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2009 - 2014

Committee on Economic and Monetary Affairs

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AMENDMENTS

305 - 467

Art. 9-22

Draft report
Sven Giegold
(PE438.409v01-00)

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

Proposal for a regulation
(COM(2009)0503 – C7-0167/2009 – 2009/0144(COD))

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Amendment 305
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 market participant 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 market participant 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 306
Kay Swinburne, Ivo Strejček

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 market participant 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), in ***a way which appears to be a breach of Union law***, in particular by failing to ensure that a financial market participant 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 307
Gianni Pittella

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 market participant 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 market participant 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 308
Jean-Paul Gauzès

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

Text proposed by the Commission

Amendment

1a. Member States may maintain differences in the national transposition of Union law only if they respond to specific risks. Member States shall ensure that those differences are justified and shall communicate their specific national requirements, as well as the grounds for maintaining them, to the Commission.

Or. en

Amendment 309
Jean-Paul Gauzès

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

Text proposed by the Commission

Amendment

1b. Financial market participants may communicate to the Commission differences in the national transposition or alleged incorrect application of Union law.

Or. en

Amendment 310
Antolín Sánchez Presedo

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

Text proposed by the Commission

Amendment

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.

2. Upon request from one or more competent authorities, from the Commission ***the European Parliament, the Council, the Securities and Markets 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 ***Union*** law.

Or. en

Amendment 311
Gianni Pittella

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

Text proposed by the Commission

Amendment

4. Where the competent authority has not

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**.

complied with **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 ESMA's recommendation within one month.

Amendment 312

Kay Swinburne, Ivo Strejček

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 **Union** 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 warning** requiring the competent authority to take the action necessary to comply with **European Union** law.

Or. en

Amendment 313
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 **national** authority has not complied with **Union** law within one month from receipt of the Authority's recommendation, the **Authority** may take a decision requiring the competent **national** authority to take the action necessary to comply with **Union** law.

Or. en

Justification

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

Amendment 314
Gianni Pittella

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 ESMA's recommendation within one month.

Amendment 315

Kay Swinburne, Ivo Strejček

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

Or. en

Amendment 316

Gianni Pittella

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 ESMA's recommendation within one month.

Amendment 317
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 318
Gianni Pittella

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 ESMA's recommendation within one month.

Amendment 319
Kay Swinburne, Ivo Strejček

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 Commission's **formal opinion**.

Or. en

Amendment 320
Gianni Pittella

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 321

Sari Essayah

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 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 market participants, adopt an individual decision addressed to a financial market participant requiring the necessary action to comply with its obligations under Community law including the cessation of any practice.

deleted

Or. en

Amendment 322

Kay Swinburne, Ivo Strejček

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 not comply with the **decision** referred to in paragraph 4 of this Article within the period of time specified therein, and where

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 **formal opinion** referred to in paragraph 4 of this

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 market participants, adopt an individual decision addressed to a financial market participant requiring the necessary action to comply with its obligations under **Community** law including the cessation of any practice.

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 market participants, adopt an individual decision addressed to a financial market participant requiring the necessary action to comply with its obligations under **Union** law including the cessation of any practice.

Or. en

Amendment 323

Gianni Pittella

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 market participants**, adopt an individual decision addressed to a financial market participant

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 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 market participant requiring the necessary action to comply

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

with its obligations under **Union** 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 ESMA'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 324

Kay Swinburne, Ivo Strejček

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 **formal opinion issued** by the Commission pursuant to paragraph 4.

Or. en

Amendment 325

Gianni Pittella

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.

Justification

The power to adopt individual decisions directly applicable to the financial institutions in case of breach of the European Union law, jointly with ESMA'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 326

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 327

Gianni Pittella

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 328

Kay Swinburne, Ivo Strejček

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 **formal opinion** pursuant to paragraph 4 or 6 **competent authorities** shall **comply** with **the formal opinion or the decision, as the case may be**.*

Or. en

Amendment 329

Gianni Pittella

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 330

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 market participant have not complied with the decisions referred to in paragraphs 4 and 6.

Or. en

Amendment 331

Peter Skinner

Proposal for a regulation

Article 9 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. 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 332
Sari Essayah

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Action in emergency situations

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 market participants 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 market

participants, adopt an individual decision addressed to a financial market participant 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 333
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 **European Union**, 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

Amendment 334
Kay Swinburne, Ivo Strejček

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 **Council**, upon its own initiative or following a request by the Authority, the **Commission**, 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

Amendment 335
Gianni Pittella

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 Council, or the **European Parliament, or the Commission**, may **issue a warning declaring** the existence of an emergency situation. **This warning will enable the Authority without further requirements to adopt the individual decisions referred to in paragraph 3.**

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 336

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 adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this regulation.

Amendment 337

Marta Andreassen

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. In the case of adverse developments

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, 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.

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

Amendment 338

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 **European Union**, the Commission **or the Chair of the Authority**, upon its own initiative or following a request by the Council, or 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 339
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**, 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 **Union**, the Commission, following **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 340
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.

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 341

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 342

Antolín Sánchez Presedo

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

Amendment

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 market participants and competent authorities satisfy the

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**

requirements laid down in that legislation.

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 market participants and competent authorities satisfy the requirements laid down in that legislation.

Or. en

Amendment 343
Gianni Pittella

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 market participants 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 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 market participants 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 344

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 market participants 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 *shall* adopt individual decisions *necessary to ensure that* competent authorities to take the necessary action *with special regard to the respective impact on the budget of the Member States and* 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 market participants and competent authorities satisfy the requirements laid down in that legislation.

Or. en

Amendment 345

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

Amendment

2. Where the *existence of an emergency situation is declared* pursuant to

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 market participants and competent authorities satisfy the requirements laid down in that legislation.

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 market participants and competent authorities satisfy the requirements laid down in that legislation.

Or. en

Amendment 346
Kay Swinburne, Ivo Strejček

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 market participants 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 market participants and competent authorities satisfy the requirements laid down in that legislation.

Or. en

Amendment 347
Burkhard Balz, Pablo Zalba Bidegain, José Manuel García-Margallo y Marfil, Sven

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 market participants 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 348
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 349
Kay Swinburne, Ivo Strejček

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

Text proposed by the Commission

Amendment

2 a. 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 350
Kay Swinburne, Ivo Strejček

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

Text proposed by the Commission

Amendment

2 b. 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

Amendment 351

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

Amendment 352

Kay Swinburne, Ivo Strejček

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

deleted

Or. en

Amendment 353
Gianni Pittella

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 market participants**, adopt an individual decision addressed to a financial market participant 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 258** of the Treaty **on the Functioning of the European Union**, 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 market participant 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 354
Kay Swinburne, Ivo Strejček

Proposal for a regulation
Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

Amendment

deleted

Amendment 355
Kay Swinburne, Ivo Strejček

Proposal for a regulation
Article 10 – paragraph 4 – subpara 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.

deleted

Or. en

Amendment 356
Gianni Pittella

Proposal for a regulation
Article 10 – paragraph 4 – subpara 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 357
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 358
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 359
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 360
Marianne Thyssen

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10 a

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 361
Peter Skinner

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, **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 competent authorities concerned, may **take the lead in assisting** assist 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 362

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***.

Or. en

Amendment 363

Kay Swinburne, Ivo Strejček

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

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 **assist** the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

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.

Or. en

Amendment 364

Śławomir Witold Nitras, Jan Kozłowski, Enikő Győri, Danuta Jazłowiecka

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 **cases specified in** 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

Amendment 365

Śławomir Witold Nitras, Jan Kozłowski, Enikő Győri, Danuta Jazłowiecka

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

1. Without prejudice to the powers laid

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 assist the authorities in reaching an agreement in accordance with the procedure set out in paragraph 2.

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 ESMA, 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 ESMA 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 366 **Gianni Pittella**

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.

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 367

Kay Swinburne, Ivo Strejček

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 **European Union** law.

Amendment 368

Kay Swinburne, Ivo Strejček

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 decisions adopted by national supervisors on the same matter.

Amendment 369
Kay Swinburne, Ivo Strejček

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 market participant 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 market participant requiring the necessary action to comply with its obligations under Community law, including the cessation of any practice.

deleted

Or. en

Amendment 370
Jean-Paul Gauzès

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. The Authority shall contribute to promote the efficient and consistent functioning of colleges of supervisors and foster the coherence of the application of Community legislation across colleges.

1. The system of colleges of supervisors may apply to key financial market participants, in the conditions defined by Union law. Where applicable, the Authority shall contribute to promote the efficient and consistent functioning of colleges of supervisors and control the coherence of the application of Union legislation across colleges.

Or. en

Amendment 371
Gianni Pittella

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

1. The Authority shall contribute to promote the efficient and consistent functioning of colleges of supervisors and foster the coherence of the application of **Community** legislation across colleges.

Amendment

1. The Authority shall contribute to promote **and monitor** the efficient, **effective** and consistent functioning of colleges of supervisors **referred to in Directives 2006/49/EC and 2009/111/EC** and foster the coherence of the application of **Union** legislation across colleges.

Or. en

Justification

The mandate of the Authority is to promote consistency and convergence of supervisory practices within colleges of supervisors as well as of operational functioning of colleges of supervisors across the EU to ensure a level playing field for cross-border financial institutions. Its role is also to monitor the functioning of colleges to identify inconsistencies. It should therefore be made clear that the Authority should issue technical standards, guidelines and recommendations, as relevant, as tools to fulfil its mandate.

Amendment 372
Gianni Pittella

Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Authority shall issue guidelines and recommendations adopted under Articles 7 and 8 that harmonise supervisory functioning and practices adopted by the colleges of supervisors.

Or. en

Justification

The mandate of the Authority is to promote consistency and convergence of supervisory practices within colleges of supervisors as well as of operational functioning of colleges of supervisors across the EU to ensure a level playing field for cross-border financial institutions. Its role is also to monitor the functioning of colleges to identify inconsistencies. It should therefore be made clear that the Authority should issue technical standards, guidelines and recommendations, as relevant, as tools to fulfil its mandate.

Amendment 373

Kay Swinburne, Ivo Strejček

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

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.

Amendment

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 374

Jean-Paul Gauzès

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

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

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 shall receive all relevant information shared with any

shared with any member of the college.

member of the college.

Or. en

Amendment 375

Gianni Pittella

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 Authority to solve disputes between national supervisors following the procedure set up in Article 11. The Authority should be empowered to, when no agreement can be found between the supervisors of a cross-border institution, take supervisory decisions directly applicable to the institution concerned.

Or. en

Amendment 376

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 377

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 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Authority may issue technical standards, guidelines and recommendations adopted under Articles 7 and 8 to harmonise supervisory functioning and best practices adopted by the colleges of supervisors.

Or. en

Amendment 378

Antolín Sánchez Presedo, Peter Skinner

Proposal for a regulation

Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

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 379
Olle Schmidt

Proposal for a regulation
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

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 a need for a 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 380

Kay Swinburne, Ivo Strejček

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 381

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 382

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 supervisory.

Or. en

Amendment 383
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 and by promoting best practices **and by preparing appropriate multilateral frameworks**.

Or. en

Amendment 384
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 identifying those tasks and responsibilities that can be delegated or jointly exercised and by promoting best practices.

Amendment

2. The Authority shall **stimulate and** 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.

Or. en

Amendment 385
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 386
Udo Bullmann

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

Text proposed by the Commission

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

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***

informed appropriately.

***shall mention the respective responsibility
of the competent authorities involved.***

Or. en

Amendment 387

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 13 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Authority may assign the tasks and responsibilities of the prudential supervision of financial institutions with EU dimension as referred to in Article 12a to the competent authorities in the Member States.

Or. en

Amendment 388

Thomas Händel, Jürgen Klute

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 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 389

Thomas Händel, Jürgen Klute

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 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 390

Peter Skinner

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 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 391

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 14 – paragraph 1 – subparagraph 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 **accounting and** reporting standards;

Or. en

Amendment 392

Thomas Händel, Jürgen Klute

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 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 **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 393

Antolín Sánchez Presedo

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 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 394

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 395
Antolín Sánchez Presedo

Proposal for a regulation
Article 15 – paragraph 2 – subparagraph 1 – 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 396
Antolín Sánchez Presedo

Proposal for a regulation
Article 15 – paragraph 2 – subparagraph 1 – 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 *Union* law;

Or. en

Amendment 397
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 398
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 the competent authorities concerned.

Amendment

3. On the basis of the peer review the Authority may issue ***guidelines and*** recommendations to the competent 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 399
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.

Amendment 400
Kay Swinburne, Ivo Strejček

Proposal for a regulation
Article 16 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

The Authority shall promote a coordinated
Community response, inter alia by:

The Authority shall promote a coordinated
Union response, inter alia by:

Or. en

Amendment 401
Antolín Sánchez Presedo

Proposal for a regulation
Article 16 – paragraph 2 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) taking all appropriate measures in situations of financial instability and crisis with a view to achieve a common

response, as fast and automatically as possible, by relevant national competent supervisory authorities;

Or. en

Amendment 402

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 16 – paragraph 2 – point 4 a (new)

Text proposed by the Commission

Amendment

(4a) taking all appropriate measures in situations of financial instability and crisis with a view to facilitating the coordination of actions undertaken by relevant national competent supervisory authorities;

Or. en

Amendment 403

Kay Swinburne, Ivo Strejček

Proposal for a regulation

Article 16 – paragraph 2 – point 4 a (new)

Text proposed by the Commission

Amendment

(4 a) facilitating the coordination of actions undertaken by relevant national competent supervisory authorities.

Or. en

Amendment 404
Thomas Händel, Jürgen Klute

Proposal for a regulation
Article 17 – paragraph 1 – subparagraph 2 – introductory part

Text proposed by the Commission

In particular, the Authority shall, in cooperation with the ESRB, initiate and coordinate **Community**-wide assessments of the resilience of key financial market participants to adverse market developments To that end, it shall develop the following, for application by the competent authorities:

Amendment

In particular, the Authority shall, in cooperation with the ESRB, initiate and coordinate **Union**-wide assessments of the resilience of key financial market participants to adverse market developments, **and of threats arising from financial products' characteristics and distribution processes**. To that end, it shall develop the following, for application by the competent authorities:

Or. en

Justification

The amendment is in line with EU initiatives to prevent mis-selling in the field of lending as well as achieve investor's protection in the field of investing (Key Information Document for UCITS funds, pre-sales information and sales process in Packaged Retail Investment Products. Product characteristics and distribution processes are relevant both from the point of view of systemic risk prevention and customer protection. It is important to have a clear commitment to include them explicitly in the scope of art 17, assumed to fall under the general heading of "adverse market developments".

Amendment 405
Peter Skinner

Proposal for a regulation
Article 17 – paragraph 1 – subparagraph 2 – introductory part

Text proposed by the Commission

In particular, the Authority shall, in cooperation with the ESRB, initiate and coordinate **Community**-wide assessments of the resilience of key financial market participants to adverse market developments To that end, it shall develop the following, for application by the

Amendment

The Authority shall include in its analysis an economic analysis of the markets for insurance and occupational pensions, and the impact of potential market developments on them. In particular, the Authority shall, in cooperation with the ESRB, initiate and coordinate **Union**-wide

competent authorities:

assessments of the resilience of key financial market participants to adverse market developments To that end, it shall develop the following, for application by the competent authorities:

Or. en

Justification

The use of economic analysis will allow the ESA to make more informed decisions on the impact of its actions on the wider market, and the impact of wider market events on its actions. This is in line with best practice at member state level.

Amendment 406

Thomas Händel, Jürgen Klute

Proposal for a regulation

Article 17 – paragraph 1 – subparagraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) common methodologies for assessing the effect of product characteristics and distribution processes on an institution's financial position and on customer protection;

Or. en

Justification

The amendment is in line with EU initiatives to prevent mis-selling in the field of lending as well as achieve investor's protection in the field of investing (Key Information Document for UCITS funds, pre-sales information and sales process in Packaged Retail Investment Products. Product characteristics and distribution processes are relevant both from the point of view of systemic risk prevention and customer protection. It is important to have a clear commitment to include them explicitly in the scope of art 17, assumed to fall under the general heading of "adverse market developments".

Amendment 407
Peter Skinner

Proposal for a regulation
Article 17 – paragraph 3

Text proposed by the Commission

3. The Authority shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating with the European Insurance and Occupational Pensions **Authority** and the European Banking Authority.

Amendment

3. The Authority shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating with the European **Supervisory Authority** (Insurance and Occupational Pensions) and the European **Supervisory Authority** (Banking) **through the European Supervisory Authority (Joint Consultative Committee)**.

Or. en

Justification

Important to establish that the JC plays the key role in intra-ESA coordination.

Amendment 408
Antolín Sánchez Presedo

Proposal for a regulation
Article 18 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

The Authority shall represent the European Union in all international fora concerning regulation and supervision of the institutions falling under the legislation referred to in Article 1(2). National competent authorities may continue to contribute to such fora as pertain to national issues and issues relevant for their own functions and competences under Union law.

Or. en

Amendment 409

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 18 – paragraph 1

Text proposed by the Commission

Without prejudice to the competences of the Community Institutions, the Authority may develop contacts with supervisory authorities from third countries. It may enter into administrative arrangements with international organisations and the administrations of third countries.

Amendment

The Authority ***shall*** develop contacts with supervisory authorities from third countries. It may enter into administrative arrangements with international organisations and the administrations of third countries.

Or. en

Amendment 410

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 18 – paragraph 1 a (new)

Text proposed by the Commission

The Authority shall contribute in the representation of the European Union in all international fora concerning the regulation and supervision of the institutions falling under the legislation referred to in Article 1(2).

Amendment

Or. en

Amendment 411

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 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall adopt delegated acts in accordance with Articles 7a to 7d for the purpose of making equivalence assessments referred to in the second paragraph.

Or. en

Amendment 412

Kay Swinburne, Ivo Strejček

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

In its Report, the Authority may set out the administrative arrangements and equivalence decisions agreed with international organisations or administrations or third countries.

Or. en

Amendment 413

Kay Swinburne, Ivo Strejček

Proposal for a regulation

Article 18 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

Without prejudice to the rights of national supervisory authorities, the Authority may participate in al international fora concerning the regulation and

supervision of the institutions falling under the legislation referred to in Article 1(2).

Or. en

Amendment 414
Udo Bullmann

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. With regard to prudential assessments of mergers and acquisitions falling under the terms of Directive 2007/44/EC, the Authority may, on its own initiative or on application of any competent authorities, issue and publish an opinion on a prudential assessment to be carried out by any authority of a Member State. Article 20 shall apply.

Amendment

2. With regard to prudential assessments of mergers and acquisitions falling under the terms of Directive 2007/44/EC, the Authority may, on its own initiative or on application of any competent authorities, ***monitor the assessments and provide guidance with a view to streamline and provide a level playing field, and*** issue and publish an opinion on a prudential assessment to be carried out by any authority of a Member State. Article 20 shall apply.

Or. en

Amendment 415
Kay Swinburne, Ivo Strejček

Proposal for a regulation
Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. At the request of the Authority, competent authorities and other public authorities of the Member States shall provide the Authority with all the necessary information to carry out the duties assigned to it by this Regulation.

Amendment

1. At the request of the Authority, competent authorities and other public authorities of the Member States shall provide the Authority with all the necessary information to carry out the duties assigned to it by this Regulation, ***provided that the addressee has legal***

access to the relevant data, and provided that the request for information is proportionate in relation to the nature of the duty in question.

Or. en

Amendment 416
Sari Essayah

Proposal for a regulation
Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. At the request of the Authority, competent authorities ***and other public authorities*** of the Member States shall provide the Authority with all the necessary information to carry out the duties assigned to it by this Regulation.

Amendment

1. At the request of the Authority, competent authorities of the Member States shall provide the Authority with all the necessary information to carry out the duties assigned to it by this Regulation.

Or. en

Amendment 417
Kay Swinburne, Ivo Strejček

Proposal for a regulation
Article 20 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Authority may also request information to be provided at recurring intervals.

Amendment

The Authority may also request information to be provided at recurring intervals, ***provided the competent holds such information. Where competent authorities do not collect such information, the Authority should make provisions for such a request by making amendments to the relevant reporting requirements under the Article 7 technical standards.***

Or. en

Amendment 418

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 20 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Authority may also request information to be provided at recurring intervals.

Amendment

The Authority may also request information to be provided at recurring intervals. ***Those requests shall use common reporting formats to be fulfilled, where appropriate, at a consolidated level.***

Or. en

Amendment 419

Sari Essayah

Proposal for a regulation

Article 20 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Where information is not available or is not made available in a timely fashion by the competent authorities and other public authorities of the Member States, the Authority may address a reasoned request directly to relevant financial market participants and other parties. It shall inform the relevant competent authorities of such requests.

Amendment

deleted

Or. en

Amendment 420
Kay Swinburne, Ivo Strejček

Proposal for a regulation
Article 20 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Where information is not available or is not made available in a timely fashion by the competent authorities and other public authorities of the Member States, the Authority may address a reasoned request directly to relevant financial market participants and other parties. It shall inform the relevant competent authorities of such requests.

Amendment

2. Where information is not available or is not made available in a timely fashion by the competent authorities and other public authorities of the Member States, the Authority may address a reasoned request directly to relevant financial market participants and other parties ***provided the costs of providing such information to the Authority are proportionate to the nature of the information.*** It shall inform the relevant competent authorities of such requests.

Or. en

Amendment 421
Sari Essayah

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

Text proposed by the Commission

At the request of the Authority, the competent authorities and other public authorities of the Member States shall assist the Authority in collecting such information.

Amendment

deleted

Or. en

Amendment 422

Peter Skinner

Proposal for a regulation

Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. On a request from a national supervisory authority of a Member State the Authority shall provide any such information that is necessary to enable the national authority to carry out its duties, provided the national authority in question has appropriate confidentiality arrangements in place.

Or. en

Justification

The information flow between a national authority and the ESA should be two-way with the national authority able to request information from the ESA.

Amendment 423

Kay Swinburne, Ivo Strejček

Proposal for a regulation

Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. On a request from a national supervisory authority of a Member State, the Authority shall provide any such information that is necessary to enable it to carry out its duties, provided the national authority in question has appropriate confidentiality arrangements in place.

Or. en

Amendment 424

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 21 – paragraph 2

Text proposed by the Commission

2 The Authority shall cooperate closely with the ESRB. It shall provide the ESRB with regular and up-to-date information necessary for the achievement of its tasks. Any data necessary for the achievement of its tasks that are not in summary or collective form shall be provided without delay to the ESRB upon a reasoned request, as specified in Article [15] of Regulation **(EC)** No/... [ESRB].

Amendment

2 The Authority shall cooperate closely with the ESRB. It shall provide the ESRB with regular and up-to-date information necessary for the achievement of its tasks. Any data necessary for the achievement of its tasks that are not in summary or collective form shall be provided without delay to the ESRB upon a reasoned request, as specified in Article [15] of Regulation **(EU)** No/... [ESRB]. ***The Authority shall develop an adequate protocol for the disclosure of confidential information regarding individual financial institutions.***

Or. en

Amendment 425

Gianni Pittella

Proposal for a regulation

Article 21 – paragraph 2

Text proposed by the Commission

2 The Authority shall cooperate closely with the ESRB. It shall provide the ESRB with regular and up-to-date information necessary for the achievement of its tasks. Any data necessary for the achievement of its tasks that are not in summary or collective form shall be provided without delay to the ESRB upon a reasoned request, as specified in Article [15] of Regulation **(EC)** No/... [ESRB].

Amendment

2 The Authority shall cooperate closely with the ESRB. It shall provide the ESRB with regular and up-to-date information necessary for the achievement of its tasks. Any data necessary for the achievement of its tasks that are not in summary or collective form shall be provided without delay to the ESRB upon a reasoned request, as specified in Article [15] of Regulation **(EU)** No/... [ESRB]. ***The Authority shall develop an adequate protocol for the disclosure of confidential***

*information regarding individual
financial institutions.*

Or. en

Amendment 426

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 22 – paragraph 1**

Text proposed by the Commission

1. For the purpose of consultation with stakeholders in areas relevant to the tasks of the Authority, a Securities and Markets Stakeholder Group shall be established.

Amendment

1. For the purpose of consultation with stakeholders in areas relevant to the tasks of the Authority, a Securities and Markets Stakeholder Group shall be established.
The Stakeholder Group shall be consulted on all relevant decisions and actions of the authority. If case of urgency immediate consultation is impossible, the Stakeholder Group has to be informed about the decision as quick as possible.

Or. en

Amendment 427

Gianni Pittella, Pervenche Berès

**Proposal for a regulation
Article 22 – paragraph 1**

Text proposed by the Commission

1. For the purpose of consultation with stakeholders in areas relevant to the tasks of the Authority, a Securities and Markets Stakeholder Group shall be established.

Amendment

1. For the purpose of consultation with stakeholders in areas relevant to the tasks of the Authority, a Securities and Markets Stakeholder Group shall be established.
The stakeholder Group shall be consulted on all important decisions and actions of the Authority, and in particular on all decisions submitted to or taken by the Authority's Board of Supervisors.

Justification

Article 22 does not specify the consultative role of the Group. It is necessary to avoid the current practice of the CESR Markets Participants consultative Panel, which is not properly consulted on all key Committee decisions.

Amendment 428

Kay Swinburne, Ivo Strejček

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

1. ***For the purpose of*** consultation with stakeholders in areas relevant to the tasks of the Authority, a Securities and Markets Stakeholder Group shall be established.

Amendment

1. ***To help facilitate*** consultation with stakeholders in areas relevant to the tasks of the Authority, a Securities and Markets Stakeholder Group shall be established.

Amendment 429

Udo Bullmann

Proposal for a regulation

Article 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing ***in balanced proportions Community*** financial market participants, their employees as well as consumers, investors and users of financial services.

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing ***EU*** financial market participants, their employees as well as consumers, investors and users of financial services. ***The Securities and Markets Stakeholder Group shall be composed at least of 10 representatives from consumers, and users such as investors, of 5 representatives of the employees, of 5 independent top-ranking academics and of not more than 10 representatives from the organisations of the supervised***

institutions.

Or. en

Amendment 430

Peter Skinner

Proposal for a regulation

Article 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, ***representing in balanced proportions Community*** financial market participants, ***their*** employees ***as well as*** consumers, investors and users of financial services.

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members. ***Not more than 15 of the members will be representatives of*** financial market participants. ***Not less than five of the members shall be representatives of SMEs, employees (such as trade unions) and*** consumers, investors and users of financial services. ***Not less than five of the members shall be independent top-ranking academics.***

Or. en

Justification

It is appropriate to ensure that industry representatives are appropriately represented given the complex and industry-specific nature of some of the advice the stakeholder group is expected to provide. However, the industry should not account for more than half of the members, and academics should also be present to provide additional non-biased expertise.

Amendment 431

Gianni Pittella, Pervenche Berès

Proposal for a regulation

Article 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing ***in balanced proportions***

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing ***EU*** financial

Community financial market participants, their employees as well as consumers, investors and users of financial services.

market participants, their employees as well as consumers, investors and users of financial services. ***No stakeholders in the group shall have an overall majority. Each stakeholder sub-group shall be composed of an equal number of representatives. Minimum five seats in the stakeholder group shall be reserved for consumer representatives.***

Or. en

Justification

The wording 'balanced proportion' is not clear. Stakeholder representation within the stakeholder group should not replicate the situation in most past and present EC stakeholder and expert groups, where the industry representation significantly outweighs other stakeholders' representation. Therefore, each stakeholder sub-group must be composed of an equal number of representatives. A continuous consultation of the stakeholder group must be ensured, which two meetings a year would not allow for sure.

Amendment 432 **Markus Ferber**

Proposal for a regulation **Article 22 – paragraph 2 - subparagraph 1**

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions ***Community*** financial market participants, ***their employees as well as consumers, investors*** and users of financial services.

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions ***Union*** financial market participants and users of financial services. ***Not less than 5 of the members shall be independent top-ranking academics.***

Or. en

Justification

The Group shall assist the competent authority by providing technical advice and should be representative of all stakeholders. Since both consumers and investors are users of financial services, there is no need to refer explicitly to these groups. Employees are not affected by supervisory measures.

Amendment 433
Thomas Mann

Proposal for a regulation
Article 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **Community** financial market participants, **their employees as well as consumers, investors** and users of financial services.

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **EU** financial market participants and users of financial services. **Not less than 5 of the members shall be independent top-ranking academics.**

Or. en

Amendment 434
Thomas Händel, Jürgen Klute

Proposal for a regulation
Article 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **Community** financial market participants, their employees as well as consumers, investors and users of financial services.

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **EU** financial market participants, their employees as well as consumers, investors and users of financial services. **No stakeholders in the group shall have a stronger position than others.**

Or. en

Justification

A proper and fair functioning of the stakeholder group should be ensured in all regards. The wording 'balanced proportion' should be clarified. A continuous consultation of the stakeholder group must be ensured, which two meetings a year would not allow for sure.

Amendment 435

Thijs Berman

Proposal for a regulation

Article 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **Community** financial market participants, **their employees** as well as **consumers**, investors and users of financial services.

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **EU** financial market participants, **trade union representatives** as well as **representatives from consumer organizations**, investors and users of financial services.

Or. en

Justification

Trade unions and consumer organizations are organized representatives of employees and consumers. Because of their in-depth knowledge of cross-sectoral activities they are best placed to protect the interests of employees and consumers in the Stakeholder Group.

Amendment 436

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 22 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **Community** financial market participants,

Amendment

2. The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions **Union** financial market participants, their

their employees as well as consumers,
investors and users of financial services.

employees as well as consumers, investors
and users of financial services.

Or. en

Amendment 437

Thomas Mann

Proposal for a regulation

Article 22 – paragraph 2 - subparagraph 1 a (new)

Text proposed by the Commission

Amendment

***The Group may establish working groups
on technical issues to which further
experts may also be appointed to ensure
the availability of the necessary technical
expertise.***

Or. en

Amendment 438

**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 22 – paragraph 2 - subparagraph 1 a (new)

Text proposed by the Commission

Amendment

***Not less than 5 of the members shall be
independent top-ranking academics.***

Or. en

Amendment 439

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 22 – paragraph 2 - subparagraph 1 b (new)

Text proposed by the Commission

Amendment

The number of members representing professional market participants including their employees shall not exceed 15. At least 5 of them have to be representatives of the employees.

Or. en

Amendment 440

Gianni Pittella, Pervenche Berès

Proposal for a regulation

Article 22 – paragraph 2 - subparagraph 2

Text proposed by the Commission

Amendment

The Securities and Markets Stakeholder Group shall meet at least ***twice*** a year.

The Securities and Markets Stakeholder Group shall meet at least ***four times*** a year.

Or. en

Justification

The wording ‘balanced proportion’ is not clear. Stakeholder representation within the stakeholder group should not replicate the situation in most past and present EC stakeholder and expert groups, where the industry representation significantly outweighs other stakeholders’ representation. Therefore, each stakeholder sub-group must be composed of an equal number of representatives. A continuous consultation of the stakeholder group must be ensured, which two meetings a year would not allow for sure.

Amendment 441
Thomas Händel, Jürgen Klute

Proposal for a regulation
Article 22 – paragraph 2 - subparagraph 2

Text proposed by the Commission

Amendment

The Securities and Markets Stakeholder Group shall meet at least **twice** a year.

The Securities and Markets Stakeholder Group shall meet at least **four times** a year.

Or. en

Justification

A proper and fair functioning of the stakeholder group should be ensured in all regards. The wording ‘balanced proportion’ should be clarified. A continuous consultation of the stakeholder group must be ensured, which two meetings a year would not allow for sure.

Amendment 442
Udo Bullmann

Proposal for a regulation
Article 22 – paragraph 2 - subparagraph 2

Text proposed by the Commission

Amendment

The Securities and Markets Stakeholder Group shall meet at least **twice** a year.

The Securities and Markets Stakeholder Group shall meet at least **four times** a year.

Or. en

Amendment 443
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 22 – paragraph 2 - subparagraph 2

Text proposed by the Commission

Amendment

The Securities and Markets Stakeholder Group shall meet **at least twice a year**.

The Securities and Markets Stakeholder Group shall meet **quarterly**.

Amendment 444
Gianni Pittella

Proposal for a regulation
Article 22 – paragraph 3 - subparagraph 1

Text proposed by the Commission

3. The members of the Securities and Markets Stakeholder Group shall be appointed by the Board of Supervisors of the Authority, following proposals from the relevant stakeholders.

Amendment

3. The members of the Securities and Markets Stakeholder Group shall be appointed by the Board of Supervisors of the Authority, following proposals from the relevant stakeholders. ***Stakeholders shall be effectively involved in the selection of their respective representatives.***

Justification

It must be ensured that the stakeholder group will function in a way so that all stakeholders in the group in practice have the same conditions and possibilities to contribute to the work. This means that stakeholder representatives should not have to rely on resources from the organisations they represent, as this will entail strong imbalances in the quantity and quality of the work that the diverse representatives can actually undertake. This counts for representatives of employees in the sector, consumers, SME's and others.

Amendment 445
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 22 – paragraph 3 - subparagraph 2

Text proposed by the Commission

In making its decision, the Board of Supervisors shall, to the extent possible, ensure an appropriate geographical balance and representation of stakeholders across the Community.

Amendment

deleted

Amendment 446
Pervenche Berès

Proposal for a regulation
Article 22 – paragraph 3 - subparagraph 2

Text proposed by the Commission

In making its decision, the Board of Supervisors shall, to the extent possible, ensure an appropriate geographical balance and representation of stakeholders across the *Community*.

Amendment

In making its decision, the Board of Supervisors shall ***ensure that all members not representing professional market participants or their employees disclose any potential conflicts of interest. It shall also***, to the extent possible, ensure an appropriate geographical balance and representation of stakeholders across the ***Union*** .

Or. en

Justification

It must be ensured that the stakeholder group will function in a way so that all stakeholders in the group in practice have the same conditions and possibilities to contribute to the work. This means that stakeholder representatives should not have to rely on resources from the organisations they represent, as this will entail strong imbalances in the quantity and quality of the work that the diverse representatives can actually undertake. This counts for representatives of employees in the sector, consumers, SME's and others.

Access to information is of crucial importance.

Amendment 447
Antolín Sánchez Presedo

Proposal for a regulation
Article 22 – paragraph 3 - subparagraph 2

Text proposed by the Commission

In making its decision, the Board of Supervisors shall, to the extent possible,

Amendment

In making its decision, the Board of Supervisors shall, to the extent possible,

ensure an appropriate geographical balance and representation of stakeholders across the *Community*.

ensure an appropriate geographical *and gender* balance and representation of stakeholders across the *Union* .

Or. en

Amendment 448
Udo Bullmann

Proposal for a regulation
Article 22 – paragraph 3 - subparagraph 3

Text proposed by the Commission

The Authority shall ensure adequate secretarial support for the Securities and Markets Stakeholder Group.

Amendment

The Authority shall ensure adequate secretarial support for the Securities and Markets Stakeholder Group *and adequate reimbursement of travel and subsistence expenses, as well as an allowance for participation in the activities for those Members for whom the absence of reimbursement would be prohibitive for being able to participate. The European budget should as well provide for proper funding for an expertise center where professional experts in financial services regulation and supervision can give technical advice exclusively to the buy side investors-, SME- and consumers organisations to underpin their input in the stakeholder advisory groups.*

Or. en

Amendment 449
Pervenche Berès

Proposal for a regulation
Article 22 – paragraph 3 - subparagraph 3

Text proposed by the Commission

The Authority shall ensure adequate secretarial support for the Securities and

Amendment

The Authority shall ensure *access to all information and* adequate secretarial

Markets Stakeholder Group.

support for the Securities and Markets Stakeholder Group. ***Non professional members shall be properly compensated for their work.***

Or. en

Justification

It must be ensured that the stakeholder group will function in a way so that all stakeholders in the group in practice have the same conditions and possibilities to contribute to the work. This means that stakeholder representatives should not have to rely on resources from the organisations they represent, as this will entail strong imbalances in the quantity and quality of the work that the diverse representatives can actually undertake. This counts for representatives of employees in the sector, consumers, SME's and others.

Access to information is of crucial importance.

Amendment 450

Peter Skinner

Proposal for a regulation

Article 22 – paragraph 3 - subparagraph 3 a (new)

Text proposed by the Commission

Amendment

A budget shall be allocated to members of the Securities and Markets Stakeholder Group that represent non-profit organisations. This budget shall be agreed by the Board of Supervisors and shall be sufficient to cover expenses related to the organisation and attendance of preparatory meetings and the commissioning of external research and opinions.

Or. en

Justification

It must be ensured that the stakeholder group will function in a way so that all stakeholders in the group in practice have the same conditions and possibilities to contribute to the work. This means that stakeholder representatives should not have to rely on resources from the

organisations they represent, as this will entail strong imbalances in the quantity and quality of the work that the diverse representatives can actually undertake. This counts for representatives of employees in the sector, consumers, SMEs and others.

Amendment 451

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 22 – paragraph 3 - subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Adequate financial compensation shall be established for members of the stakeholder group representing non-profit organisations.

Or. en

Amendment 452

Thomas Händel, Jürgen Klute

Proposal for a regulation

Article 22 – paragraph 3 - subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Adequate financial compensation shall be established for members of the stakeholder group, which represent non-profit organisations.

Or. en

Justification

A proper and fair functioning of the stakeholder group should be ensured in all regards.

It must be ensured that the stakeholder group will function in a way so that all stakeholders in the group in practice have the same conditions and possibilities to contribute to the work. This means that stakeholder representatives should not have to rely on resources from the organisations they represent, as this will entail strong imbalances in the quantity and quality

of the work that the diverse representatives can actually undertake. This counts for representatives of employees in the sector, consumers, SME's and others.

Amendment 453

Udo Bullmann

Proposal for a regulation

Article 22 – paragraph 4 - subparagraph 1

Text proposed by the Commission

4. Members of the Securities and Markets Stakeholder Group shall serve for a period of *two and a half* years, following which a new selection procedure shall take place.

Amendment

4. Members of the Securities and Markets Stakeholder Group shall serve for a period of *five* years, following which a new selection procedure shall take place.

Or. en

Amendment 454

Udo Bullmann

Proposal for a regulation

Article 22 – paragraph 4 - subparagraph 2

Text proposed by the Commission

The members may serve two successive terms.

Amendment

deleted

Or. en

Amendment 455

Gianni Pittella, Pervenche Berès

Proposal for a regulation

Article 22 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The chair shall be designated by the members.

Justification

To further ensure the independence of the Authority's Stakeholder Group from the management of the Authority, its chair must be designated by its own members, and not by the authority's management.

Amendment 456

Thijs Berman

Proposal for a regulation

Article 22 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. For the fulfilment of its consultative tasks the Stakeholder Group shall be provided all necessary information by the Authority.

Justification

The Stakeholder Group is fully dependent on the Authority for its information. When the Authority asks for a consultation it should facilitate the Stakeholder Group's access to relevant information.

Amendment 457

Peter Skinner

Proposal for a regulation

Article 22 – paragraph 5

Text proposed by the Commission

Amendment

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority ***specified*** in Articles 7 and 8.

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority ***including in relation to reaching joint positions with the European Supervisory Authority***

(Banking) and the European Supervisory Authority (Insurance and Occupational Pensions) as set out in Article 42, with particular focus on the tasks set out in Articles 7 and 8.

Or. en

Justification

The Stakeholder Group should also be able to contribute as appropriate to decision-making as relates to financial conglomerates where that conglomerate has a banking business and any other task undertaken by the ESA, though Articles 7 and 8 should remain its focus.

Amendment 458

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 22 – paragraph 5**

Text proposed by the Commission

5. The Securities and Markets Stakeholder Group **may** submit opinions and advice to the Authority on any issue ***related to the tasks of the Authority specified in Articles 7 and 8.***

Amendment

5. The Securities and Markets Stakeholder Group ***shall*** submit opinions and advice to the Authority on any issue. ***Any conflict of interest of members of the Securities and Market Stakeholder Group has to be disclosed whenever the Stakeholder Group issues opinions and advice.***

Or. en

Amendment 459

Thomas Händel, Jürgen Klute

**Proposal for a regulation
Article 22 – paragraph 5**

Text proposed by the Commission

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the

Amendment

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the

tasks of the Authority specified in **Articles 7 and 8**.

tasks of the Authority specified in **Articles 7 to 19**.

Or. en

Justification

This is relevant, as the exercise of conducting peer reviews (Art. 15) and the building of a common supervisory culture (Art. 14) will be crucial. New practices should include companies' actual business practices in the supervisory scope as well as a continuous social dialogue. It is also relevant to ensure consultation regarding the monitoring and assessment of market developments (Art. 17) as stakeholders can contribute with relevant information and assessments of how companies' actual business practices could impact on financial stability. Consultation is important regarding the colleges of supervisors (Art. 12) to allow following the development and efficiency of the colleges and their practices.

Amendment 460
Gianni Pittella

Proposal for a regulation
Article 22 – paragraph 5

Text proposed by the Commission

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority specified in Articles **7 and 8**.

Amendment

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority specified in Articles **7 to 19**.

Or. en

Justification

It must be ensured that the stakeholder group will be properly consulted on all issues relevant to stakeholders. The Banking Stakeholder Group should be consulted on a broader range of tasks described from Article 7 to Article 19.

If the agenda is set by the Authority, it will probably swamp the stakeholder group with reports which are not relevant.

The stakeholder groups by virtue of the membership will have diverse interests and opinions. Consumers and other users should be allowed to provide their opinion which will not

necessarily be the opinion of the majority of the stakeholder group.

Amendment 461
Udo Bullmann

Proposal for a regulation
Article 22 – paragraph 5

Text proposed by the Commission

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority specified in Articles 7 and 8.

Amendment

5. The Securities and Markets Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority specified in Articles 7 and 8, **9 and 10**.

Or. en

Amendment 462
Peter Skinner

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

Text proposed by the Commission

Amendment

The Securities and Markets Stakeholder Group shall decide on the issues relevant for consultation as well as have the possibility to influence the agenda for the meetings. All group representatives shall have the opportunity to give inputs. The final decision on the proposed agenda items shall be taken by Securities and Markets Stakeholder Group, with the right for each stakeholder sub-group to have their proposed items on the agenda. Each stakeholder sub-group shall have the freedom to submit its opinions and advice to the Authority which will not necessarily be the opinions of the majority of the stakeholder group.

Or. en

Justification

The Stakeholder Group by virtue of the membership will have diverse interests and opinions. Consumers and other users should be allowed to provide their opinion which will not necessarily be the opinion of the majority of the stakeholder group. A failure to give stakeholders this right runs the risk of paralysing the work of the group.

Amendment 463 **Gianni Pittella**

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

Text proposed by the Commission

Amendment

The stakeholder group shall decide on the issues relevant for consultation as well as have the possibility to influence the agenda for the meetings. All group representatives shall have the opportunity to give inputs. The final decision on the proposed agenda items shall be taken by the stakeholder group, with the right for each stakeholder sub-group to have their proposed items on the agenda.

Or. en

Justification

It must be ensured that the stakeholder group will be properly consulted on all issues relevant to stakeholders. The Banking Stakeholder Group should be consulted on a broader range of tasks described from Article 7 to Article 19.

If the agenda is set by the Authority, it will probably swamp the stakeholder group with reports which are not relevant.

The stakeholder groups by virtue of the membership will have diverse interests and opinions. Consumers and other users should be allowed to provide their opinion which will not necessarily be the opinion of the majority of the stakeholder group.

Amendment 464
Thomas Händel, Jürgen Klute

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

Text proposed by the Commission

Amendment

The stakeholder group shall decide on the issues relevant for consultation as well as on the agenda for the meetings.

Or. en

Amendment 465
Gianni Pittella

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

Text proposed by the Commission

Amendment

Each stakeholder sub-group shall have the freedom to submit its opinions and advice to the Authority which will not necessarily be the opinions of the majority of the stakeholder group.

Or. en

Justification

It must be ensured that the stakeholder group will be properly consulted on all issues relevant to stakeholders. The Banking Stakeholder Group should be consulted on a broader range of tasks described from Article 7 to Article 19.

If the agenda is set by the Authority, it will probably swamp the stakeholder group with reports which are not relevant.

The stakeholder groups by virtue of the membership will have diverse interests and opinions. Consumers and other users should be allowed to provide their opinion which will not necessarily be the opinion of the majority of the stakeholder group.

Amendment 466 **Peter Skinner**

Proposal for a regulation **Article 22 – paragraph 6**

Text proposed by the Commission

6. The Securities and Markets Stakeholder Group shall adopt its rules of procedure.

Amendment

6. The Securities and Markets Stakeholder Group shall adopt its rules of procedure ***on the basis of the agreement of a two-thirds majority of members.***

Or. en

Justification

Given the likelihood of significant divergences of views within the Stakeholder Group it is important the strong rules of procedure are established at the outset. This is best achieved through a buy-in to those rules by at least two-thirds of members. This also prevents representatives from one stakeholder group being able to dominate decision-making.

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 22 – paragraph 6

Text proposed by the Commission

6. The Securities and Markets Stakeholder Group shall adopt its rules of procedure.

Amendment

6. The Securities and Markets Stakeholder Group shall adopt its rules of procedure ***and designate its chairperson from amongst its members.***

Or. en