 for the different types of SFTs; ***these formats shall allow for the reporting of real time data to the public.***

Or. en

**Amendment 165**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Article 5 – paragraph 4**

*Text proposed by the Commission*

4. A trade repository shall submit an application for registration to ESMA.

*Amendment*

4. A trade repository shall submit an application for registration to ESMA, ***or in the case of a trade repository already registered under Regulation No 648/2012 an application of extension of services.***

Or. en

*Justification*

*A trade repository that is already registered under EMIR should not have to submit to the whole registration process for a second time, but simply request an extension of services to*

*cover the extra requirements of this regulation.*

**Amendment 166**  
**Ildikó Gáll-Pelcz**

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

*Text proposed by the Commission*

5. ESMA shall assess whether the application is complete within 20 working days of receipt of the application. Where the application is not complete, ESMA shall set a deadline by which the trade repository is to provide additional information. After assessing an application as complete, ESMA shall notify the trade repository accordingly.

*Amendment*

5. ESMA shall assess whether the application is complete within 20 working days of receipt of the application. ***The technical standards may specify the procedures to be applied by trade repositories in order to verify the completeness and correctness of the details reported to them under Article 4(1), where ESMA considers such procedures necessary to ensure compliance with this Regulation.*** Where the application is not complete, ESMA shall set a deadline by which the trade repository is to provide additional information. After assessing an application as complete, ESMA shall notify the trade repository accordingly.

Or. en

**Amendment 167**  
**Jonás Fernández**

**Proposal for a regulation**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

(1) ESMA shall, within 40 working days from the notification referred to in Article 5(5), examine the application for registration based on the compliance of the trade repository with this Chapter and shall adopt a fully reasoned registration decision

*Amendment*

(1) ESMA shall, within 40 working days from the notification referred to in Article 5(5), examine the application for registration based on the compliance of the trade repository with this Chapter and shall adopt a fully reasoned registration decision

or a decision refusing registration.

or a decision refusing registration. ***That decision shall be published and shall be open to challenge before the corresponding specialist court, and failing that before the General Court within a maximum of 15 calendar days.***

Or. es

**Amendment 168**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 9 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***(2) The powers conferred on ESMA or any official of or other person authorised by ESMA by Articles 61 to 63 of Regulation (EU) No 648/2012 shall not be used to require the disclosure of information or documents which are subject to legal privilege.***

***deleted***

Or. it

**Amendment 169**  
**Jonás Fernández**

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

*Text proposed by the Commission*

*Amendment*

2. ESMA shall, without undue delay, notify the relevant competent authority referred to in Article 6(1) of a decision to withdraw the registration of a trade repository.

2. ESMA shall, without undue delay, notify the relevant competent authority referred to in Article 6(1) of a decision to withdraw the registration of a trade repository. ***That decision shall be open to challenge before the corresponding specialist court, and failing that before the General Court, within a maximum of 30 calendar days. The lodging of such an appeal shall not***

*have the effect of suspending the withdrawal.*

Or. es

**Amendment 170**  
**Marco Valli, Marco Zanni**

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

*Text proposed by the Commission*

1. A trade repository shall regularly, and in *an* easily accessible *way*, publish aggregate *positions by type of SFTs* reported to it.

*Amendment*

1. A trade repository shall regularly, and in *a way that is* easily accessible *for the public*, publish *both* aggregate *and granular information for all types of SFT* reported to it.

Or. it

**Amendment 171**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 12 – paragraph 2**

*Text proposed by the Commission*

2. A trade repository shall collect and maintain the details of SFTs and shall ensure that the entities referred to in Article 81(3) of Regulation (EU) No 648/2012, the European Banking authority (EBA) and the European Insurance Occupational Pensions Authority (EIOPA) have direct and immediate access to these details to enable them to fulfil their respective responsibilities and mandates.

*Amendment*

2. A trade repository shall collect and maintain the details of SFTs and shall ensure that the entities referred to in Article 81(3) of Regulation (EU) No 648/2012, the European Banking authority (EBA), *the European Central Bank (ECB)* and the European Insurance Occupational Pensions Authority (EIOPA) have direct and immediate access to these details to enable them to fulfil their respective responsibilities and mandates.

Or. it

**Amendment 172**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 12 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) operational standards required in order to aggregate and compare data across repositories;

*Amendment*

(b) operational standards required in order to aggregate and compare data across repositories *systematically*;

Or. en

**Amendment 173**  
**Ildikó Gáll-Pelcz**

**Proposal for a regulation**  
**Article 12 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) operational standards required in order to aggregate and compare data across repositories;

*Amendment*

(b) operational standards required in order to *compile*, aggregate and compare data across repositories *in a fully automatic way*;

Or. en

**Amendment 174**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a regulation**  
**Article 13 – title**

*Text proposed by the Commission*

*Investment fund's* transparency in periodical reports

*Amendment*

Transparency in periodical reports

Or. en

*Justification*

*Greens support Rapporteurs AMs 47-51 on broadening the scope of public disclosure of type and justification of SFT to include credit institutions and listed companies.*

**Amendment 175**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 13 – title**

*Text proposed by the Commission*

*Amendment*

*Investment fund's* transparency in  
periodical reports

Transparency in periodical reports

Or. it

**Amendment 176**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 13 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Management companies of UCITS,  
UCITS investment companies and AIFMs  
shall inform their investors on the use they  
make of SFTs *as well as of other*  
*financing structures*:

1. Management companies of UCITS,  
UCITS investment companies and AIFMs  
shall inform their investors on the use they  
make of SFTs:

Or. en

**Amendment 177**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a regulation**  
**Article 13 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Management companies of UCITS, UCITS investment companies and AIFMs shall inform their investors on ***the use they make of SFTs as well as of other financing structures:***

*Amendment*

1. Management companies of UCITS, UCITS investment companies and AIFMs shall inform their investors on ***their use of SFTs and their re-use of collateral in SFTs by disclosing all of the information listed in Section A of the Annex to this Regulation:***

Or. en

*Justification*

*Greens support Rapporteurs AMs 47-51 on broadening the scope of public disclosure of type and justification of SFT to include credit institutions and listed companies.*

**Amendment 178**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 13 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Management companies of UCITS, UCITS investment companies and AIFMs shall inform their investors on the use they make of SFTs ***as well as of other financing structures:***

*Amendment*

1. Management companies of UCITS, UCITS investment companies and AIFMs shall inform their investors on the use they make of SFTs:

Or. en

**Amendment 179**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a regulation**  
**Article 13 – paragraph 1 a (new)**



*Text proposed by the Commission*

*Amendment*

***1a. Credit institutions established in a Member State and authorised in accordance with Directive 2013/36/EC shall inform their shareholders bi-annually, where applicable as part of their half-yearly and annual corporate report, of their use of SFTs and their re-use of collateral in SFTs by disclosing all of the information listed in Section A of the Annex to this Regulation.***

Or. en

*Justification*

*Greens support Rapporteurs AMs 47-51 on broadening the scope of public disclosure of type and justification of SFT to include credit institutions and listed companies.*

**Amendment 180**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a regulation**

**Article 13 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. Undertakings admitted to trading on a regulated market or on a multilateral trading facility shall inform their shareholders bi-annually, where applicable as part of their half-yearly and annual corporate report, of their use of SFTs and their re-use of collateral in SFTs by disclosing all of the information listed in Section A of the Annex to this Regulation.***

Or. en

*Justification*

*Greens support Rapporteurs AMs 47-51 on broadening the scope of public disclosure of type and justification of SFT to include credit institutions and listed companies.*

**Amendment 181**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

**Proposal for a regulation**

**Article 13 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Financial and non-financial institutions referred to in Article 19a of Directive 2013/34/EU shall include in the report referred to in Directive 2014/95/EU a description of their use of SFTs and their reuse of collateral.***

Or. en

*Justification*

*It would be hugely burdensome for companies to have to use the same standards as asset managers to report on their SFT transactions. While this information may be of use to shareholders it should be considered as part of the companies reporting to shareholders and therefore make up part of the reports required in Directive 2013/34/EU on disclosure of non-financial and diversity information by certain large undertakings and groups.*

**Amendment 182**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 13 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Credit institutions and all institutions admitted to trading that are established in a Member State shall inform shareholders and the competent authorities of the use made of SFTs by publishing information on such transactions in half-yearly and***

*yearly reports.*

Or. it

**Amendment 183**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 13 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. All of the Member States' central banks and the European Central Bank (ECB) shall make information on the use made of SFTs accessible to all competent authorities.***

Or. it

**Amendment 184**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 13 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. The information on SFT as well as on other financing structures shall comprise at least the data provided for in Section A of the Annex.***

***2. ESMA shall develop draft regulatory technical standards specifying the details which are required to be disclosed under this Article by taking into account existing disclosure requirements and assessing the costs and benefits of requiring additional or new disclosures.***

Or. en

*Justification*

*ESMA should determine the details that need to be disclosed.*

**Amendment 185**  
**Danuta Maria Hübner, Krišjānis Kariņš**

**Proposal for a regulation**  
**Article 13 – paragraph 2 – subparagraph 1a (new)**

*Text proposed by the Commission*

*Amendment*

***The detailed information on SFTs is provided to ESMA and the national competent authorities. The aggregate data are also communicated to retail investors who invested in the related fund or sub-fund.***

Or. en

*Justification*

*In order to ensure the appropriate level of harmonisation, information on SFTs should be limited to the data provided for in section A of the Annex. The detailed information on SFTs is provided to ESMA and the national competent authorities. The aggregate data are also communicated to retail investors who invested in the related fund or sub-fund.*

**Amendment 186**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Article 13 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The information on SFT ***as well as on other financing structures shall*** comprise ***at least*** the data ***provided for*** in Section A of the Annex.

2. The information on SFT ***shall take account of existing requirements under Directive 2009/65/EC and Directive 2011/61/EC and*** comprise, ***where appropriate,*** the data ***referred to*** in Section A of the Annex

Or. en

**Amendment 187**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 13 – paragraph 3**

*Text proposed by the Commission*

**3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to amend Section A of the Annex in order to reflect the evolution of market practices and technological developments.**

*Amendment*

**3. ESMA shall develop draft regulatory technical standards specifying the details of Section A of the Annex as well as the circumstances under which they are applicable, taking into account administrative burden.**

**ESMA shall submit those draft regulatory technical standards to the Commission by ... \***

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

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**\* OJ: please insert a date: 12 months from the date of entry into force of this Regulation.**

Or. en

**Amendment 188**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a regulation**

**Article 13 – paragraph 3 – subparagraph 1a (new)**

*Text proposed by the Commission*

*Amendment*

**The Commission shall be empowered to adopt implementing acts to ensure uniformity in the disclosure of the information referred to in paragraphs 1, 1a and 1b.**

Or. en

*Justification*

*Greens support Rapporteurs AMs 47-51 on broadening the scope of public disclosure of type and justification of SFT to include credit institutions and listed companies.*

**Amendment 189**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 13 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to **amend** Section A of the Annex in order to reflect the evolution of market practices and technological developments.

*Amendment*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to **expand the list in** Section A of the Annex in order to reflect the evolution of market practices and technological developments.

Or. it

**Amendment 190**

**Philippe De Backer**

**Proposal for a regulation**

**Article 13 – paragraph 3**

*Text proposed by the Commission*

***3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to amend Section A of the Annex in order to reflect the evolution of market practices and technological developments.***

*Amendment*

***3. ESMA shall develop draft regulatory technical standards specifying the details of Section A of the Annex as well as the circumstances under which they are applicable, taking into account administrative burden.***

***ESMA shall submit those draft regulatory technical standards to the Commission by ... \*.***

***Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph, in accordance with articles 10 to 14 of***

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*\* OJ: please insert a date: 12 months from the date of entry into force of this Regulation.*

Or. en

**Amendment 191**  
**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**  
**Article 14 – paragraph 2**

*Text proposed by the Commission*

2. The prospectus and the disclosure to investors referred to in paragraph 1 shall ***comprise at least*** the data provided for in Section B of the Annex.

*Amendment*

2. The prospectus and the disclosure to investors referred to in paragraph 1 shall ***take account of the existing requirements under Directive 2009/65/EC and Directive 2011/61/EU and comprise, where appropriate,*** the data provided for in Section B of the Annex.

Or. en

**Amendment 192**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 14 – paragraph 3**

*Text proposed by the Commission*

3. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 27 amending Section B of the Annex in order to reflect the evolution of market practices and technological developments.***

*Amendment*

3. ***ESMA shall develop draft regulatory technical standards specifying the details of Section B of the Annex as well as the circumstances under which they are applicable, taking into account administrative burden.***

***ESMA shall submit those draft regulatory technical standards to the Commission by***

... \*.

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

---

*\* OJ: please insert a date: 12 months from the date of entry into force of this Regulation.*

Or. en

**Amendment 193**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 14 – paragraph 3**

*Text proposed by the Commission*

*3. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 amending Section B of the Annex in order to reflect the evolution of market practices and technological developments.*

*Amendment*

*3. ESMA shall develop draft regulatory technical standards specifying the details of Section B of the Annex as well as the circumstances under which they are applicable taking into account administrative burden.*

*ESMA shall submit those draft regulatory technical standards to the Commission by ... \* [*

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

---

*\* OJ: please insert a date: 12 months from the date of entry into force of this Regulation.*

Or. en



**Amendment 194**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a regulation**

**Chapter 5 – title**

*Text proposed by the Commission*

Transparency of rehypothecation

*Amendment*

Transparency of rehypothecation  
**and minimum standards for collateral  
management**

Or. en

**Amendment 195**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Chapter 5 – title**

*Text proposed by the Commission*

**Transparency** of rehypothecation

*Amendment*

**Prohibition** of rehypothecation

Or. it

**Amendment 196**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 15 – title**

*Text proposed by the Commission*

Rehypothecation of financial instruments  
**received as** collateral

*Amendment*

**Prohibition of** rehypothecation of financial  
instruments **with** collateral

Or. it

**Amendment 197**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Counterparties ***shall have the right to rehypothecation where at least all the following conditions are fulfilled:***

*Amendment*

1. Counterparties ***may not, under any circumstances, rehypothecate financial instruments or liquidity received as collateral.***

Or. it

**Amendment 198**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point a**

*Text proposed by the Commission*

***(a) the providing counterparty has been duly informed in writing by the receiving counterparty of the risks that may be involved in granting consent as referred to in point (b) in particular the potential risks in the event of the default of the receiving counterparty;***

*Amendment*

***deleted***

Or. it

**Amendment 199**  
**Fulvio Martusciello**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) the providing counterparty has been duly informed in writing by the receiving counterparty of the ***risks*** that may be involved in granting consent as referred to in point (b) in particular the potential risks

*Amendment*

(a) the providing counterparty has been duly informed in writing by the receiving counterparty of the ***legal consequences*** that may be involved in granting consent as referred to in point (b) in particular the

in the event of the default of the receiving counterparty;

potential risks in the event of the default of the receiving counterparty;

Or. en

**Amendment 200**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) the providing counterparty has granted its prior express consent as evidenced by the signature of the providing counterparty to a written agreement or an equivalent alternative mechanism.*

*deleted*

Or. it

**Amendment 201**  
**Miguel Viegas**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the providing counterparty has granted its prior express consent as evidenced by the signature of the providing counterparty to a written agreement or an equivalent alternative mechanism.

(b) the providing counterparty has granted its prior express consent as evidenced by the signature of the providing counterparty to a written agreement or an equivalent alternative mechanism ***explicitly setting out the forms of reuse of the financial instrument to be transferred.***

Or. pt

**Amendment 202**  
**Tibor Szanyi**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point b**

*Text proposed by the Commission*

b) the providing counterparty has granted its prior express consent as evidenced by the signature of the providing counterparty to a written agreement or an *equivalent alternative mechanism*.

*Amendment*

b) the providing counterparty has granted its prior express consent as evidenced by the signature of the providing counterparty to a written agreement or an *authentic instrument in accordance with national law*.

Or. hu

**Amendment 203**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Article 15 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(b a) the financial instrument is not subject to another collateral re-use transaction.*

Or. en

**Amendment 204**  
**Philippe De Backer, Danuta Maria Hübner, Kay Swinburne**

**Proposal for a regulation**  
**Article 15 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. The conditions set out in paragraphs 1 and 2 shall not apply where the providing counterparty is providing collateral under a TTCA.*

Or. en

*Justification*

*With TTCA the legal ownership is transferred, therefore these should be exempted from obtaining approval from the C/P.*

**Amendment 205**  
**Fulvio Martusciello**

**Proposal for a regulation**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. Counterparties shall exercise their right to rehypothecation where at least all the following conditions are fulfilled:** *deleted*

**(a) rehypothecation is undertaken in accordance with the terms specified in the written agreement referred to in point (b) of paragraph 1;**

**(b) the financial instruments received as collateral are transferred to an account opened in the name of the receiving counterparty.**

Or. en

**Amendment 206**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. Counterparties shall exercise their right to rehypothecation where at least all the following conditions are fulfilled:** *deleted*

**(a) rehypothecation is undertaken in accordance with the terms specified in the written agreement referred to in point (b) of paragraph 1;**

*(b) the financial instruments received as collateral are transferred to an account opened in the name of the receiving counterparty.*

Or. it

**Amendment 207**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

*3. This Article is without prejudice to stricter sectoral legislation, in particular to Directive 2011/61/EU and 2009/65/EC.*

*deleted*

Or. it

**Amendment 208**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Article 15 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*3a. Credit institutions which engage in non-centrally cleared SFTs with other counterparties that are not credit institutions against collateral other than government securities shall apply the FSB-recommendation of 6 percent as a minimum to the collateral received.*

Or. en

**Amendment 209**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a regulation  
Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 15a**

***Minimum Standards for Collateral  
Haircuts***

***1. Counterparties shall implement methodologies for the calculation of collateral haircuts on an individual asset basis or on a consolidated portfolio basis, depending on the nature of their trading activities.***

***2. In order to ensure the consistent application of paragraph 1, ESMA, in close cooperation with the European System of Central Banks (ESCB) and taking into account international regulatory developments, shall develop draft regulatory technical standards specifying the methodologies to be used by counterparties to determine:***

***(a) the appropriate calculation method (individual asset basis or on a consolidated portfolio basis), depending on the type of counterparty and of its trading activities;***

***(b) the appropriate degree of variation of haircuts to prevent procyclicality;***

***(c) the minimum time period for historical data to take as reference in calculating haircuts;***

***(d) the liquidation risk when liquidating large concentrated positions;***

***(e) the "wrong-way" risk when the exposure to a single counterparty and the probability of default of the issuer of the collateral are positively correlated;***

***(f) portfolio margin requirements and stress testing of these requirements.***

***3. Credit institutions which engage in non-centrally cleared SFTs with other***

*counterparties that are not credit institutions against collateral other than government securities shall apply minimum numerical haircuts to the collateral received or collect minimum excess margin amounts consistent with the minimum numerical haircuts.*

*4. Institutions other than credit institutions which engage in SFTs with other counterparties that are not credit institutions shall apply minimum numerical haircuts to the collateral received.*

*5. In order to ensure the consistent application of paragraphs 3 and 4, ESMA, in close cooperation with the ESCB and EBA and taking into account international regulatory developments and the need for an harmonised international approach, shall develop draft regulatory technical standards specifying:*

*(a) the haircut levels for corporate and other issuers and for securitised products, depending on the residual maturity of the collateral;*

*(b) the conditions for exempting cash-collateralised securities lending from the haircut levels;*

*(c) the conditions for exempting "collateral upgrade" transactions from the haircut levels;*

*(d) the approach of a competent authority in a Member State to implement these haircut levels, whether at product level or at entity level;*

*(e) the liquidation risk when liquidating large concentrated positions;*

*(f) the "wrong-way" risk when the exposure to a single counterparty and the probability of default of the issuer of the collateral are positively correlated;*

*(g) portfolio margin requirements and*



*stress testing of these requirements.*

*6. The technical standards referred to in paragraphs 2 and 5 shall take into account the technical specificities of different counterparties and portfolios. They shall ensure compliance with the most recent internationally agreed standards.*

*ESMA shall submit those draft regulatory technical standards to the Commission by ...\*.*

*Power is delegated to the Commission to adopt the regulatory technical standards referred to in Article 15(3b) and (3e) of this Regulation in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.*

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*\* OJ: please insert a date: 6 months from the date of entry into force of this Regulation.*

Or. en

#### *Justification*

*Greens support the Rapporteur in requiring the application of minimum collateral haircut methodological and numerical standards (this AM simply gathers those changes in a new article).*

**Amendment 210**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 15a*

*Valuation haircuts*

*Bodies subject to this Regulation that make non-centrally cleared FSTs with*

*other counterparties against financial instruments as collateral shall apply haircuts which comply with the qualitative and quantitative standards set out in Articles 15b and 15c of this Regulation.*

Or. it

**Amendment 211**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a regulation**  
**Article 15 b (new)**

*Text proposed by the Commission*

*Amendment*

*Article 15b*

*Collateral Stress Tests*

*1. A counterparty shall subject its collateral management for SFTs to rigorous and frequent stress tests to assess its ability to meet foreseeable and unexpected calls for the return of cash collateral on an ongoing basis and in extreme but plausible market conditions and shall perform back tests to assess the reliability of the methodology adopted.*

*These stress tests shall include an assessment of the lender's ability to liquidate part or the entire reinvestment portfolio under a range of stressed market scenarios, including interest rate changes, higher cash collateral recalls from securities borrowers, higher redemptions by investors in the funds being lent, and changes in the credit quality of the portfolio.*

*Counterparties shall obtain independent validation of such stress tests, shall inform their competent authority and ESMA of the results of the tests performed and shall obtain their validation before adopting any significant*

*change to the models and parameters.*

***2. Counterparties shall publicly disclose key information on their collateral risk-management model and assumptions adopted to perform the stress tests referred to in paragraph 1.***

***3. In order to ensure consistent application of this Article, ESMA shall, after consulting EBA, other relevant competent authorities and the members of the ESCB, develop draft regulatory technical standards specifying:***

***(a) the type of tests to be undertaken for different classes of financial instruments and portfolios;***

***(b) the frequency of the tests;***

***(c) the time horizons of the tests;***

***(d) the key information referred to in paragraph 2.***

***ESMA shall submit those draft regulatory technical standards to the Commission by ...\*.***

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

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***\* OJ: please insert a date: 6 months from the date of entry into force of this Regulation.***

Or. en

#### *Justification*

*In addition to minimum standards on haircuts, users of SFT need to have a minimum set of tools examine how their collateral management would work under stress (as recommended by the FSB).*

**Amendment 212**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 b (new)**

*Text proposed by the Commission*

*Amendment*

***Article 15b***

***Qualitative standards for the calculation method for haircuts***

***Counterparties shall follow methodologies for calculating haircuts on an individual asset basis or on a consolidated portfolio basis, depending on the nature of their trading activities.***

***ESMA, in close cooperation with the European System of Central Banks (ESCB) and in accordance with the regulatory framework developed by the FSB, shall develop draft regulatory technical standards specifying the methodologies that counterparties must use when establishing the calculation method.***

***The calculation method must be based on at least the following variables:***

- a) the individual assets and/or consolidated portfolio, depending on the nature of their trading activities;***
- b) the market risk of the financial instruments used as collateral;***
- c) the maximum expected loss of value of the financial instruments put forward as collateral;***
- d) the long-term historical series price level of the assets, covering at least one period of stress;***
- e) the liquidity and volatility risk of the financial instruments put forward as collateral;***
- f) the market characteristics for the securities put forward as collateral, such***

- as trading volumes and market depth;*
- g) the correlation risk between the securities in the financing transaction and those put forward as collateral;*
- h) the results of robust stress tests on haircuts, taken over time and in hypothetical terms;*
- i) any other risks considered relevant.*

*The calculation method must seek to minimise procyclicality.*

*ESMA shall submit those draft regulatory technical standards to the Commission by ...\*.*

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

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*\* OJ: please insert the date: 12 months after the date of entry into force of this Regulation.*

Or. it

**Amendment 213**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 15 c (new)**

*Text proposed by the Commission*

*Amendment*

*Article 15c*

*Quantitative standards for minimum haircuts*

*Credit institutions which make non-centrally cleared FSTs with other counterparties, be these credit institutions or not, against financial instruments, including government securities, as collateral, shall apply minimum numerical haircuts of at least 6% of the*

*collateral received.*

*Institutions other than credit institutions which engage in SFTs with other counterparties, be these credit institutions or not, against collateral, shall apply minimum numerical haircuts of at least 6% of the collateral received.*

*The competent authorities may require that haircuts of a higher percentage than the minimum indicated be applied.*

Or. it

**Amendment 214**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a regulation**

**Article 16 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 16a*

*Aggregate Reporting of SFT*

*1. ESMA shall produce an annual report on aggregate SFT volumes by type of counterparty and transaction based on data reported in accordance with and aggregate data supplied by the entities referred to in Article 2 (2)(a).*

*2. Aggregated repo data to be reported shall include: range of repo rates, size of market activity, currency breakdown of market activity (both cash and collateral), tenor composition of market activity (total or by collateral asset class), collateral composition by asset class and by quality, haircut ranges (total or by collateral asset class), market concentration metrics, and market segment (e.g. bilateral, centrally-cleared or tri-party).*

*3. Aggregated securities lending data to be reported may include: range of lending*

*rates, volume and value of securities on loan, breakdown of activity by currency, tenor, collateral quality, collateral and/or counterparty type and beneficial owner type as well as the type of security lent and the asset type and maturity in which cash collateral is reinvested.*

*4. ESMA shall, by ... \* define the format in which the entities referred to in Article 2 (2)(a) shall supply the data referred to in paragraph 1.*

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*\* OJ: please insert date: 6 months from the date of entry into force of this Regulation.*

Or. en

#### *Justification*

*The FSB recommends aggregate public reporting of SFTs covering the items in paras 2 and 3 of this amendment. This data should be complemented by aggregate data from the ESCB to give the fullest possible picture.*

#### **Amendment 215**

**Danuta Maria Hübner, Philippe De Backer, Kay Swinburne, Krišjānis Kariņš**

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

**Article 17 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. The members of the ESCB shall cooperate closely and exchange information with the relevant competent authorities referred to in Article 12(2).*

*To that end, members of the ESCB, upon request of competent authorities, shall, on a confidential basis, grant access to the details of SFTs necessary in order to ensure that those authorities can fulfil their respective responsibilities and mandates in accordance with Article 16.*

***The members of the ESCB and the competent authorities shall take any necessary administrative and organisational measures to facilitate the exchange of information provided by this paragraph.***

Or. en

*Justification*

*The aim is to ensure that information on SFTs involving central banks is reported in a manner which does not put monetary policy secrecy at risk. This involves the central bank providing information on the transactions they are involved in to the competent authority, upon the request of the latter, without a specific time constraint. This makes it possible for the information to be disclosed ex-post, within a timeframe which does not endanger monetary policy concerns.*

**Amendment 216**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 18 – paragraph 1**

*Text proposed by the Commission*

1. The obligation of professional secrecy shall apply to all persons who work or have worked for the entities referred to in Article 12(2) and the competent authorities referred to in Article 16, for ESMA, EBA and EIOPA or for auditors and experts instructed by the competent authorities or ESMA, EBA and EIOPA. No confidential information that those persons receive in the course of their duties shall be divulged to any person **or authority**, except in summary or aggregate form such that an individual counterparty, trade repository or any other person cannot be identified, without prejudice to cases covered by criminal or tax law or to this Regulation.

*Amendment*

1. The obligation of professional secrecy shall apply to all persons who work or have worked for the entities referred to in Article 12(2) and the competent authorities referred to in Article 16, for ESMA, EBA and EIOPA or for auditors and experts instructed by the competent authorities or ESMA, EBA and EIOPA. No confidential information that those persons receive in the course of their duties shall be divulged to any person, except in summary or aggregate form such that an individual counterparty, trade repository or any other person cannot be identified, without prejudice to cases covered by criminal or tax law or to this Regulation.

Or. it



**Amendment 217**  
**Jonás Fernández**

**Proposal for a regulation**  
**Article 20 – paragraph 2**

*Text proposed by the Commission*

2. The administrative sanctions and measures taken for the purpose of paragraph 1 shall be effective, proportionate and dissuasive.

*Amendment*

2. The administrative sanctions and measures taken for the purpose of paragraph 1 shall be effective, proportionate and dissuasive, ***and the loss avoided or profit gained as a consequence of the infringement shall be taken into account when calculating the sanction.***

Or. es

**Amendment 218**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 20 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

Competent authorities may also cooperate with competent authorities of other Member States with respect to the exercise of their sanctioning powers.

*Amendment*

Competent authorities may also cooperate with competent authorities of other Member States ***or of third countries*** with respect to the exercise of their sanctioning powers.

Or. it

**Amendment 219**  
**Jonás Fernández**

**Proposal for a regulation**  
**Article 20 – paragraph 4 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

b) the disgorgement of the profits gained or losses avoided due to the breach ***in so far as they can be determined***;

b) the disgorgement of the profits gained or losses avoided due to the breach, ***in accordance with the estimate made by the competent authority***;

Or. es

**Amendment 220**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 20 – paragraph 4 – subparagraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) ***a temporary or, for serious or repeated breaches***, a permanent ban against any person discharging managerial responsibilities or any natural person who is deemed responsible, from exercising management functions;

(e) a permanent ban against any person discharging managerial responsibilities or any natural person who is deemed responsible, from exercising management functions;

Or. it

**Amendment 221**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 20 – paragraph 4 – subparagraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

(f) ***a temporary ban or, for serious or repeated breaches***, a permanent ban against any person discharging managerial responsibilities or any natural person who is deemed responsible, from dealing on own account;

(f) a permanent ban against any person discharging managerial responsibilities or any natural person who is deemed responsible, from dealing on own account;

Or. it

**Amendment 222**  
**Jonás Fernández**

**Proposal for a regulation**  
**Article 20 – paragraph 4 – subparagraph 1 – point g**

*Text proposed by the Commission*

g) maximum administrative pecuniary sanctions of at least three times the amount of the profits gained or losses avoided because of the breach *where those can be determined*;

*Amendment*

g) maximum administrative pecuniary sanctions of at least three times the amount of the profits gained or losses avoided because of the breach, *in accordance with the estimate made by the competent authority*;

Or. es

**Amendment 223**  
**Miguel Viegas**

**Proposal for a regulation**  
**Article 20 – paragraph 4 – subparagraph 1 – point g**

*Text proposed by the Commission*

(g) maximum administrative pecuniary sanctions of at least *three* times the amount of the profits gained or losses avoided because of the breach where those can be determined;

*Amendment*

(g) maximum administrative pecuniary sanctions of at least *ten* times the amount of the profits gained or losses avoided because of the breach where those can be determined;

Or. pt

**Amendment 224**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 20 – paragraph 4 – subparagraph 1 – point g**

*Text proposed by the Commission*

(g) maximum administrative pecuniary sanctions of at least *three* times the amount

*Amendment*

(g) maximum administrative pecuniary sanctions of at least *five* times the amount

of the profits gained or losses avoided because of the breach where those can be determined;

of the profits gained or losses avoided because of the breach where those can be determined;

Or. it

#### **Amendment 225**

**Marco Valli, Marco Zanni**

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

#### **Article 20 – paragraph 4 – subparagraph 1 – point h**

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

(h) in respect of a natural person, a maximum administrative pecuniary sanctions of at least EUR **5 000 000** or in the Member States whose currency is not the euro, the corresponding value in the national currency on the date of entry to force of this Regulation;

##### *Amendment*

(h) in respect of a natural person, a maximum administrative pecuniary sanctions of at least EUR **15 000 000** or in the Member States whose currency is not the euro, the corresponding value in the national currency on the date of entry to force of this Regulation;

Or. it

#### **Amendment 226**

**Miguel Viegas**

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

#### **Article 20 – paragraph 4 – subparagraph 1 – point i**

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

(i) in respect of legal persons, maximum administrative pecuniary sanctions of at least 10% of the total annual turnover of the legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts according to Directive 2013/34/EU<sup>16</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding

##### *Amendment*

(i) in respect of legal persons, maximum administrative pecuniary sanctions of at least 10% of the total annual turnover of the legal person according to the last available accounts approved by the management body **or, alternatively, at least EUR 5 000 000 if the above amount is lower than this figure**; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts according to Directive

type of income according to the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

2013/34/EU<sup>16</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income according to the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

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<sup>16</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

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<sup>16</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Or. pt

#### **Amendment 227**

**Marco Valli, Marco Zanni**

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

#### **Article 20 – paragraph 4 – subparagraph 1 – point i**

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

(i) in respect of legal persons, maximum administrative pecuniary sanctions of at least **10%** of the total annual turnover of the legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts according to Directive 2013/34/EU<sup>16</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income according to the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate

##### *Amendment*

(i) in respect of legal persons, maximum administrative pecuniary sanctions of at least **15%** of the total annual turnover of the legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts according to Directive 2013/34/EU<sup>16</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income according to the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate

parent undertaking.

parent undertaking.

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<sup>16</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC OJ L 182, 29.6.2013, p. 19.

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<sup>16</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC OJ L 182, 29.6.2013, p. 19.

Or. it

**Amendment 228**  
**Renato Soru**

**Proposal for a regulation**  
**Article 20 – paragraph 4 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***The powers conferred on competent authorities as set out in this paragraph are without prejudice to the exclusive competence of the ECB, pursuant to Article 4(1)(a) of Council Regulation (EU) No 1024/2013, to withdraw authorisations of credit institutions for prudential supervisory purposes.***

Or. en

**Amendment 229**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 20 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. A breach of the rules laid down **by**

5. A breach of the rules laid down **in**

Article 4 shall not affect the validity of the terms of a SFT or the possibility of the parties to enforce the terms of a SFT. A breach of the rules defined under Article 4 shall **not** give rise to compensation rights from a party to a SFT.

Article 4 shall not affect the validity of the terms of a SFT or the possibility of the parties to enforce the terms of a SFT. A breach of the rules defined under Article 4 shall give rise to compensation rights from a party to a SFT.

Or. it

**Amendment 230**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 20 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. A breach of the rules laid down in Article 15 shall render the rehypothecation invalid and give rise to compensation rights from a party to a SFT.***

Or. it

**Amendment 231**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 21 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) the financial strength of the person responsible for the breach, by considering factors such as the total turnover of a legal person or the annual income in the case of a natural person;***

***deleted***

Or. it

**Amendment 232**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 21 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

*(e) the level of cooperation of the person responsible for the breach with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;* *deleted*

Or. it

**Amendment 233**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 21 – paragraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

*(f) previous breaches by the person responsible for the breach;* *deleted*

Or. it

**Amendment 234**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 21 – paragraph 1 – point g**

*Text proposed by the Commission*

*Amendment*

*(g) measures taken by the person responsible for the breach to prevent its repetition.* *deleted*

Or. it



**Amendment 235**  
**Rina Ronja Kari**

**Proposal for a regulation**  
**Article 22 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. Member States may provide for financial incentives to persons who offer relevant information about potential breaches of this Regulation to be granted in accordance with national law where such persons do not have other pre-existing legal or contractual duties to report such information, and provided that the information is new, and it results in the imposition of an administrative sanction or other measure for a breach of this Regulation or a criminal sanction.***

***deleted***

Or. en

**Amendment 236**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 23 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Competent authorities shall provide ESMA ***annually*** with aggregated information regarding all administrative measures, sanctions and fines imposed by them in accordance with Article 20. ESMA shall publish that information in ***an annual*** report.

1. Competent authorities shall provide ESMA ***every six months*** with aggregated ***and granular*** information regarding all administrative measures, sanctions and fines imposed by them in accordance with Article 20. ESMA shall publish that information in ***a half-yearly*** report.

Or. it

**Amendment 237**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 23 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States have chosen to lay down criminal sanctions for the breaches of the provisions referred to in that Article 20, their competent authorities shall provide ESMA annually with ***anonymised and*** aggregated data regarding all criminal investigations undertaken and criminal sanctions imposed. ESMA shall publish data on criminal sanctions imposed in an annual report. Where the competent authority has disclosed administrative sanctions, fines and other measures, as well as criminal sanctions to the public, it shall simultaneously notify ESMA thereof.

*Amendment*

2. Where Member States have chosen to lay down criminal sanctions for the breaches of the provisions referred to in that Article 20, their competent authorities shall provide ESMA annually with aggregated ***and granular*** data regarding all criminal investigations undertaken and criminal sanctions imposed. ESMA shall publish data on criminal sanctions imposed in an annual report. Where the competent authority has disclosed administrative sanctions, fines and other measures, as well as criminal sanctions to the public, it shall simultaneously notify ESMA thereof.

Or. it

**Amendment 238**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 24 – paragraph 1**

*Text proposed by the Commission*

1. ***Subject to the third subparagraph*** competent authorities shall publish any decision imposing an administrative sanction or other measure in relation to a breach of Articles 4 and 15 on their website immediately after the person subject to that decision has been informed of that decision.

*Amendment*

1. Competent authorities shall publish any decision imposing an administrative sanction or other measure in relation to a breach of Articles 4 and 15 on their website immediately after the person subject to that decision has been informed of that decision.

Or. it

**Amendment 239**  
**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 24 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

Where a competent authority considers, following a case-by-case assessment, that the publication of the identity of the legal person subject to the decision, or the personal data of a natural person, **would be disproportionate, or where such publication** would jeopardise an ongoing investigation **or the stability of the financial markets**, it shall do one of the following:

*Amendment*

Where a competent authority considers, following a case-by-case assessment, that the publication of the identity of the legal person subject to the decision or **of** the personal data of a natural person would jeopardise an ongoing investigation, it shall do one of the following:

Or. it

**Amendment 240**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**

**Article 24 – paragraph 2 – subparagraph 3 – point c**

*Text proposed by the Commission*

**(c) not publish the decision in the event that the competent authority is of the opinion that publication in accordance with point (a) or (b) will be insufficient to ensure:**

**i) that the stability of financial markets is not jeopardised; o**

**ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.**

*Amendment*

**deleted**

Or. it

**Amendment 241**

**Marco Valli, Marco Zanni**

**Proposal for a regulation**  
**Article 26 – paragraph 1**

*Text proposed by the Commission*

**Three years after the entry into force**, the Commission shall, after consulting ESMA, report on the effectiveness and efficiency of this Regulation to the European Parliament and to the Council and, if appropriate, submit a revised proposal.

*Amendment*

**By the end of 2017**, the Commission shall, after consulting ESMA, report on the effectiveness and efficiency of this Regulation to the European Parliament and to the Council and, if appropriate, submit a revised proposal.

Or. it

**Amendment 242**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a regulation**  
**Article 26 – paragraph 1a (new)**

*Text proposed by the Commission*

*Amendment*

**1a. Two years after the entry into force of this Regulation, the Commission shall, after consulting ESMA, report on the feasibility and potential benefits and costs in terms of systemic stability of :**

**(a) an harmonised regime for insolvency with regard to SFT and, in particular, repo transactions to facilitate insolvency or resolution proceedings;**

**(b) a specific framework for the resolution of failed SFT counterparties, with an emphasis on repo transactions, including the possibility of a "repo resolution authority", to ensure the orderly resolution of SFT portfolios and prevent procyclical firesales of collateral.**

Or. en

*Justification*

*This amendment requires a review of the feasibility of two interesting stability-enhancing*

*tools suggested by FSA (but deemed by that body to require more investigation)*

**Amendment 243**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

**Proposal for a regulation**

**Article 26 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Within eighteen months of the entry into force of this regulation, ESMA and the EBA shall provide a report to the Commission on the final conclusions of the Financial Stability Board's work on a regulatory framework for haircuts on collateral posted in non-centrally cleared SFTs.*

*In full consideration of this report, the Commission shall submit a full impact assessment of the FSB proposals and consider whether new legislative proposals to implement its recommendations are necessary.*

Or. en

*Justification*

*If the FSB's work on haircuts on collateral is only applied to transactions involving financial to non-financial counterparties it may distort the market and cause more risk to be generated as activity is forced towards transactions between non-financial counterparties. It is therefore appropriate to consider haircuts on collateral only once the FSB has finished all of its work in this area.*

**Amendment 244**

**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**

**Article 26 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***On an annual basis, the Commission shall prepare a report on the application of Article 11 and fully account for all fees that have been charged to trade repositories to ensure that they are solely used to cover the necessary expenditure of this regulation and that of Regulation (EU) No 648/2012.***

Or. en

*Justification*

*When applying fees to industry for supervisory purposes there must be full transparency over the way in which these fees are used.*

**Amendment 245**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 27 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The delegation of power referred to in Articles **2(3)**, 3, 11(2), **13(3) and 14(3)** shall be conferred on the Commission for an indeterminate period of time from the date referred to in Article 28.

2. The delegation of power referred to in Articles 3 **and** 11(2) shall be conferred on the Commission for an indeterminate period of time from the date referred to in Article 28.

Or. en

*Justification*

*Art 2 is deleted, 13 and 14 are technical standards to be submitted by ESMA, not the Commission.*

**Amendment 246**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 27 – paragraph 3**

*Text proposed by the Commission*

3. The delegation of power referred to in Articles **2(3)**, 3, 4, 11(2), **13(3) and 14(3)** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

*Amendment*

3. The delegation of power referred to in Articles 3, 4 **and** 11(2) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

*Justification*

*Art 2 is deleted, 13 and 14 are technical standards to be submitted by ESMA, not the Commission.*

**Amendment 247**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 27 – paragraph 5**

*Text proposed by the Commission*

5. A delegated act adopted pursuant to Articles **2(3)**, 3, 4, 11(2), **13(3) and 14(3)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **2** 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 2 months at the initiative of

*Amendment*

5. A delegated act adopted pursuant to Articles 3, 4 **and** 11(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **3** 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 2 months at the initiative of

the European Parliament or the Council.

the European Parliament or the Council.

Or. en

*Justification*

*Art 2 is deleted, 13 and 14 are technical standards to be submitted by ESMA, not the Commission.*

**Amendment 248**

**Kay Swinburne, Danuta Maria Hübner, Philippe De Backer**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) Article 4(1), which shall apply 18 months after the date of entry into force; and

*Amendment*

(a) Article 4(1), which shall apply 18 months after the date of entry into force *via the phased-in approach developed in the delegated act adopted under Article 4(7)*; and

Or. en

*Justification*

*When the reporting obligation for derivatives was introduced in EMIR for all counterparties on one day it caused huge technological problems. A phased in approach by counterparty to the reporting requirement under SFTR will help mitigate this problem.*

**Amendment 249**

**Kay Swinburne, Philippe De Backer**

**Proposal for a regulation**

**Article 28 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) Article 4(1), which shall apply 18 months after the date of *entry into force*; and

*Amendment*

(a) Article 4(1), which shall apply 18 months after the date of *adoption by the Commission of the regulatory technical standards referred to in Article 4 via the*



*phased in approach developed in the  
delegated act adopted under Article 4(7);  
and*

Or. en

**Amendment 250**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 28 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) Articles 13 and 14, which shall apply **6** months after the date of *entry into force*.

*Amendment*

(b) Articles 13 and 14, which shall apply **18** months after the date of *adoption by the Commission of the draft regulatory technical standards referred to in those articles*.

Or. en

*Justification*

*New IT systems and prospectuses will need to be developed as a result of this regulation, therefore a longer implementation time is necessary.*

**Amendment 251**  
**Philippe De Backer**

**Proposal for a regulation**  
**Article 28 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) Articles 13 and 14, which shall apply **6** months after the date of entry into force.

*Amendment*

(b) Articles 13 and 14, which shall apply **18** months after the date of entry into force.

Or. en