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*Committee on Economic and Monetary Affairs*

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**2009/0142(COD)**

15.4.2010

# **AMENDMENTS**

## **412 - 530**

### **Art 9-15**

**Draft report**

**José Manuel García-Margallo y Marfil**  
(PE438.408v01-00)

on the proposal for a regulation of the European Parliament and of the Council  
establishing a European Banking Authority

Proposal for a regulation  
(COM(2009)0501 – C7-0169/2009 – 2009/0142(COD))

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**EN**

*United in diversity*

**EN**



**Amendment 412**  
**Antolín Sánchez Presedo**

**Proposal for a regulation**  
**Article 9 – paragraph 1**

*Text proposed by the Commission*

1. Where a competent authority has not **correctly** applied the legislation referred to in Article 1(2), in particular by failing to ensure that a financial institution satisfies the requirements laid down in that legislation, the Authority shall have the powers set out in paragraphs 2, 3 and 6 of this Article.

*Amendment*

1. Where a competent authority has not **applied or has** applied the **legally binding Acts and** legislation referred to in Article 1(2) **in a way which appears to be a breach of European Union law**, in particular by failing to ensure that a financial institution satisfies the requirements laid down in that legislation, the Authority shall have the powers set out in paragraphs 2, 3 and 6 of this Article.

Or. en

**Amendment 413**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 9 – paragraph 1**

*Text proposed by the Commission*

**Consistent application of Community rules**

1. Where a competent authority has not correctly applied the legislation referred to in Article 1(2), in particular by failing to ensure that a financial institution satisfies the requirements laid down in that legislation, the Authority shall have the powers set out in paragraphs 2, 3 and 6 of this Article.

*Amendment*

**Breach of European Union law**

Where a competent authority has not correctly applied the legislation referred to in Article 1(2) **in a way which appears to be a breach of European Union law**, in particular by failing to ensure that a financial institution satisfies the requirements laid down in that legislation, the Authority shall have the powers set out in paragraphs 2, 3 and 6 of this Article.

Or. en

**Amendment 414**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 1**

*Text proposed by the Commission*

1. Where a competent authority has not correctly applied the legislation referred to in Article 1(2), in particular by failing to ensure that a financial institution satisfies the requirements laid down in that legislation, the Authority shall have the powers set out in paragraphs 2, 3 and 6 of this Article.

*Amendment*

1. Where a competent authority has not correctly applied the legislation referred to in Article 1(2), ***including the technical standards adopted in accordance with Article 7***, in particular by failing to ensure that a financial institution satisfies the requirements laid down in that legislation, the Authority shall have the powers set out in paragraphs 2, 3 and 6 of this Article.

Or. en

*Justification*

In order to ensure a consistent application of the technical standards, the Authority should be empowered to investigate on any potential breach of their application.

**Amendment 415**  
**Antolín Sánchez Presedo**

**Proposal for a regulation**  
**Article 9 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Upon request from one or more competent authorities, from the Commission or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged ***incorrect*** application of ***Community*** law.

*Amendment*

2. Upon request from one or more competent authorities, from the Commission ***the European Parliament, the Council, the Banking Stakeholder Group*** or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged ***breach or non-application*** of ***European Union*** law.

Or. en

**Amendment 416**  
**Othmar Karas**

**Proposal for a regulation**  
**Article 9 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Upon request from one or more competent authorities, from the Commission or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged incorrect application of **Community** law.

*Amendment*

2. Upon request from one or more competent authorities, from the Commission, **from the European Parliament, the Council, or the Banking Stakeholder Group** or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged incorrect application of **EU law**.

Or. en

*Justification*

*The market players can easily check how the EU regulation had been implemented in the Member States so the Banking Stakeholder Group should have the right to put a request regarding the application of law. To preserve the institutional balance, it should be possible to launch investigations also upon the request of the European Parliament or the Council.*

**Amendment 417**  
**José Manuel García-Margallo y Marfil, Burkhard Balz, Sylvie Goulard, Sven Giegold, Ramon Tremosa i Balcells, Íñigo Méndez de Vigo, Pablo Zalba Bidegain**

**Proposal for a regulation**  
**Article 9 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Upon request from one or more competent authorities, from the Commission or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged incorrect application of **Community** law.

*Amendment*

2. Upon request from one or more competent authorities, from the Commission, **from the European Parliament, the Council or the Banking Stakeholder Group**, or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged incorrect application of **Union** law.

*Justification*

*Correcting an error in the initial text.*

**Amendment 418**

**Thomas Mann**

**Proposal for a regulation**

**Article 9 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Upon request from one or more competent authorities, from the Commission or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged incorrect application of **Community** law.

*Amendment*

2. Upon request from one or more competent authorities, from the Commission, **from the European Parliament, the Council** or on its own initiative and after having informed the competent authority concerned, the Authority may investigate the alleged incorrect application of **Union** law.

**Amendment 419**

**Vicky Ford**

**Proposal for a regulation**

**Article 9 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. Where the competent authority has not complied with Community law within **one month** from receipt of the Authority's recommendation, the Commission may, after having been informed by the Authority or on its own initiative, **take a decision** requiring the competent authority to take the action necessary to comply with **Community** law.

*Amendment*

4. Where the competent authority has not complied with Community law within **twenty working days** from receipt of the Authority's recommendation, the Commission may, after having been informed by the Authority or on its own initiative, **issue a formal opinion** requiring the competent authority to take the action necessary to comply with **European Union** law. **The Commission's formal opinion**

*shall take into account the Authority's recommendation.*

Or. en

#### **Amendment 420**

**Alfredo Pallone, Herbert Dorfmann**

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

#### **Article 9 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. Where the competent authority has not complied with **Community** law within **one month** from receipt of the Authority's recommendation, the **Commission may, after having been informed by the Authority or on its own initiative**, take a decision **requiring the competent authority to take the action necessary to comply with Community law**.

*Amendment*

4. Where the competent authority has not complied with **European Union** law within **ten working days** from receipt of the Authority's recommendation, the **Authority shall** take a decision **setting the correct application of the legislation put under investigation by the Authority**.

Or. en

*Justification*

*In order to ensure a level playing field and contribute to provide legal certainty to the implementation of the supervisory single EU rulebook, the Authority should be put in the position of fixing any potential breaches of European Union law. The proposed amendments would moreover avoid any unnecessary intervention of the Commission since they leave untouched the procedure set out in the paragraphs 1, 2 and 3 which let national authorities unwind the infringement by complying with the EBA's recommendation within one month.*

#### **Amendment 421**

**Gianni Pittella, Leonardo Domenici**

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

#### **Article 9 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. Where the competent authority has not complied with Community law within **one month** from receipt of the Authority's

*Amendment*

4. Where the competent authority has not complied with Community law within **ten working days** from receipt of the

recommendation, the **Commission** may, **after having been informed by the Authority or on its own initiative**, take a decision **requiring the competent authority to take the action necessary to comply with Community law**.

Authority's recommendation, the **Authority** shall take a decision **setting the correct application of the legislation put under investigation by the Authority**.

Or. en

#### *Justification*

*In order to ensure a level playing field and contribute to provide legal certainty to the implementation of the supervisory single EU rulebook, the Authority should be put in the position of fixing any potential breaches of European Union law. The proposed amendments would moreover avoid any unnecessary intervention of the Commission since they leave untouched the procedure set out in the paragraphs 1, 2 and 3 which let national authorities unwind the infringement by complying with the EBA's recommendation within one month.*

#### **Amendment 422** **Marta Andreasen**

#### **Proposal for a regulation** **Article 9 – paragraph 4 – subparagraph 1**

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

4. Where the competent authority has not complied with Community law within one month from receipt of the Authority's recommendation, the **Commission** may, **after having been informed by the Authority or on its own initiative**, take a decision requiring the competent authority to take the action necessary to comply with Community law.

##### *Amendment*

4. Where the competent authority has not complied with Community law within one month from receipt of the Authority's recommendation, the **Authority** may take a decision requiring the competent authority to take the action necessary to comply with Community law.

Or. en

#### *Justification*

*The Supervisory Authority should communicate directly with the competent national authority in its area of competence.*

**Amendment 423**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

The **Commission** shall take such a decision no later than **three months** from the adoption of the recommendation. **The Commission may extend this period by one month.**

*Amendment*

The **Authority** shall take such a decision no later than **one month** from the adoption of the recommendation.

Or. en

*Justification*

*In order to ensure a level playing field and contribute to provide legal certainty to the implementation of the supervisory single EU rulebook, the Authority should be put in the position of fixing any potential breaches of European Union law. The proposed amendments would moreover avoid any unnecessary intervention of the Commission since they leave untouched the procedure set out in the paragraphs 1, 2 and 3 which let national authorities unwind the infringement by complying with the EBA's recommendation within one month.*

**Amendment 424**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 9 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

The Commission shall take such a **decision** no later than **three months** from the adoption of the recommendation. The Commission may extend this period by one month.

*Amendment*

The Commission shall issue such a **formal opinion** no later than **one month** from the adoption of the recommendation. The Commission may extend this period by one month.

Or. en

**Amendment 425**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 4 – subparagraph 3**

*Text proposed by the Commission*

The **Commission** shall ensure that the right to be heard of the addressees of the decision is respected.

*Amendment*

The **Authority** shall ensure that the right to be heard of the addressees of the decision is respected.

Or. en

*Justification*

*In order to ensure a level playing field and contribute to provide legal certainty to the implementation of the supervisory single EU rulebook, the Authority should be put in the position of fixing any potential breaches of European Union law. The proposed amendments would moreover avoid any unnecessary intervention of the Commission since they leave untouched the procedure set out in the paragraphs 1, 2 and 3 which let national authorities unwind the infringement by complying with the EBA's recommendation within one month.*

**Amendment 426**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 4 – subparagraph 4**

*Text proposed by the Commission*

The **Authority and the** competent authorities shall provide the **Commission** with all necessary information.

*Amendment*

The competent authorities shall provide the **Authority** with all necessary information.

Or. en

*Justification*

*In order to ensure a level playing field and contribute to provide legal certainty to the implementation of the supervisory single EU rulebook, the Authority should be put in the position of fixing any potential breaches of European Union law. The proposed amendments would moreover avoid any unnecessary intervention of the Commission since they leave untouched the procedure set out in the paragraphs 1, 2 and 3 which let national authorities unwind the infringement by complying with the EBA's recommendation within one month.*

**Amendment 427**

**Thomas Mann**

**Proposal for a regulation**

**Article 9 – paragraph 4 – subparagraph 4**

*Text proposed by the Commission*

The **Authority and the** competent authorities shall provide the **Commission** with all necessary information.

*Amendment*

The competent authorities shall provide the **Authority** with all necessary information **in order to prevent moral hazard problems**.

Or. en

**Amendment 428**

**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**

**Article 9 – paragraph 5**

*Text proposed by the Commission*

5. The competent authority shall, within ten working days of receipt of the decision referred to in paragraph 4, inform the Commission and the Authority of the steps it has taken or intends to take to implement the **Commission's** decision.

*Amendment*

5. The competent authority shall, within ten working days of receipt of the decision referred to in paragraph 4, inform the Commission and the Authority of the steps it has taken or intends to take to implement the **Authority's** decision.

Or. en

*Justification*

*In order to ensure a level playing field and contribute to provide legal certainty to the implementation of the supervisory single EU rulebook, the Authority should be put in the position of fixing any potential breaches of European Union law.*

**Amendment 429**  
**Olle Schmidt**

**Proposal for a regulation**  
**Article 9 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.**

**The decision of the Authority shall be in conformity with the decision adopted by the Commission pursuant to paragraph 4.**

*deleted*

Or. en

*Justification*

*I do not believe it is appropriate for the ESAs to adopt directly binding decisions on individual financial institutions. Given that the national competent authority is responsible for day to day supervision of financial institutions, it is legally preferable for the ESA to compel the national authority to amend market practices following a ruling in a dispute over the application of European Union law.*

**Amendment 430**  
**Sari Essayah**

**Proposal for a regulation**  
**Article 9 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.**

*deleted*

***The decision of the Authority shall be in conformity with the decision adopted by the Commission pursuant to paragraph 4.***

Or. en

**Amendment 431**  
**Diogo Feio**

**Proposal for a regulation**  
**Article 9 – paragraph 6 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

**6. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does**

**6. Without prejudice to the powers of the Commission under Article 226 of the**

not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by *the* competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

Treaty, where the decision referred to in paragraph 4 of this Article within the period of time specified therein has not been not complied with, *where such non-compliance significantly affects the financial system of Member States other than that of the relevant competent authority*, and where it is necessary to remedy in a timely manner the non compliance by *that* competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

Or. en

## **Amendment 432**

**Alfredo Pallone, Herbert Dorfmann**

### **Proposal for a regulation**

#### **Article 9 – paragraph 6 – subparagraph 1**

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

6. Without prejudice to the powers of the Commission under Article **226** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority *may, where the*

##### *Amendment*

6. Without prejudice to the powers of the Commission under Article **258** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority *shall, pursuant to* the legislation referred to in

*relevant requirements of* the legislation referred to in Article 1(2) *are directly applicable to financial institutions*, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

Article 1(2), adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

Or. en

### *Justification*

*The power to adopt individual decisions directly applicable to the financial institutions in case of breach of the European Union law, jointly with EBA's own capacity to investigate the alleged breach or non application of the European Union law, will ensure the correct application of the EU laws and technical standards across the EU jurisdictions promoting the level playing field.*

### **Amendment 433**

**Gianni Pittella, Leonardo Domenici**

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

#### **Article 9 – paragraph 6 – subparagraph 1**

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

6. Without prejudice to the powers of the Commission under Article **226** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority *may, where the relevant requirements of* the legislation referred to in Article 1(2) *are directly applicable to financial institutions*, adopt an individual decision addressed to a financial institution requiring the necessary

##### *Amendment*

6. Without prejudice to the powers of the Commission under Article **258** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority *shall, pursuant to* the legislation referred to in Article 1(2), adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

action to comply with its obligations under Community law including the cessation of any practice.

Or. en

### *Justification*

*The power to adopt individual decisions directly applicable to the financial institutions in case of breach of the European Union law, jointly with EBA's own capacity to investigate the alleged breach or non application of the European Union law, will ensure the correct application of the EU laws and technical standards across the EU jurisdictions promoting the level playing field. For the sake of the level playing field in the EU single market, the scope of the individual decisions directly applicable to the financial institutions in case of breach of the European Union law should not be restricted.*

### **Amendment 434**

**Antolín Sánchez Presedo**

### **Proposal for a regulation**

### **Article 9 – paragraph 6 – subparagraph 1**

#### *Text proposed by the Commission*

6. Without prejudice to the powers of the Commission under Article **226** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance **by the competent authority** in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

#### *Amendment*

6. Without prejudice to the powers of the Commission under **Article 258** of the Treaty **on the Functioning of the European Union**, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under **European Union** law including the cessation of any practice.

**Amendment 435**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 9 – paragraph 6 – subparagraph 1**

*Text proposed by the Commission*

6. Without prejudice to the powers of the Commission under Article **226** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

*Amendment*

6. Without prejudice to the powers of the Commission under Article **258** of the Treaty, where a competent authority does not comply with the decision referred to in paragraph 4 of this Article within the period of time specified therein, and where it is necessary to remedy in a timely manner the non compliance by the competent authority in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

*Justification*

*The caveat "where the relevant requirements of the legislation referred to in Article 1 (2) are directly applicable" must be maintained in the text for legal reasons.*

**Amendment 436**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 6 – subparagraph 2**

*Text proposed by the Commission*

The decision of the Authority shall be in conformity with the decision adopted **by the Commission** pursuant to paragraph 4.

*Amendment*

The decision of the Authority shall be in conformity with the decision adopted pursuant to paragraph 4.

Or. en

*Justification*

*The power to adopt individual decisions directly applicable to the financial institutions in case of breach of the European Union law, jointly with EBA's own capacity to investigate the alleged breach or non application of the European Union law, will ensure the correct application of the EU laws and technical standards across the EU jurisdictions promoting the level playing field. For the sake of the level playing field in the EU single market, the scope of the individual decisions directly applicable to the financial institutions in case of breach of the European Union law should not be restricted.*

**Amendment 437**  
**Udo Bullmann**

**Proposal for a regulation**  
**Article 9 – paragraph 6 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***Any legal or judiciary expenses entailed by the procedure described above should be borne by the Commission, on behalf of the Authority.***

Or. en

**Amendment 438**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 7 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Decisions adopted under paragraph 6 are applicable, if the case be, to all relevant financial institutions which are active in the non-complying jurisdiction.***

Or. en

*Justification*

*To ensure a level playing field, in cases where the Authority adopt an individual decision addressed to a financial institution, such decision should also apply to all other market participants, domestic and cross-border, that operate in the Member State concerned. The comply-or-explain principle should apply to actions taken by the competent authority to follow up on the Authority's decisions and not simply be "compatible" with those decisions.*

**Amendment 439**  
**Alfredo Pallone, Herbert Dorfmann**

**Proposal for a regulation**  
**Article 9 – paragraph 7 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Decisions adopted under paragraph 6 are applicable, if the case be, to all relevant financial institutions which are active in the non-complying jurisdiction.***

Or. en

*Justification*

*To ensure a level playing field, in cases where the Authority adopt an individual decision addressed to a financial institution, such decision should also apply to all other market participants, domestic and cross-border, that operate in the Member State concerned. The comply-or-explain principle should apply to actions taken by the competent authority to follow up on the Authority's decisions and not simply be "compatible" with those decisions.*

**Amendment 440**  
**Peter Skinner**

**Proposal for a regulation**  
**Article 9 – paragraph 7 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Decisions adopted under paragraph 6 shall apply to all relevant financial institutions which are active in the non-compliant jurisdiction.***

Or. en

*Justification*

*To ensure a level playing field in cases where the Authority adopts an individual decision addressed to a financial institution in relation to the consistent application of rules, such a decision should also apply to all other market participants, domestic and cross-border, that operate in the Member State concerned.*

**Amendment 441**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 9 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***Any action by the competent authorities in relation to facts*** which are subject to a decision pursuant to paragraph 4 or 6 ***shall be compatible with those decisions.***

***When taking action in relation to issues*** which are subject to a decision pursuant to paragraph 4 or 6 ***competent authorities shall comply with such decision.***

Or. en

*Justification*

*To ensure a level playing field, in cases where the Authority adopt an individual decision addressed to a financial institution, such decision should also apply to all other market participants, domestic and cross-border, that operate in the Member State concerned. The comply-or-explain principle should apply to actions taken by the competent authority to*

*follow up on the Authority's decisions and not simply be "compatible" with those decisions.*

**Amendment 442**

**Alfredo Pallone, Herbert Dorfmann**

**Proposal for a regulation**

**Article 9 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

*Any action by the competent authorities in relation to facts* which are subject to a decision pursuant to paragraph 4 or 6 **shall be compatible with those decisions.**

*Amendment*

**When taking action in relation to issues** which are subject to a decision pursuant to paragraph 4 or 6 **competent authorities shall comply with such decision.**

Or. en

*Justification*

*To ensure a level playing field, in cases where the Authority adopt an individual decision addressed to a financial institution, such decision should also apply to all other market participants, domestic and cross-border, that operate in the Member State concerned. The comply-or-explain principle should apply to actions taken by the competent authority to follow up on the Authority's decisions and not simply be "compatible" with those decisions.*

**Amendment 443**

**Antolín Sánchez Presedo**

**Proposal for a regulation**

**Article 9 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**7a. In its annual report, the Authority shall set out which national authorities and financial institutions have not complied with the decisions referred to in paragraphs 4 and 6.**

Or. en

**Amendment 444**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 9 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***7a. In its annual report, the Authority may set out which national authorities and financial institutions have not complied with the decisions referred to in paragraphs 4 and 6.***

Or. en

*Justification*

*There may be instances where the Authority feels it is inappropriate to disclose which authorities and institutions have not complied with its decisions. In any case, this should be left to the Authority's discretion.*

**Amendment 445**  
**Sari Essayah**

**Proposal for a regulation**  
**Article 10**

*Text proposed by the Commission*

*Amendment*

***Action in emergency situations***

***Deletion***

***1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the Commission, upon its own initiative or following a request by the Authority, the Council, or the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation***

***2. Where the Commission has adopted a decision pursuant to paragraph 1, the***

*Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.*

*3. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, the Authority may, where the relevant requirements laid down in the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice.*

*4. Decisions adopted under paragraph 3 shall prevail over any previous decision adopted by the competent authorities on the same matter.*

*Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be compatible with those decisions.*

Or. en

**Amendment 446**  
**Olle Schmidt**

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

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in **the Community, the Commission, upon its own initiative or following a request by the Authority, the Council, or the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.**

*Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of the of financial markets or the stability of the whole or part of the financial system in the **European Union, the Authority shall actively facilitate and, where deemed necessary, coordinate any actions undertaken by the relevant national competent supervisory authorities.**

Or. en

*Justification*

*I do not believe it is appropriate for the European Commission to declare an emergency situation. Given the implications to Member States, it should be the Council to decide on a state of emergency taking into account the ESRB which should be in charge of systemic risk.*

**Amendment 447**  
**Carl Haglund**

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

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in **the Community, the Commission, upon its own initiative or following a request by the Authority, the Council, or the ESRB, may adopt a decision addressed to the Authority,**

*Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in **the European Union, the Council, in consultation with the ESRB and, where appropriate, the European Supervisory Authorities, may adopt a decision addressed to the**

determining the existence of an emergency situation for the purposes of this regulation.

Authority, determining the existence of an emergency situation for the purposes of this regulation, ***following a request by the Authority or the ESRB. The decision shall be reviewed by the Council at appropriate intervals and it shall declare the discontinuation of the emergency situation as soon as appropriate.***

Or. en

## **Amendment 448**

**Diogo Feio**

### **Proposal for a regulation**

#### **Article 10 – paragraph 1**

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

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the Commission, ***upon its own initiative or following a request by the Authority***, the Council, or the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

##### *Amendment*

1 In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the Council, ***following appropriate consultations with the Commission, the ESRB, and where appropriate, the European Supervisory Authorities***, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

Or. en

##### *Justification*

*The Council is the best placed to judge an emergency, particularly as it is then delegating its powers to the ESAs. The Council's actions in the recent crisis demonstrate that this can be done efficiently and quickly where necessary.*

## Amendment 449

Vicky Ford

### Proposal for a regulation

#### Article 10 – paragraph 1

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, **the Commission**, upon its own initiative or following a request by the Authority, **the Council**, or the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

*Amendment*

4. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, **the Council**, upon its own initiative or following a request by the Authority or the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

Or. en

*Justification*

*The Council is the best placed to judge an emergency, particularly as it is then delegating its powers to the ESAs. The Council's actions in the recent crisis demonstrate that this can be done efficiently and quickly where necessary.*

## Amendment 450

Gianni Pittella, Leonardo Domenici

### Proposal for a regulation

#### Article 10 – paragraph 1

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, **the Commission**, upon its own initiative or following a request by the Authority, the Council, or the **ESRB**, may **adopt a decision addressed to the Authority, determining** the existence of an emergency

*Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the **ESRB**, upon its own initiative or following a request by the Authority, the Council, **the European Parliament**, or the **Commission**, may **issue a warning declaring** the existence of an emergency

situation *for the purposes of this regulation*.

situation. *This warning will enable the Authority without further requirements to adopt the individual decisions referred to in paragraph 3.*

Or. en

#### *Justification*

*The ESRB is very well placed to identify potential emergency situations since it is a technical body established to monitor and assess potential threats to financial stability. An integrated European market for financial services requires coordinated actions by competent national authorities to address emergency situations. The Authority has a role to play to facilitate cooperation and information exchange between the relevant competent national authorities and foster efficient coordination of national actions. Article 10 should clearly provide for such tasks to the Authority.*

#### **Amendment 451**

**Antolín Sánchez Presedo**

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

#### **Article 10 – paragraph 1**

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

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the **Community**, the **Commission**, upon its own initiative or following a request by the Authority, **the Council, or the ESRB**, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

##### *Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the **European Union**, the **ESRB** upon its own initiative or following a request by the Authority, **the European Parliament or a Member State** may issue a warning declaring the existence of an emergency situation for the purposes of this regulation.

Or. en

**Amendment 452**  
**Marta Andreasen**

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

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the Commission, upon its own initiative or following a request by the Authority, the Council, or the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

*Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation ***in order*** for the ***Authority to act without further requirements or delay.***

Or. en

*Justification*

*ESRB must be able to make a decision quickly in the case of emergency and communicate directly to the Supervisory Authority.*

**Amendment 453**  
**Marta Andreasen**

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

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, ***the Commission, upon its own initiative or following a request by the Authority, the Council, or*** the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency

*Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

situation for the purposes of this regulation.

Or. en

*Justification*

*ESRB should be free to act promptly in the case of an emergency.*

**Amendment 454**

**Udo Bullmann**

**Proposal for a regulation**

**Article 10 – paragraph 1**

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the Commission, upon its own initiative or following a request *by the Authority*, the Council, or the ESRB, may adopt a decision *addressed to the Authority*, determining the existence of an emergency situation for the purposes of this regulation.

*Amendment*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community, the Commission *or the Chair of the Authority*, upon its own initiative or following a request by the Council, the ESRB, *the European Parliament or the Stakeholder group* may adopt a decision determining the existence of an emergency situation for the purposes of this regulation.

Or. en

**Amendment 455**

**Peter Skinner**

**Proposal for a regulation**

**Article 10 – paragraph 1**

*Text proposed by the Commission*

1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Community,

*Amendment*

1 In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, the

the Commission, *upon its own initiative or following a request by the Authority, the Council, or* the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

Commission, following a *recommendation from* the ESRB, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

Or. en

#### *Justification*

*The ESRB is the most appropriate body to declare an emergency. However, since the assessment of whether an emergency exists or not requires a large degree of discretion, under Treaty law it is necessary that the Commission be the legal entity to take the final decision, and that it is given a degree of discretion over if that decision is made. Under Treaty law it is also necessary that the Authority be empowered via a decision from the Commission in order to gain the additional powers granted to it in the remainder of Article 10.*

#### **Amendment 456** **Carl Haglund**

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

*Text proposed by the Commission*

*Amendment*

*In case of developments of this kind, the Authority shall act as a facilitator and, where deemed necessary, as a coordinator of any actions by the relevant national competent supervisory authorities.*

Or. en

#### **Amendment 457** **Olle Schmidt**

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

*Text proposed by the Commission*

*Amendment*

*In order to be able to perform this facilitating and coordinating role, the*

***Authority shall be fully informed of any relevant developments, and shall be invited to participate as an observer in any relevant gathering by the relevant national competent supervisory authorities.***

Or. en

*Justification*

*I do not believe it is appropriate for the European Commission to declare an emergency situation. Given the implications to Member States, it should be the Council to decide on a state of emergency taking into account the ESRB which should be in charge of systemic risk.*

**Amendment 458**

**Olle Schmidt**

**Proposal for a regulation**

**Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Council, in consultation with the Commission and the ESRB and, where appropriate, the European Supervisory Authorities, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this Regulation, following a request by the Authority, the Commission or the ESRB. The Council shall review this decision at appropriate intervals and at least once a month and declare the discontinuation of the emergency situation, as soon as appropriate.***

Or. en

*Justification*

*I do not believe it is appropriate for the European Commission to declare an emergency situation. Given the implications to Member States, it should be the Council to decide on a state of emergency taking into account the ESRB which should be in charge of systemic risk.*

**Amendment 459**

**Vicky Ford**

**Proposal for a regulation**

**Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. As soon as it issues a warning the Council shall notify it simultaneously to the European Parliament, the ESRB, the Commission and the European Supervisory Authority.***

Or. en

**Amendment 460**

**Diogo Feio**

**Proposal for a regulation**

**Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. As soon as it issues a warning the Council shall notify it simultaneously to the European Parliament, the ESRB, the Commission and the European Supervisory Authority.***

Or. en

**Amendment 461**

**Peter Skinner**

**Proposal for a regulation**

**Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The conclusion drawn by the ESRB shall be subject to an exchange of views ex-post between the ESRB Chairman, the***

***European Parliament and the competent Commissioner and shall be effective as soon as possible.***

Or. en

*Justification*

*It is necessary for the ESRB and Commission to explain why they thought it necessary to declare an emergency to the Parliament in order to bring democratic oversight into the process.*

**Amendment 462**  
**Olle Schmidt**

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

*Text proposed by the Commission*

2. Where the **Commission** has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any **risks that** may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where the **Council** has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address **any such developments** that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system **in the European Union**, by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

*Justification*

*I do not believe it is appropriate for the European Commission decide on this.*

**Amendment 463**  
**Carl Haglund**

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

*Text proposed by the Commission*

2. Where the **Commission** has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any **risks that** may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where the **Council** has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address **any such developments** that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system **in the European Union**, by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

**Amendment 464**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

2. Where **the Commission has adopted a decision** pursuant to paragraph 1, the Authority may adopt individual decisions **requiring competent authorities to take the necessary action** in accordance with the legislation referred to in Article 1(2) to address any **risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system** by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where the **ESRB** has **issued a warning** pursuant to paragraph 1, **or when the Commission or the Council, upon its own initiative or following a request by the Authority, the European Parliament or a Member State, adopts a decision determining the existence of similar or justified circumstances where co-ordinated action by national authorities is necessary to respond to adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the**

*financial system in the European Union;* the Authority may adopt, *without further requirements*, individual decisions in accordance with the legislation referred to in Article 1(2) *to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system* by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

**Amendment 465**  
**Gianni Pittella, Leonardo Domenici**

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

*Text proposed by the Commission*

2. Where *the Commission has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that* may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where *the ESRB takes the view that coordinated action by national authorities is necessary to respond to adverse developments which* may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system, *the Authority shall adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any such developments* by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

*Justification*

*The creation of the EU single market of financial services imposes coordinated action to face potential emergency situations, since the crisis in one Member State could rapidly spread*

*across the borders. Therefore, it is necessary to clarify that the possibility for the Authority to make decisions directly applicable to competent national authorities falls within the Authority's role as facilitator and coordinator of national actions.*

## **Amendment 466**

**Alfredo Pallone, Herbert Dorfmann**

### **Proposal for a regulation**

#### **Article 10 – paragraph 2**

*Text proposed by the Commission*

2. Where *the Commission has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that* may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where *the ESRB takes the view that co-ordinated action by national authorities is necessary to respond to adverse development which* may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system, *the Authorities shall adopt individual decisions requiring competent authorities to take the necessary actions in accordance with the legislation referred to in article 1(2) to address any such developments* by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

#### *Justification*

*The creation of the EU single market of financial services imposes coordinated action to face potential emergency situations, since the crisis in one Member State could rapidly spread across the borders. Therefore, it is necessary to clarify that the possibility for the Authority to make decisions directly applicable to competent national authorities falls within the Authority's role as facilitator and coordinator of national actions.*

## Amendment 467

Burkhard Balz, Pablo Zalba Bidegain, José Manuel García-Margallo y Marfil, Sven Giegold, Sylvie Goulard, Íñigo Méndez de Vigo, Ramon Tremosa i Balcells

### Proposal for a regulation

#### Article 10 – paragraph 2

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

2. Where **the Commission** has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

##### *Amendment*

2. Where the **ESRB** has adopted a decision pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with **this regulation and** the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial market participants and competent authorities satisfy the requirements laid down in that legislation.

Or. en

## Amendment 468

Thomas Mann

### Proposal for a regulation

#### Article 10 – paragraph 2

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

2. Where **the Commission has adopted a decision** pursuant to paragraph 1, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address **any risks** that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the

##### *Amendment*

2. Where the **existence of an emergency situation is declared** pursuant to paragraph 1, **and where coordinated action by national authorities with special regard to the respective impact on the member states' budget is necessary to respond to adverse developments which** may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system **in the European Union**, the Authority may adopt individual

requirements laid down in that legislation.

decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any **such developments** by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

**Amendment 469**  
**Vicky Ford**

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

*Text proposed by the Commission*

2. Where **the Commission has adopted a decision** pursuant to paragraph 1, the Authority may adopt **individual** decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where the **existence of an emergency situation is declared** pursuant to paragraph 1, the Authority may adopt decisions **addressed to the** competent authorities **of Member States requiring them** to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

**Amendment 470**  
**Diogo Feio**

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

*Text proposed by the Commission*

2. Where *the Commission has adopted a decision* pursuant to paragraph 1, the Authority may adopt *individual* decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

*Amendment*

2. Where the *existence of an emergency situation is declared* pursuant to paragraph 1, the Authority may adopt decisions *addressed to the* competent authorities *of Member States requiring them* to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any risks that may jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.

Or. en

**Amendment 471**  
**Diogo Feio**

**Proposal for a regulation**  
**Article 10 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the European Union, the Authority shall actively facilitate and, where deemed necessary, coordinate any actions undertaken by the relevant national competent supervisory authorities.*

Or. en

**Amendment 472**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 10 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the European Union, the Authority shall actively facilitate and, where deemed necessary, coordinate any actions undertaken by the relevant national competent supervisory authorities.***

Or. en

**Amendment 473**  
**Diogo Feio**

**Proposal for a regulation**  
**Article 10 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. The Council shall review the decision pursuant to paragraph 1 at appropriate intervals and at least once a month and declare the discontinuation of the emergency situation, as soon as appropriate.***

Or. en

*Justification*

*The state of 'emergency' must be continually reviewed by the Council in consultation, where relevant, with the ESRB and the ESAs. When it is appropriate, the state of emergency must be repealed.*

**Amendment 474**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 10 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. The Council shall review the decision pursuant to paragraph 1 at appropriate intervals and at least once a month and declare the discontinuation of the emergency situation, as soon as appropriate.***

Or. en

*Justification*

*The state of 'emergency' must be continually reviewed by the Council in consultation, where relevant, with the ESRB and the ESAs. When it is appropriate, the state of emergency must be repealed.*

**Amendment 475**  
**Olle Schmidt**

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

*Text proposed by the Commission*

*Amendment*

***3. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, the Authority may, where the relevant requirements laid down in the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its***

***Deleted***

***obligations under that legislation,  
including the cessation of any practice.***

Or. en

*Justification*

*It is not appropriate for ESAs to adopt decisions directly binding on individual institutions. Given that the national competent authority is responsible for day to day supervision of financial institutions, it is legally preferable for the ESA to compel the national authority to amend market practices following a ruling in an emergency.*

**Amendment 476  
Vicky Ford**

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

*Text proposed by the Commission*

*Amendment*

***3. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, the Authority may, where the relevant requirements laid down in the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice.***

***Deleted***

Or. en

## Amendment 477

Diogo Feio

### Proposal for a regulation

#### Article 10 – paragraph 3

*Text proposed by the Commission*

3. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, the Authority may, where the relevant requirements laid down in the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice.

*Amendment*

3. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, ***where such non-compliance significantly affects the financial system of Member States other than that of the relevant competent authority***, the Authority may, where the relevant requirements laid down in the legislation referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice.

Or. en

## Amendment 478

Gianni Pittella, Leonardo Domenici

### Proposal for a regulation

#### Article 10 – paragraph 3

*Text proposed by the Commission*

3. Without prejudice to the powers of the Commission under Article **226** of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, the Authority ***may, where the relevant requirements laid down in the legislation referred to in Article 1(2) are directly applicable to***

*Amendment*

3. Without prejudice to the powers of the Commission under Article **258** of the Treaty, where a competent authority does not comply with the decision of the Authority referred to in paragraph 2 within the period laid down therein, the Authority ***shall, pursuant to*** the legislation referred to in Article 1(2), adopt an individual decision addressed to a financial institution

**financial institutions**, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice.

requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice.

Or. en

*Justification*

*For the sake of the stability of the EU single market, the scope of the individual decisions directly applicable to the financial institutions in case of emergency situations should not be restricted.*

**Amendment 479**

**José Manuel García-Margallo y Marfil, Burkhard Balz, Sylvie Goulard, Sven Giegold, Ramon Tremosa i Balcells, Íñigo Méndez de Vigo, Pablo Zalba Bidegain**

**Proposal for a regulation**

**Article 10 – paragraph 3 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

.

***Where the addressee of the decision refuses to comply with Union law or a specific decision taken by the Authority, the Authority may issue proceedings in the national courts, including applications for interim relief.***

Or. en

*Justification*

*To strengthen the power of the Authority in coordance with the Giegold Report.*

**Amendment 480**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 10 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. Decisions adopted under paragraph 3 shall prevail over any previous decision adopted by the competent authorities on the same matter.**

**Deleted**

**Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be compatible with those decisions.**

Or. en

**Amendment 481**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 10 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be **compatible** with those decisions.

Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be **compliant** with those decisions. **Non-compliance shall be duly justified in writing by the competent authorities to the ESRB and the Authority.**

Or. en

*Justification*

*The comply-or-explain principle would provide an incentive for competent national authorities to comply with the decisions of the Authorities aimed at addressing potential emergency situations.*

**Amendment 482**

**Alfredo Pallone, Herbert Dorfmann**

**Proposal for a regulation**

**Article 10 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be **compatible** with those decisions.

*Amendment*

Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be **compliant** with those decisions. **Non-compliance shall be duly justified in writing by the competent authorities to the ESRB and the Authority.**

Or. en

*Justification*

*The comply-or-explain principle would provide an incentive for competent national authorities to comply with the decisions of the Authorities aimed at addressing potential emergency situations.*

**Amendment 483**

**Peter Skinner**

**Proposal for a regulation**

**Article 10 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. The Commission may revoke its decision pursuant to paragraph 1 on a recommendation from the European Systemic Risk Board, or at the request of the European Parliament or the Council.**

Or. en

*Justification*

*The ESRB is the most appropriate body to declare an end to the emergency. The Parliament and the Council should be able to request an end to the declaration of a crisis period. However, since the assessment of whether an emergency has ended or not requires a large*

*degree of discretion, under Treaty law it is necessary that the the Commission be the legal entity to revoke its decision, and that it is given a degree of discretion over if that decision is made.*

**Amendment 484**

**José Manuel García-Margallo y Marfil, Burkhard Balz, Sylvie Goulard, Sven Giegold, Ramon Tremosa i Balcells, Íñigo Méndez de Vigo, Pablo Zalba Bidegain**

**Proposal for a regulation**

**Article 10 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. The ESRB shall review the decision referred to in paragraph 1 upon its own initiative or following a request by the Authority, the Council, the European Parliament, or the Commission.***

Or. en

*Justification*

*To give the Authority, the Council, the European Parliament, or the Commission the right to request the review of the decision of declaring an emergency situation.*

**Amendment 485**

**Corien Wortmann-Kool**

**Proposal for a regulation**

**Article 10 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Where the ESRB has adopted a decision pursuant to paragraph 1, the ESRB shall review this decision at regular intervals and on request of the Authority, the Parliament, the Council or the Commission and declare the discontinuation of the emergency situation when appropriate.***

Or. en

*Justification*

*The emergency situation as declared in Article 10 should be monitored closely. In addition, the ESRB should be able to declare the discontinuation of the emergency situation.*

**Amendment 486**  
**Marianne Thyssen**

**Proposal for a regulation**  
**Article 10 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. The Commission shall review this decision with regular intervals, and at the request of the ESA, the ESRB or the Council.***

Or. en

*Justification*

*It is proposed that the initiative to determine the existence of an emergency situation should lie with the ESAs as well.*

**Amendment 487**  
**Antolín Sánchez Presedo**

**Proposal for a regulation**  
**Article 10 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. In its annual report, the Authority shall set out the individual decisions addressed to national authorities and financial institutions under paragraphs 3 and 4.***

Or. en

**Amendment 488**  
**Marianne Thyssen**

**Proposal for a regulation**  
**Article 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***10a. When the emergency of a situation requires immediate action and no decision of the ESRB can be awaited, the Authority may adopt decisions which are generally and directly applicable to financial market participants. These emergency measures will be notified immediately to the ESRB. If the ESRB does not confirm the emergency situation within a period of 15 days, the measures will expire.***

Or. en

*Justification*

*There are cases in which measures have to be taken at a very short notice, and where it would be difficult to wait for a full ESRB decision procedure. Therefore it would be useful to allow the ESAs to take emergency decisions, under the conditions that these will be notified immediately to the ESRB, will not be valid for more than two weeks, or after the emergency situation status been confirmed by the ESRB.*

**Amendment 489**  
**Peter Skinner**

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

*Text proposed by the Commission*

*Amendment*

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities

1. Without prejudice to the powers laid down in Article 9, where a national supervisory authority disagrees on the procedure or content of an action or inaction by another national supervisory authority in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision

from more than one Member State, the Authority, at the request of one or more of the competent authorities concerned, may **assist** the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

making by national supervisory authorities from more than one Member State, **and does not assign the ultimate responsibility to the group supervisor**, the Authority, **on its own initiative or** at the request of one or more of the national supervisory authorities concerned, may **take the lead in assisting** the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

Or. en

### *Justification*

*Where sectoral legislation already assigns ultimate responsibility to a group supervisor it is important to clarify that this takes precedence over the power of the ESA. If this were not the case there would be scope for confusion between the precedence of the sectoral legislation and the power of the ESA, which ultimately derives its power from the sectoral legislation.*

### **Amendment 490** **Thomas Mann**

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

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

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities from more than one Member State, the Authority, at the request of one or more of the competent authorities concerned, **may assist** the authorities in reaching an agreement in accordance with the procedure set out in **paragraph 2**.

##### *Amendment*

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities from more than one Member State, the Authority, **on its own initiative or** at the request of one or more of the competent authorities concerned, **shall take the lead in assisting** the authorities in reaching an agreement **with respect to national interests and** in accordance with the procedure set out in **paragraphs 2 to 4**.

**Amendment 491**  
**Vicky Ford**

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

*Text proposed by the Commission*

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities from more than one Member State, the Authority, at the request of one or more of the competent authorities concerned, may **assist** the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

*Amendment*

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities from more than one Member State, the Authority, at the request of one or more of the competent authorities concerned, **may take the lead** in assisting the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

**Amendment 492**  
**Ślawomir Witold Nitras, Jan Kozłowski, Enikő Győri**

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

*Text proposed by the Commission*

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority ***in areas where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities from more than one Member State***, the Authority, at the request of one

*Amendment*

1 Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority ***in cases specified in the legislation referred to in Article 1(2)***, the Authority, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the

or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

procedure set out in paragraph 2.

Or. en

### Amendment 493

Slawomir Witold Nitras, Jan Kozłowski, Enikő Győri

#### Proposal for a regulation

#### Article 11 – paragraph 1

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

1. Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas ***where the legislation referred to in Article 1(2) requires cooperation, coordination or joint decision making by competent authorities from more than one Member State***, the Authority, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

##### *Amendment*

Without prejudice to the powers laid down in Article 9, where a competent authority disagrees on the procedure or content of an action or inaction by another competent authority in areas ***indicated in*** the legislation referred to in Article 1(2), the Authority, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

Or. en

##### *Justification*

*Taking into account the importance and possible future disputes, it is recommended to explicitly indicate in the sectoral legislation the exact scope of the “binding mediation procedure”. It is one of the most important tools granted to EBA, which can be used to intervene into very core responsibilities of the supervisors. For this reasons there shall be no uncertainties in this field. It would be also wise to disuse this problem further while negotiating the future directives amending the sectoral legislation. The given draft Regulation shall only indicate the powers of the EBA to provide “binding mediation” as well as the procedure. The scope of “binding mediation” shall be however indicated on case by case basis in the sartorial legislation.*

**Amendment 494**  
**Gianni Pittella, Leonardo Domenici**

**Proposal for a regulation**  
**Article 11 – paragraph 3**

*Text proposed by the Commission*

3. If, at the end of the conciliation phase, the competent authorities concerned have failed to reach an agreement, the Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the matter, in compliance with **Community** law.

*Amendment*

3. If, at the end of the conciliation phase, the competent authorities concerned have failed to reach an agreement, the Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the matter, **with binding effects for the competent authorities concerned**, in order to ensure compliance with **European Union** law.

Or. en

*Justification*

*To ensure efficient and effective supervision and legal certainty, and promote trust within the supervisory community, the decisions of the Authority to settle disagreements should be binding on its addressee(s). The EU legal framework does not allow granting discretionary powers to the Authority. The power of the Authority to settle disagreements over supervisory matters can therefore not be “in compliance with” Community law. Rather, that settlement power should aim at ensuring compliance with EU law.*

**Amendment 495**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 11 – paragraph 3**

*Text proposed by the Commission*

3. If, at the end of the conciliation phase, the competent authorities concerned have failed to reach an agreement, the Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the matter, in compliance with Community law.

*Amendment*

3. If, at the end of the conciliation phase, the competent authorities concerned have failed to reach an agreement, the Authority may take a decision requiring them to take specific action or to refrain from action in order to settle the matter, in **order to ensure** compliance with Community law.

Or. en

**Amendment 496**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 11 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Decisions adopted under paragraph 3 shall prevail over any previous decision adopted by the national supervisory authorities on the same matter.***

Or. en

**Amendment 497**  
**Vicky Ford**

**Proposal for a regulation**  
**Article 11 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***3b. In its report the Authority may set out the disagreement between competent authorities, the agreements reached and the decision taken to settle such disagreements.***

Or. en

**Amendment 498**  
**Olle Schmidt**

**Proposal for a regulation**  
**Article 11 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority, and thereby fails to ensure that***

***Deleted***

*a financial institution complies with requirements directly applicable to it by virtue of the legislation referred to in Article 1(2), the Authority may adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law, including the cessation of any practice.*

Or. en

*Justification*

*I do not believe it is appropriate that ESAs adopt decisions directly binding on individual institutions. Given that the national competent authority is responsible for day to day supervision of financial institutions, it is legally preferable for the ESA to compel the national authority to amend market practices following a ruling in an Article 11 mediation process.*

**Amendment 499**

**Vicky Ford**

**Proposal for a regulation**

**Article 11 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. Without prejudice to the powers of the Commission under Article 226 of the Treaty, where a competent authority does not comply with the decision of the Authority, and thereby fails to ensure that a financial institution complies with requirements directly applicable to it by virtue of the legislation referred to in Article 1(2), the Authority may adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law, including the cessation of any practice.***

***Deleted***

Or. en

**Amendment 500**  
**Antolín Sánchez Presedo**

**Proposal for a regulation**  
**Article 11 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. In its annual report, the Authority shall set out the disagreement between competent authorities, the agreements reached and the decision taken to settle such disagreements.***

Or. en

**Amendment 501**  
**Vicky Ford**

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

*Text proposed by the Commission*

*Amendment*

2. The Authority shall participate as an observer in colleges of supervisors as it deems appropriate. For the purpose of that participation, it shall be considered a 'competent authority' within the meaning of the relevant legislation and, at its request, shall receive all relevant information shared with any member of the college.

2. The Authority shall participate as an observer in colleges of supervisors as it deems appropriate ***for the European interest***. For the purpose of that participation, it shall be considered a 'competent authority' within the meaning of the relevant legislation and, at its request, shall receive all relevant information shared with any member of the college.

Or. en

**Amendment 502**  
**Sharon Bowles**

**Proposal for a regulation**  
**Article 12 – paragraph 3**

*Text proposed by the Commission*

3. The Authority shall, *in cooperation with* the supervisors operating in colleges of supervisors, determine and collect as appropriate all relevant information from competent authorities, in order to facilitate the work of those colleges.

*It shall establish and manage a central system to make such information accessible to the competent authorities in colleges of supervisors.*

*Amendment*

3. The Authority shall *assist* the supervisors operating in colleges of supervisors, determine and collect as appropriate all relevant information from competent authorities, in order to facilitate the work of those colleges. *The Authority shall take full account of the existing arrangements between national competent authorities and third country supervisors, taking into account the core Crisis Management Groups of international colleges which have full access to information. The Authority should be a member of the Crisis Management Groups.*

*Deleted.*

Or. en

**Amendment 503**  
**Olle Schmidt**

**Proposal for a regulation**  
**Article 12 – paragraph 3**

*Text proposed by the Commission*

3. The Authority shall, *in cooperation with* the supervisors operating in colleges of supervisors, determine and collect as appropriate all relevant information from competent authorities, in order to facilitate the work of those colleges.

*It shall establish and manage a central*

*Amendment*

3. The Authority shall *assist* the supervisors operating in colleges of supervisors, determine and collect as appropriate all relevant information from competent authorities, in order to facilitate the work of those colleges.

*The Authority shall take full account of*

*system to make such information accessible to the competent authorities in colleges of supervisors.*

*the existing agreements between national competent authorities and third country supervisors.*

Or. en

*Justification*

*It is not appropriate for ESAs to manage colleges of supervisors and act as information repositories. These are tasks which should remain with the home country supervisor. The EU is host to many financial institutions not based in an EU Member State, so the Article should be amended to take into account existing arrangements in order not to destabilise global college arrangements.*

**Amendment 504**

**Corien Wortmann-Kool**

**Proposal for a regulation**

**Article 12 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. A legally binding mediation role should allow the new Authorities to solve disputes between national competent authorities following the procedure set up on Article 11.***

Or. en

*Justification*

*The Authority should be able to solve a (ongoing) dispute between two supervisors following the procedure set up on Article 11.*

**Amendment 505**

**Burkhard Balz, Leonardo Domenici, José Manuel García-Margallo y Marfil, Sven Giegold, Sylvie Goulard, Íñigo Méndez de Vigo, Ramon Tremosa i Balcells, Pablo Zalba Bidegain**

**Proposal for a regulation**

**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12a**

***Supervision of financial institutions with an EU dimension***

- 1. National authorities shall exert prudential supervision of financial institutions with an EU dimension by acting as the agent of and following the instructions given by the Authority, in order to guarantee that the same supervisory rules are applied across the European Union.***
- 2. The Authority shall submit its draft supervisory rules to the Commission and, simultaneously, to the European Parliament and the Council. The Commission shall endorse the draft supervisory rules following the procedure set out in Article 7 or 8.***
- 3. A decision taken by the Board of Supervisors in accordance with the procedure set out in Article 29(1) shall identify the significant financial institutions with EU dimension. The criteria for identifying such financial institutions shall take into account the criteria established by the FSB, the IMF and the BIS.***
- 4. The Authority, in collaboration with the European Systemic Risk Board, shall develop an information template for significant institutions in order to ensure a sound management of their systemic risk.***
- 5. To ensure the co-responsibility of financial institutions with EU dimension,***

*to protect European depositors' interests and to reduce the cost to tax payers of a systemic financial crisis, a European Financial Protection Fund (Fund) shall be established. The Fund will also play a role in helping the EU institutions facing difficulties when those are likely to threaten the financial stability of the European single financial market. The Fund shall be financed through contributions from those institutions. The contribution of each financial institution will be calculated according to criteria rewarding good management. Those contributions replace those made to national funds of a similar nature.*

*6. When the accumulated resources from the contributions made by banks are not sufficient to solve the crisis, the Fund shall have the capacity to increase its resources through debt issuance. Member States may, in exceptional circumstances, facilitate the issuance of debt by the Fund through guarantees, and in exchange of a fee reflecting appropriately the risk assumed. Those guarantees shall be shared by Member States in accordance with the criteria laid down in paragraph 7.*

*7. Where, under extreme, exceptional circumstances and in the context of a systemic crisis, there is a failure of one or several institutions, and the resources available are insufficient, the affected Member States will deal with this burden according to principles established in the current Memorandum of Understanding (MoU), properly amended. Burden-sharing arrangements could include one of the following criteria, or a combination thereof: the deposits of the institution; the assets (either in terms of accounting values, market values or risk-weighted values) of the institution; the revenue flows of the institution; and the share of payment system flows of the institution.*

***8. The membership in the Fund shall replace the membership in the existing national Deposit Guarantee Schemes for the EU institutions participating in it. The Fund shall be managed by a Board appointed by the European Supervisory Authority (Banking) for a period of five years. The members of the Board shall be elected from staff of the national authorities. The Fund shall also create a Consultative Board comprising the financial institutions participating in the Fund.***

Or. en

**Amendment 506  
Gunnar Hökmark**

**Proposal for a regulation  
Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***Supervision of financial institutions with an EU dimension***

- 1. National authorities shall exert prudential supervision of financial institutions with an EU dimension by acting as the agent of and following the instructions given by the Authority, in order to guarantee that the same supervisory rules are applied across the European Union.***
- 2. The Authority shall submit its draft supervisory rules to the Commission and, simultaneously, to the European Parliament and the Council. The Commission shall endorse the draft supervisory rules following the procedure set out in Article 7 or 8.***
- 3. A decision taken by the Board of Supervisors in accordance with the procedure set out in Article 29(1) shall identify the significant financial***

***institutions with EU dimension. The criteria for identifying such financial institutions shall take into account the criteria established by the FSB, the IMF and the BIS.***

***4. The Authority, in collaboration with the European Systemic Risk Board, shall develop an information template for significant institutions in order to ensure a sound management of their systemic risk.***

***5. In order to protect the interests of depositors and to safeguard the stability of the financial markets the Authority shall ensure that financial institutions with an EU dimension can fulfil their commitments in the member states they are operating in. Therefore the Authority shall secure that national deposit schemes and funds are established and designed in a way that institutions with a European dimension can meet the commitments they face in the member states they are operating in. The Authority has a responsibility to overlook that member states and their national Authorities by these means are protecting the single financial markets against systemic risks.***

Or. en

#### *Justification*

*The governance arrangements of an EU fund have not been sufficiently considered which could lead to unintended consequences. The question of whether or not an EU fund should be established should be treated within the Commission's work on cross border crisis intervention.*

**Amendment 507**

**Vicky Ford**

**Proposal for a regulation**

**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12a**

***Supervision of financial institutions with  
EU dimension***

***National authorities shall exert prudential  
supervision of financial institutions with  
an EU dimension***

***The Authority, in collaboration with the  
European Systemic Risk Board and the  
competent authorities, will develop an  
information template for significant  
institutions in order to ensure a sound  
management of their systemic risk.***

***To help protect European depositors, the  
Authority will facilitate better  
coordination between deposit guarantee  
schemes operating across the European  
Union***

Or. en

**Amendment 508**

**Antolín Sánchez Presedo, Peter Skinner**

**Proposal for a regulation**

**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12 a**

***Evolution of the Authority***

***The Authority shall evolve according to  
the best practices recognised at European  
and international level. One such  
approach could be the establishment of a  
new level of direct supervision by the  
Authority. To avoid international***

*distortions and to strengthen the European System of Financial Supervision, the introduction of direct supervision should be carefully evaluated and considered in order to add value to the supervision of large financial institutions, many of which are global in nature and operate in the EU. This applies above all to those large financial institutions with wholesale banking or other activities that could pose systemic risk to the internal market, and those systemic financial institutions defined and identified at an international level. This issue shall be further studied in the first revision of the present Regulation, as set out in Article 66, which should take place not later than three years from its entry into force.*

Or. en

**Amendment 509**  
**Olle Schmidt**

**Proposal for a regulation**  
**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 12 a*

*The Authority shall evolve according to the best practices recognised at European and international level. One such approach could be the establishment of a new level of direct supervision by the Authority. To avoid international distortions and to strengthen the European System of Financial Supervision, the introduction of direct supervision should be carefully evaluated and considered in order to add value to the supervision of large cross border banks and other financial institutions that operate in the EU. This applies above all to cross border banks that could pose*

*systemic risk to the internal market, and to other systemic financial institutions defined and identified at an international level. This issue shall be further studied in the first revision of the present Regulation, as set out in Article 66, which should take place not later than three years from its entry into force.*

Or. en

#### *Justification*

*There is need for an analysis and evaluation of the new European supervision, in particular concerning the cross border financial institutions that could pose systemic risk to the internal market. The analysis should take place no later than three years.*

#### **Amendment 510** **Sari Essayah**

#### **Proposal for a regulation** **Article 13 – paragraph 1**

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

1. ***Competent authorities may, by bilateral agreement,*** delegate tasks and responsibilities to other competent authorities ***supervisory.***

##### *Amendment*

1. ***Member States shall allow competent authorities to*** delegate tasks and responsibilities to other competent authorities, ***by bilateral agreement, subject to the conditions set out in this Article. Member States may set out specific arrangements that have to be complied with before their competent authorities enter into such agreements and limit the scope of delegation to what is necessary for effective supervision of cross-border financial institutions and groups.***

Or. en

**Amendment 511**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

1. Competent authorities may, by ***bilateral agreement***, delegate tasks and responsibilities to other competent authorities supervisory.

*Amendment*

1. Competent authorities may, ***by agreements among them***, delegate tasks and responsibilities to other competent authorities.

Or. en

**Amendment 512**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

2. The Authority shall facilitate the delegation of tasks and responsibilities between competent authorities by identifying those tasks and responsibilities that can be delegated or jointly exercised and by promoting best practices.

*Amendment*

2. The Authority shall facilitate the delegation of tasks and responsibilities between competent authorities by identifying those tasks and responsibilities that can be delegated or jointly exercised, by promoting best practices ***and by preparing appropriate multilateral frameworks***.

Or. en

**Amendment 513**  
**Udo Bullmann**

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

*Text proposed by the Commission*

2. The Authority shall facilitate the delegation of tasks and responsibilities between competent authorities by

*Amendment*

2. The Authority shall ***stimulate and*** facilitate the delegation of tasks and responsibilities between competent

identifying those tasks and responsibilities that can be delegated or jointly exercised and by promoting best practices.

authorities by identifying those tasks and responsibilities that can be delegated or jointly exercised and by promoting best practices.

Or. en

**Amendment 514**  
**Peter Skinner**

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

*Text proposed by the Commission*

*Amendment*

***2a. The delegation of responsibilities shall result in the reallocation of the competencies laid down in the legislation referred to in Article 1(2). The law of the delegate authority shall govern the procedure, enforcement and administrative and judicial review relating to the delegated responsibilities.***

Or. en

*Justification*

*The delegation of tasks and responsibilities can be a useful tool to enhance home-host cooperation by acknowledging supervisory expertise. Delegation can reduce the duplication of supervisory tasks and streamline the supervisory process as well as reduce the burden on financial institutions. Delegation can further support building trust amongst supervisors and developing a common supervisory culture. The provision in Directive 2006/48/EC (Article 131) should be reinforced by a clear legal basis for the delegation of responsibilities. The national authority to which a responsibility was delegated, the delegate, shall be able to decide on a certain matter in its own name. Decisions by the delegate should be recognised by the delegating authority and the other competent authority as determinative within the scope of the delegation. Further EU legislation may be necessary to specify the principles for delegation of responsibilities.*

**Amendment 515**  
**Udo Bullmann**

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

*Text proposed by the Commission*

The Authority shall publish any delegation agreement as concluded by the competent authorities by appropriate means, in order to ensure that all parties concerned are informed appropriately.

*Amendment*

The Authority shall publish any delegation agreement as concluded by the competent authorities by appropriate means, in order to ensure that all parties concerned are informed appropriately. ***These agreements shall mention the respective responsibility of the competent authorities involved.***

Or. en

**Amendment 516**  
**José Manuel García-Margallo y Marfil, Burkhard Balz, Sylvie Goulard, Sven Giegold, Ramon Tremosa i Balcells, Íñigo Méndez de Vigo, Pablo Zalba Bidegain**

**Proposal for a regulation**  
**Article 13 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 13 a***

***The Authority shall delegate on the authorities in the Member States the tasks and responsibilities to supervise the prudential supervision of financial institutions with EU dimension as referred to in article 12a.***

Or. en

*Justification*

*To take into account the delegation by the Authority in the supervision of financial institutions with EU dimension.*

**Amendment 517**  
**Antolín Sánchez Presedo**

**Proposal for a regulation**  
**Article 14 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The Authority shall play an active role in building a common European supervisory culture and consistent supervisory practices, and ensuring uniform procedures and consistent approaches throughout the **Community** and shall carry out, at a minimum, the following activities:

*Amendment*

1. The Authority shall play an active role in building a common European supervisory culture and consistent supervisory practices, and ensuring uniform procedures and consistent approaches throughout the **European Union** and shall carry out, at a minimum, the following activities:

Or. en

**Amendment 518**  
**Thomas Händel, Jürgen Klute**

**Proposal for a regulation**  
**Article 14 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) encourage the emergence of best practices, including an effective and constructive dialogue between national authorities and relevant stakeholders including consumers and unions representing employees in the sector as constituents of a common supervisory culture.***

Or. en

*Justification*

*The supervisory authorities at national level can benefit a lot from involving relevant stakeholders like employee and consumers in their work. Employees working in the sectors can provide important knowledge of companies' actual business practices – remuneration structures, incentive systems, skills, working conditions – and the impact of these practices on the risk profile of the company.*

**Amendment 519**  
**Thomas Händel, Jürgen Klute**

**Proposal for a regulation**  
**Article 14 – paragraph 1 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

***(bb) ensure that authorities take account of information from employees on companies' business practices as regards remuneration structures, incentives, skills and working conditions.***

Or. en

*Justification*

*The supervisory authorities at national level can benefit a lot from involving relevant stakeholders like employee and consumers in their work. Employees working in the sectors can provide important knowledge of companies' actual business practices – remuneration structures, incentive systems, skills, working conditions – and the impact of these practices on the risk profile of the company.*

**Amendment 520**  
**Peter Skinner**

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

*Text proposed by the Commission*

*Amendment*

(c) contribute to ***developing*** high quality and uniform supervisory standards, including reporting standards;

(c) contribute ***advice*** to ***the appropriate European and international bodies to help facilitate the development of*** high quality and uniform supervisory standards, including reporting ***and accounting*** standards;

Or. en

*Justification*

*ESA should provide advice to European and international standard setters where harmonisation of international standards is necessary, but should not itself become directly*

*engaged in developing new standards where that task is already assigned to a European or international body.*

#### **Amendment 521**

**Sharon Bowles, Marian Harkin**

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

#### **Article 14 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) contribute to developing high quality and uniform supervisory standards, including reporting standards;

*Amendment*

(c) contribute to developing high quality and uniform supervisory standards, including reporting standards **and taking into account the principle of proportionality**;

Or. en

*Justification*

*The European Banking Authority must take account of the different business models that exist in the financial services sector. Technical standards should not differ for the same type of financial institution across Member States, but they must provide for a degree of flexibility in order to acknowledge the existence of democratically controlled cooperatives, whose business models are highly risk averse, and who play an important role in combating social exclusion within local communities.*

#### **Amendment 522**

**Vicky Ford**

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

#### **Article 14 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) contribute to developing high quality and uniform supervisory standards, including reporting standards;

*Amendment*

(c) contribute to developing high quality and uniform supervisory standards, including **global accounting and reporting** standards;

Or. en

**Amendment 523**  
**Thomas Händel, Jürgen Klute**

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

*Text proposed by the Commission*

(c) contribute to developing high quality and uniform supervisory standards, including reporting standards;

*Amendment*

(c) contribute to developing high quality uniform supervisory standards, including reporting **and accounting** standards;

Or. en

*Justification*

*The supervisory authorities at national level can benefit a lot from involving relevant stakeholders like employee and consumers in their work. Employees working in the sectors can provide important knowledge of companies' actual business practices – remuneration structures, incentive systems, skills, working conditions – and the impact of these practices on the risk profile of the company.*

**Amendment 524**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

(d) review the application of the relevant **technical** standards adopted by the Commission, guidelines and recommendations issued by the Authority and propose amendments where appropriate;

*Amendment*

(d) review the application of the relevant standards adopted **or endorsed** by the Commission, guidelines and recommendations issued by the Authority and propose amendments where appropriate;

Or. en

**Amendment 525**  
**Udo Bullmann**

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

*Text proposed by the Commission*

1. The Authority shall periodically conduct peer review analyses of some or all of the activities of competent authorities, to further enhance consistency in supervisory outcomes. To this end, the Authority shall develop methods to allow for objective assessment and comparison between the authorities reviewed.

*Amendment*

1. The Authority shall periodically **organise and** conduct peer review analyses of some or all of the activities of competent authorities, to further enhance consistency in supervisory outcomes. To this end, the Authority shall develop methods to allow for objective assessment and comparison between the authorities reviewed.

Or. en

**Amendment 526**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

(a) the adequacy of **institutional** arrangements, **resourcing and staff expertise** of the competent authority, with particular regard to the effective application of the legislation referred to in Article 1(2) and to the capacity to respond to market developments;

*Amendment*

(a) the adequacy of **resources and governance** arrangements of the competent authority, with particular regard to the effective application of the **standards and** legislation referred to in Article 1(2) and to the capacity to respond to market developments

Or. en

**Amendment 527**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

(b) the degree of convergence reached in the application of **Community** law and in supervisory practice, including **technical** standards, guidelines and recommendations adopted under Articles 7 and 8, and the extent to which the supervisory practice achieves the objectives set out in **Community** law;

*Amendment*

(b) the degree of convergence reached in the application of **European union** law and in supervisory practice, including **regulatory and supervisory** standards, guidelines and recommendations adopted under Articles 7 and 8, and the extent to which the supervisory practice achieves the objectives set out in **European Union** law;

Or. en

**Amendment 528**  
**Antolín Sánchez Presedo**

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

*Text proposed by the Commission*

3. On the basis of the peer review the Authority may issue recommendations to the competent authorities concerned.

*Amendment*

3. On the basis of the peer review the Authority may issue recommendations **or adopt other appropriated measures** to the competent authorities concerned.

Or. en

**Amendment 529**  
**Peter Skinner**

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

*Text proposed by the Commission*

3. On the basis of the peer review the Authority may issue recommendations to

*Amendment*

3. On the basis of the peer review the Authority may issue **guidelines and** recommendations to the national

the competent authorities concerned.

supervisory authorities concerned.

Or. en

*Justification*

*The ESA should look to not only make specific recommendations, but also issue more general guidelines for encouraging harmonised practices. However, this should remain voluntary giving the legal obstacles to forcing harmonisation beyond that already foreseen in Article 7.*

**Amendment 530**

**Corien Wortmann-Kool**

**Proposal for a regulation**

**Article 15 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The Authority shall make the outcome of peer reviews and the best practices that can be identified from these peer reviews publicly available.***

Or. en

*Justification*

*In order to promote transparency, the outcome of peer reviews and the best practices that can be identified from these peer reviews should be made publicly available.*