



2016/0365(COD)

7.11.2017

AMENDMENT 219 - 442

Draft report

Kay Swinburne, Jakob von Weizsäcker
(PE610.797v01-00)

on the proposal for a regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365

Proposal for a regulation
(COM(2016)0856 – C8-0484/2016 – 2016/0365(COD))

Amendment 219

Miguel Viegas

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Financial markets ***are pivotal for the functioning of modern economies. The more integrated they are, the more efficient the allocation of economic resources will be, benefitting economic performance. However, in order to improve the functioning of the single market in financial services,*** it is important to have procedures in place to ensure that if a financial institution or a financial market infrastructure that is active in this market faces financial distress or is at the point of failure, such an event does not de-stabilise the entire financial market and damage growth across the wider economy.

Amendment

(1) Financial markets ***have significantly grown in the past decades due to liberalisation and deregulation. Many actors have become so big that they can be considered as systemically relevant as their failure would massively disrupt economic activities and would destroy wealth on a large scale. Hence,*** it is important to have procedures in place to ensure that if a financial institution or a financial market infrastructure that is active in this market faces financial distress or is at the point of failure, such an event does not de-stabilise the entire financial market and damage growth across the wider economy.

Or. en

Amendment 220

Sirpa Pietikäinen

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council¹⁹ requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full

Amendment

(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council¹⁹ requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full

oversight of their activities, working together within colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.

oversight of their activities, working together within colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies. ***Given this context, in assessing the CCP's recovery plans, the competent authority should take into account the prudential requirements included in Regulation (EU) No 648/2012. Any change to those requirements should be subject to an impact assessment. Moreover, if additional capital were to be required on top of current requirements, this additional capital should be able to offset against any voluntary CCP capital tranches/buffers in the financial waterfall, otherwise the incentive to use such voluntary capital will disappear. Additionally, regarding non-default losses, the burden of covering such losses should be on the institutions responsible for creating them and the basis for the calculation of any potential additional resources for such non-default losses should exclude the capital for orderly wind down of the CCP.***

¹⁹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

¹⁹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

Or. en

Justification

To ensure that CCPs remain robust and efficient market infrastructures, any changes to the

prudential requirements defined in Regulation (EU) No 648/2012 (EMIR) shall be subject to a relevant impact assessment and not arbitrarily altered without any evidence to support them. With the same aims of robustness and efficiency of the CCP capital requirements, any additional capital requirements should offset against any voluntary capital of the CCP and any additional capital for non-default losses should exclude, from the basis for its calculation, the capital for orderly wind down of the CCP. The amendments also clarifies that the coverage of non-default losses should follow the principle that the institution responsible for them should be the one to cover them.

Amendment 221

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council¹⁹ requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full oversight of their activities, working together within colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.

Amendment

(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council¹⁹ requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full oversight of their activities, working together within *supervisory* colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.

¹⁹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

¹⁹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

Or. en

Amendment 222
Kay Swinburne

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Should a CCP reach the stage where all recovery measures, as set out in the CCPs rule book, have been exhausted and have failed in their attempt to recover the CCP, the Resolution Authority when assessing the tools available for continuation of service in resolution should not assume public support with taxpayers funds unless an assessment on the viability of the central clearing model has been made and a full wind down considered. The concurrent failure of multiple systemically important global CCPs should be factored into such a consideration.

Or. en

Amendment 223
Kay Swinburne

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) The objective of a credible recovery and resolution framework is to ensure, to the greatest extent possible, that CCPs set

(7) The objective of a credible recovery and resolution framework is to ensure, to the greatest extent possible, that CCPs set

out measures to recover from financial distress, to maintain the critical functions of a CCP which is failing or likely to fail while winding down the remaining activities through normal insolvency proceedings, and to preserve financial stability while minimising the cost of a CCP failure on taxpayers. The recovery and resolution framework further bolsters CCPs' and authorities' preparedness to mitigate financial stress and provide authorities with further insight into CCPs' preparations for stress scenarios. It also provides authorities with powers to prepare for the potential resolution of a CCP and deal with the declining health of a CCP in a coordinated manner, thus contributing to the smooth functioning of financial markets.

out measures to recover from financial distress, to maintain the critical functions of a CCP which is failing or likely to fail while winding down the remaining activities through normal insolvency proceedings, and to preserve financial stability while minimising the cost of a CCP failure on *end clients and* taxpayers. The recovery and resolution framework further bolsters CCPs' and authorities' preparedness to mitigate financial stress and provide authorities with further insight into CCPs' preparations for stress scenarios. It also provides authorities with powers to prepare for the potential resolution of a CCP and deal with the declining health of a CCP in a coordinated manner, thus contributing to the smooth functioning of financial markets.

Or. en

Amendment 224

Neena Gill

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Building on the approach for bank recovery and resolution, Member States' authorities should be prepared and have adequate recovery and resolution tools at their disposal to handle situations involving CCP failures. However, due to their different functions and business models, the risks inherent in banks and CCPs are different. Specific tools and powers are *therefore* needed for CCP failure scenarios caused both by the failure of the CCP's clearing members or as a result of non-default events.

Amendment

(10) Building on the approach for bank recovery and resolution, Member States' authorities should be prepared and have adequate recovery and resolution tools at their disposal to handle situations involving CCP failures. However, due to their different functions and business models, the risks inherent in banks and CCPs are different, *which means that the regulatory approach taken in the banking resolution framework cannot be transposed to the CCP framework. Therefore*, specific tools and powers are needed for CCP failure scenarios caused both by the failure of the CCP's clearing members or as a result of non-default events.

Amendment 225**Burkhard Balz****Proposal for a regulation****Recital 12***Text proposed by the Commission*

(12) In order to ensure consistency with existing Union legislation in the area of financial services, as well as the greatest possible level of financial stability across the Union, the recovery and resolution regime should apply to all CCPs subject to the prudential requirements laid down in Regulation (EU) No 648/2012, regardless of whether they have a bank licence. ***The insolvency of a CCP affiliated to a group could rapidly impact the solvency of the whole group and cause further financial instability. While the groups of which a CCP may form part do not need to be subject to the full regime, certain provisions should also apply to parent undertakings, where application of those provisions at that level would be conducive to more effective recovery and resolution. Authorities should therefore possess targeted means of action with respect to parent undertakings in order to ensure effective recovery and resolution of the CCP and reduce the possibility of contagion to other group entities.***

Amendment

(12) In order to ensure consistency with existing Union legislation in the area of financial services, as well as the greatest possible level of financial stability across the Union, the recovery and resolution regime should apply to all CCPs subject to the prudential requirements laid down in Regulation (EU) No 648/2012, regardless of whether they have a bank licence. ***While there may be differences in the risk profile associated with alternative corporate structures, this legislation treats CCPs as independent entities under any group or market structure and ensures that a CCP's recovery and resolution plan is free-standing, irrespective of the structure of the CCP's group. This relates in particular to the requirements to hold sufficient financial resources at an entity level to manage a default or non-default situation.***

Amendment 226**Jonás Fernández****Proposal for a regulation****Recital 12 a (new)**

Text proposed by the Commission

Amendment

(12a) The ESCB members may act both as clearing members or clients of CCPs. Being publicly chartered central banks, which by their nature do not present a risk of default for the CCPs in which they participate, members of the ESCB should, when acting as clearing members or clients of CCPs, be excluded from the position and loss allocation tools under this Regulation;

Or. en

Amendment 227

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) In light of the consequences that the failure of a CCP and the subsequent actions may have on the financial system and the economy of a Member State, as well as the possible ultimate need to use public funds to resolve a crisis, the Ministries of Finance or other relevant ministries in the Member States should be closely involved, at an early stage, in the process of recovery and resolution.

(14) In light of the consequences that the failure of a CCP and the subsequent actions may have on the financial system and the economy of a Member State, as well as the possible ultimate need to use public funds ***as a last resort*** to resolve a crisis, the Ministries of Finance or other relevant ministries in the Member States should be closely involved, at an early stage, in the process of recovery and resolution.

Or. en

Amendment 228

Anne Sander, Alain Lamassoure

Proposal for a regulation

Recital 16 a (new)

(16a) The decision to be taken by a Union resolution authority should focus first and foremost on the preservation of Union financial stability.

Or. en

Justification

Unless third-country jurisdictions have committed to a reciprocal arrangement, any decision or action from a resolution authority should not be questioned. These decisions should focus first and foremost on the EU's financial stability.

Amendment 229

Danuta Maria Hübner

Proposal for a regulation

Recital 19

Text proposed by the Commission

Amendment

(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial distress. Such plans should ***be based on realistic assumptions applicable in a range of robust and severe scenarios, including deteriorations arising from a default event or from a non-default event.*** The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to extraordinary public financial support or

(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial distress. Such plans should ***contemplate an appropriate range of scenarios envisaging both systemic stress and stress specific to the CCP. The scenarios should contemplate situations of stress that would be more extreme than those used for the purposes of regular stress testing under Article 21 of EMIR, while remaining plausible, such as the failure of more than the two clearing members to which the CCP has the largest exposures.*** The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing

expose taxpayers to the risk of loss.

members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to extraordinary public financial support or expose taxpayers to the risk of loss.

Or. en

Amendment 230
Neena Gill

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial distress. Such plans should be based on realistic assumptions applicable in a range of robust and severe scenarios, including deteriorations arising from a default event or from a non-default event. The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to *extraordinary* public financial support or expose taxpayers to the risk of loss.

Amendment

(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial distress. Such plans should be based on realistic assumptions applicable in a range of robust and severe scenarios, including deteriorations arising from a default event or from a non-default event. The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to *any* public financial support or expose taxpayers to the risk of loss.

Or. en

Amendment 231
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) The recovery plan should ensure that the sequencing of the use of recovery tools properly balances the allocation of losses between CCPs, clearing members and their clients. Before instigating a cash call upon clearing members, CCPs must contribute their own capital, and before instigating variation margin gains haircutting, which effects the clients of clearing members, the CCP must first carry out cash calls upon clearing members. Ultimately the end user of the CCP should be protected where possible and it should be those direct members of the CCP that, again where possible, should bear losses.

Or. en

Amendment 232
Danuta Maria Hübner

Proposal for a regulation
Recital 22

Text proposed by the Commission

Amendment

(22) Recovery plans should comprehensively set out the actions that the CCP would take to address any unmatched outstanding obligations, uncovered loss, liquidity shortfall, or capital inadequacy, as well as the actions to replenish any depleted pre-funded financial resources and liquidity arrangements in order to restore the CCP's viability and its continuing ability to meet its requirements for authorisation.

(22) Recovery plans should comprehensively set out the actions that the CCP would take to address any unmatched outstanding obligations, uncovered loss, liquidity shortfall, or capital inadequacy, as well as the actions to replenish any depleted pre-funded financial resources and liquidity arrangements in order to restore the CCP's viability and its continuing ability to meet its requirements for authorisation. ***The tools envisaged***

should be comprehensive. Each tool should be reliable, timely, and underpinned by a sound legal basis. Recovery tools should be designed so as to allow those affected clients and members which might bear losses and liquidity shortfalls in recovery to measure, manage and control their potential losses and liquidity shortfalls as well as to minimise the negative impact of their use on members, clients and the wider financial system. They should create appropriate incentives for the CCP's shareholders, members and their clients to control the risk they bring to or incur in the system, monitor the risk-taking and risk-management activities of the CCP, and participate in the default management process.

Or. en

Justification

Mirrors point 3.3.1 and 3.3.8 of CPMI-ISOCO recovery guidance

Amendment 233
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Recovery plans should explicitly set out actions to be taken by the CCP in case of cyber-attack where there is a potential effect of leading to a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

Or. en

Amendment 234
Danuta Maria Hübner

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) CCPs should ensure that the plans are non-discriminatory and balanced in terms of their impacts and the incentives they create. They should not disadvantage clearing members or clients in a disproportionate way. In particular, in accordance with Regulation (EU) No 648/2012 CCPs should ensure that their clearing members have limited exposures toward the CCP. CCPs should ensure that all relevant stakeholders are **consulted on** the recovery plan through their involvement in the CCP's risk committee, and by being **involved in the development of the recovery plan**.

Amendment

(23) CCPs should ensure that the plans are non-discriminatory and balanced in terms of their impacts and the incentives they create. They should not disadvantage clearing members or clients in a disproportionate way. In particular, in accordance with Regulation (EU) No 648/2012 CCPs should ensure that their clearing members have limited exposures toward the CCP. CCPs should ensure that all relevant stakeholders are **involved in the drawing-up of** the recovery plan through their involvement in the CCP's risk committee, **as the case may be**, and by being **appropriately consulted**. **Since opinions may be expected to differ among stakeholders, CCPs should establish clear processes to manage the diversity of stakeholders' views as well as any conflict of interest between those stakeholders and the CCP.**

Or. en

Justification

Drafting improvement and alignment with CPMI-ISCO recovery guidance point 2.3.4.

Amendment 235
Danuta Maria Hübner

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) In order to ensure an appropriate alignment of incentives and to align the financial liability with the ability to

control risk, it is appropriate to require CCPs to use an additional dedicated amount of own resources in addition to the contribution to the default waterfall provided for under Article 45 of Regulation (EU) No 648/2012. Such amount should be, to the extent feasible and practicable without creating a disproportionate burden, calibrated depending on the ability of the CCP to control the risk in the recovery scenario envisaged. It should by default, in a default scenario, be equal to the contribution to the default waterfall provided for under Article 45 of Regulation (EU) No 648/2012. In a non-default scenario, the CCP shall bear the first losses up to all of the amount of its own resources exceeding the minimum capital requirements, unless the recovery scenario contemplated foresees that the non-default loss occurs in a situation where the control of risk is spread between the CCP and its members, such as in the case of an investment loss resulting from a policy jointly agreed on by the CCP and its members.

Or. en

Amendment 236
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) CCPs should ensure that clients of non-defaulting clearing members are appropriately recompensed should their assets be used during the recovery process.

Or. en

Amendment 237

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) CCPs should be prevented from using recovery tools to reduce the value of the collateral posted to the CCP's non-defaulting clearing members as initial margin related to those services, or to otherwise reduce the value of or extinguish the CCP's obligation to return or redeliver initial margin to non-defaulting clearing members.

Or. en

Amendment 238

Danuta Maria Hübner

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) To ensure the ability of a CCP to apply the recovery options where necessary to contracts or assets governed by the law of a third country or to entities based in third countries, the CCP's operating rules should include contractual provisions ***for that purpose.***

(24) In view of the global nature of the markets served by CCPs, it is necessary to ensure the ability of a CCP to apply the recovery options, where necessary, to contracts or assets governed by the law of a third country or to entities based in third countries. The CCP's operating rules should therefore include contractual provisions ensuring this ability.

Or. en

Justification

Drafting improvement

Amendment 239

Neena Gill

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Resolution authorities, on the basis of the assessment of resolvability, should have the power to require changes to the structure and organisation of CCPs directly or indirectly through the competent authority, to take measures which are necessary and proportionate to reduce or remove material impediments to the use of resolution tools and ensure the resolvability of the entities concerned.

Amendment

(27) Resolution authorities, on the basis of the assessment of resolvability, should have the power to require changes to the **legal** structure and organisation of CCPs directly or indirectly through the competent authority, to take measures which are necessary and proportionate to reduce or remove material impediments to the use of resolution tools and ensure the resolvability of the entities concerned.

Or. en

Amendment 240

Burkhard Balz

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) ***Where expedient to achieve the objective of orderly recovery and resolution, competent and resolution authorities should identify specific measures in relation to a parent undertaking.*** Depending on the structure of the group to which the CCP belongs, it can be necessary that the recovery plan of the CCP sets out the conditions under which the provision of ***possible financial support***, guarantees or other forms of operational support from a parent undertaking or another group-entity to a CCP within the same group would be triggered. Transparency on such arrangements would mitigate risks to the

Amendment

(29) Depending on the structure of the group to which the CCP belongs, it can be necessary that the recovery plan of the CCP sets out the conditions under which the provision of ***voluntarily agreed contractual or other binding relations such as parental guarantees or control and profit and loss transfer agreements*** or other forms of operational support from a parent undertaking or another group-entity to a CCP within the same group would be triggered. Transparency on such arrangements would mitigate risks to the liquidity and solvency of the group entity providing support to a CCP facing financial distress. Any change to such

liquidity and solvency of the group entity providing support to a CCP facing financial distress. Any change to such arrangements should be considered to be a material change for the purpose of reviewing the recovery plan.

arrangements should be considered to be a material change for the purpose of reviewing the recovery plan.

Or. en

Amendment 241
Pervenche Berès

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial stability that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention.

Amendment

(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial stability that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention. ***Early intervention rights should include the power to restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP, and it should be able to restrict, prohibit or freeze any payments of variable***

remuneration under Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22, of discretionary pension benefits and of severance packages to management.

Or. en

Amendment 242
Anne Sander, Alain Lamassoure

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial stability that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention.

Amendment

(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial stability that could result from the CCP's implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention. ***Early intervention rights should include the power to restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP, and it should be able to restrict, prohibit or freeze any payments of variable remuneration under Directive***

Justification

The objective of the resolution is to preserve the EU financial stability. Mentioning clients seems to create a sort of exemption on this objective and could discriminate certain clients and also create the risk to see resolution action questioned.

Amendment 243

Anne Sander, Alain Lamassoure

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due, or when the CCP requires extraordinary public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution.

Amendment

(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. ***The decision to enter into resolution should be duly justified, based on the information readily available.*** A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due, or when the CCP requires extraordinary public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution.

Justification

It is important to ensure that any decision to enter into resolution has to be justified based on

the information available at the moment.

Amendment 244

Neena Gill

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due, or when the CCP requires *extraordinary* public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution.

Amendment

(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due, or when the CCP requires public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution.

Or. en

Amendment 245

Anne Sander, Alain Lamassoure

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) Where a CCP meets the conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution tools and powers. Their exercise should be subject to common conditions, objectives, and

Amendment

(36) Where a CCP meets the conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution tools and powers. Their exercise should be subject to common conditions, objectives, and

general principles. The use of additional tools and powers by resolution authorities should be consistent with the resolution principles and objectives. In particular, the use of such tools or powers should not impinge on the effective resolution of cross-border groups.

general principles. The use of additional tools and powers by resolution authorities should be consistent with the resolution principles and objectives. In particular, the use of such tools or powers should not impinge on the effective resolution of cross-border groups. ***The possibility to use public funds should be avoided as much as possible.***

Or. en

Justification

It is important to ensure legal certainty and market confidence. The list of resolution tools needs to be comprehensive and exhaustive. However, we need to preserve a level playing field among EU CCPs. In that context, the use of initial margins haircutting should not be a resolution tool. It is worth noting that differences exist at national level regarding the protection of initial margins. Therefore it could leave to a competitive disadvantage for some EU CCPs.

Amendment 246 **Markus Ferber**

Proposal for a regulation **Recital 37**

Text proposed by the Commission

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds by minimising reliance on extraordinary public financial support to failing CCPs.

Amendment

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds by minimising reliance on extraordinary public financial support to failing CCPs. ***To prevent moral hazard and protect taxpayers more effectively, competent authorities should lay down clear and comprehensive measures in advance for recovering those funds from clearing participants.***

Or. de

Amendment 247 **Neena Gill**

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds *by minimising reliance on extraordinary public financial support to failing CCPs.*

Amendment

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds.

Or. en

Amendment 248
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to *protect* public funds by minimising reliance on *extraordinary* public financial support to failing CCPs.

Amendment

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to *avoid the use of* public funds by minimising reliance on public financial support to failing CCPs.

Or. en

Amendment 249
Danuta Maria Hübner

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) The critical functions of a failing CCP should be maintained, albeit re-structured with changes to the management where appropriate, through the use of

Amendment

(38) The critical functions of a failing CCP should be maintained, albeit re-structured with changes to the management where appropriate, through the use of

resolution tools as a going concern with the use, to the extent possible, of private funds. **That** could be achieved either through **sale** to or merger with a solvent third party, or **after having restructured or written down** the contracts and liabilities of the CCP via the allocation of losses and positions, **or after having written down shares or written down and converted its debt to equity, in order to effect** a recapitalisation. In line with **this** objective, prior to **these** actions, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the CCP in line with **how** they would be called in under normal insolvency proceedings.

resolution tools as a going concern with the use, to the **largest** extent possible, of private funds. **This objective** could be achieved either through **the sale of the CCP** to or **its** merger with a solvent third party, or **by restructuring or writing down** the contracts and liabilities of the CCP via the allocation of losses and **the transfer of positions from the defaulting member to non-defaulting members, or by effecting a** recapitalisation **of the CCP through writing down its shares or writing down and converting its debt to equity**. In line with **the** objective **of maintaining the critical functions of the CCP and** prior to **taking the** actions **described above**, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the CCP, **including in particular any contractual obligations by clearing members to meet cash calls or to take on positions of defaulting clearing members, whether through an auction or other agreed means in the CCP's operating rules, as well as any existing and outstanding contractual obligation committing parties other than clearing members to any forms of financial support. Contractual obligations should be enforced by the resolution authority** in line with **the way in which** they would be called in under normal insolvency proceedings.

Or. en

Amendment 250

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) The critical functions of a failing CCP should be maintained, albeit re-

Amendment

(38) The critical functions of a failing CCP should be maintained, albeit re-

structured with changes to the management where appropriate, through the use of resolution tools *as a going concern with the use, to the extent possible, of private funds*. That could be achieved *either* through *sale* to or *merger* with a solvent third party, *or after having restructured or written down the contracts and liabilities of the CCP via the allocation of losses and positions, or after having written down shares or written down and converted its debt to equity, in order to effect a recapitalisation*. In line with this objective, prior to these actions, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the CCP in line with how they would be *called in* under *normal insolvency proceedings*.

structured with changes to the management where appropriate, through the use of resolution tools *that do not rely on public support*. That could be achieved *by allocating outstanding losses and restoring the CCP to a matched book through the use of the position and loss allocation tools in the case of default losses, or, in the case of non-default losses, through write down and conversion to equity of unsecured liabilities to absorb losses and recapitalize the CCP. A CCP or specific clearing service may also be sold to or merged with a solvent third party CCP that is able to conduct and manage the transferred clearing activities*. In line with this objective, prior to these actions, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the CCP in line with how they would be *treated* under *the CCP's operating rules*.

Or. en

Amendment 251

Anne Sander, Alain Cadec

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) Affected shareholders, clearing *participants* and creditors should not incur losses greater than those which they would have incurred if the resolution authority *would* not have taken resolution action in relation to the CCP and *they would* instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan *or* other arrangements in its operating rules *or* the CCP *had* been wound up *in* normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private

Amendment

(42) Affected shareholders, clearing *members* and creditors should not incur losses greater than those which they would have incurred if the resolution authority *had* not have taken resolution action in relation to the CCP and *if they had* instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan *and all other contractual* arrangements in its operating rules, *and* the CCP *has* been wound up *under* normal insolvency proceedings, *properly taking into account any adverse effects of*

purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.

systemic instability and market turmoil. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.

Or. en

Justification

Taking into account the clients for the NCWO principle is too large. This would mean that the resolution authority has managed to identify the clients and has taken into consideration the whole picture of the clearing system when it had decided to take resolution actions. In both cases, this is hardly possible. Therefore the NCWO principle should be restricted to clearing members only.

Amendment 252 **Pervenche Berès**

Proposal for a regulation **Recital 42**

Text proposed by the Commission

(42) Affected shareholders, clearing *participants* and creditors should not incur losses greater than those which they would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up in normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.

Amendment

(42) Affected shareholders, clearing *members* and creditors should not incur losses greater than those which they would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up in normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.

Or. en

Amendment 253

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) For the purpose of protecting the right of shareholders, counterparties and creditors, clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that **shareholders** and creditors would have received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP should be carried out. Such a valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders and creditors have actually been afforded and the treatment they would have received if the resolution authority **would not have** taken resolution action in relation to the CCP and **they would** instead **have** been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, should be carried out after resolution tools have been used. Where shareholders and creditors have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority **would not have** taken resolution action in relation to the CCP and **they would** instead **have** been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, they

Amendment

(43) For the purpose of protecting the right of shareholders, counterparties and creditors, clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that **shareholders** and creditors would have received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP should be carried out **including the price at which any termination of contracts in the CCP “tear up” would be undertaken which should take into account market volatility and liquidity at the time of the resolution.** Such a valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders and creditors have actually been afforded and the treatment they would have received if the resolution authority **had not** taken resolution action in relation to the CCP and **if they had** instead been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, should be carried out after resolution tools have been used. Where shareholders and creditors have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority **had not** taken resolution action in relation to the CCP and **if they had** instead

should in certain cases be entitled to the payment of the difference. As opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders and creditors.

been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, they should in certain cases be entitled to the payment of the difference. ***The calculation of the amount that they would have received should not assume provision of public financial support nor should it include the value of so-called replacement costs, as these are yet to be defined at global level. Should a strict definition emerge as a result of work undertaken by the FSB at global level, a review may be conducted to consider their inclusion.*** As opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders and creditors.

Or. en

Amendment 254
Danuta Maria Hübner

Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) For the purpose of protecting the right of shareholders, counterparties and creditors, clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that shareholders and creditors would have received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP

Amendment

(43) For the purpose of protecting the right of shareholders, counterparties and creditors, clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that shareholders and creditors would have received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP,

should be carried out. Such *a* valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders and creditors have actually been afforded and the treatment they would have received *if* the resolution authority *would not have* taken resolution action in relation to the CCP and they *would* instead *have* been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, should be carried out after resolution tools have been used. Where shareholders and creditors have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, they should in certain cases be entitled to the payment of the difference. As opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders and creditors.

including the price at which any termination of contracts in the CCP would take place, which should take into account market volatility and liquidity at the time of the resolution, should be carried out. Such valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders and creditors have actually been afforded and the treatment they would have received *had* the resolution authority *not* taken resolution action in relation to the CCP and they *had* instead been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, should be carried out after resolution tools have been used. Where shareholders and creditors have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, they should in certain cases be entitled to the payment of the difference. As opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders and creditors.

Or. en

Amendment 255

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) Upon entry into resolution, any outstanding contractual obligations set out in the operating rules of the CCP, including outstanding recovery measures, ***should be*** honoured except where the exercise of another resolution power or tool is more appropriate to ***avoid*** adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. Losses should then be absorbed by regulatory capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution. Where those instruments are not sufficient, resolution authorities should have the power to write down ***subordinated*** unsecured debt and ***senior unsecured*** liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.

Amendment

(45) Upon entry into resolution, ***the Resolution Authority should ensure*** any outstanding contractual obligations set out in the operating rules of the CCP, including outstanding recovery measures, ***are*** honoured except where the exercise of another resolution power or tool is more appropriate to ***mitigate*** adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. ***In the case of default losses, the resolution authority should use position allocation tools where necessary to restore the CCP to a matched book as equitably as possible and allocate losses through use of position and loss allocation tools.*** ***Non-default*** losses should then be absorbed by regulatory capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution. Where those instruments are not sufficient, resolution authorities should have the power to write down unsecured debt and liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.

Or. en

Amendment 256
Danuta Maria Hübner

Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) Upon entry into resolution, any outstanding contractual obligations set out

Amendment

(45) Upon entry into resolution, any outstanding contractual obligations set out

in the operating rules of the CCP, including outstanding recovery measures, should be honoured except where the exercise of another resolution power or tool is more appropriate to avoid adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. **Losses** should *then* be absorbed by regulatory capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution. Where those instruments are not sufficient, resolution authorities should have the power to write down subordinated unsecured debt and senior unsecured liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.

in the operating rules of the CCP, including outstanding recovery measures, should be honoured except where the exercise of another resolution power or tool is more appropriate to avoid adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. ***In order to address a non-default event, the resolution authority should restore the CCP to a matched book and allocate outstanding losses through the use of position and loss allocation tools. Losses from a non-default event should*** be absorbed by regulatory capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution. Where those instruments are not sufficient, resolution authorities should have the power to write down subordinated unsecured debt and senior unsecured liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.

Or. en

Amendment 257

Neena Gill

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) The resolution tools should be used to the fullest extent possible ***before any public sector injection of capital or equivalent extraordinary public financial support to a CCP. The use of public financial support to assist in the resolution of failing institutions should comply with the relevant State aid provisions.***

Amendment

(48) The ***recovery and*** resolution tools should be used to the fullest extent possible.

Amendment 258

Neena Gill

Proposal for a regulation**Recital 49***Text proposed by the Commission*

(49) An effective resolution regime ***should minimise the costs of the resolution of a failing CCP borne by the taxpayers.*** It should ensure that CCPs can be resolved without jeopardising financial stability. The loss and position allocation tools achieve that objective by ensuring that shareholders and counterparties who are among the creditors of the failing CCP suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the CCP. The loss and position allocation tools therefore give shareholders and counterparties of CCPs a stronger incentive to monitor the health of a CCP during normal circumstances in accordance with the recommendations of the Financial Stability Board²¹.

²¹ http://www.fsb.org/wp-content/uploads/r_141015.pdf

Amendment

(49) An effective resolution regime should ensure that CCPs can be resolved without jeopardising financial stability. The loss and position allocation tools achieve that objective by ensuring that shareholders and counterparties who are among the creditors of the failing CCP suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the CCP. The loss and position allocation tools therefore give shareholders and counterparties of CCPs a stronger incentive to monitor the health of a CCP during normal circumstances in accordance with the recommendations of the Financial Stability Board²¹.

²¹ http://www.fsb.org/wp-content/uploads/r_141015.pdf

Or. en

Amendment 259

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation**Recital 50***Text proposed by the Commission*

(50) In order to ensure that resolution

Amendment

(50) In order to ensure that resolution

authorities have the necessary flexibility to allocate losses and positions to counterparties in a range of circumstances, it is appropriate that those authorities are able to apply the loss and position allocation tools both where the objective is to maintain the *operations of the failing CCP and where critical services are transferred* to a bridge CCP or a third party *and* the residual part of the CCP *ceases to operate and is* wound up.

authorities have the necessary flexibility to allocate losses and positions to counterparties in a range of circumstances, it is appropriate that those authorities are able to *firstly* apply the loss and position allocation tools both where the objective is to maintain the *critical clearing services within CCP under resolution and subsequently, should this be necessary, transfer such* critical services to a bridge CCP or a third party *leaving* the residual part of the CCP *to cease operation and be* wound up.

Or. en

Amendment 260
Neena Gill

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) Where the loss and position allocation tools are applied with the objective of restoring the viability of the failing CCP to enable it to continue to operate as a going concern, the resolution should be accompanied by replacement of management, *except where retention of management is appropriate and necessary for the achievement of the resolution objectives*, and a subsequent restructuring of the CCP and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan, *which should be compatible with the restructuring plan that the CCP might be required to submit pursuant to the State aid framework*.

Amendment

(51) Where the loss and position allocation tools are applied with the objective of restoring the viability of the failing CCP to enable it to continue to operate as a going concern, the resolution should be accompanied by replacement of management, and a subsequent restructuring of the CCP and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan.

Or. en

Amendment 261
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) Resolution authorities should **be able to exclude or partially exclude** some contracts from loss **and position** allocation in a number of circumstances. Where those **exclusions are applied**, the level of loss or exposure applied to other contracts may be **increased to take account of such exclusions** subject to the "no creditor worse off principle" being respected.

Amendment

(53) **With due respect for the impact on financial stability and as a last resort**, resolution authorities should **consider only partially including** some contracts from loss allocation in a number of circumstances. Where those **tools are exercised only partially**, the level of loss or exposure applied to other contracts may be **modified** subject to the "no creditor worse off principle" being respected.

Or. en

Amendment 262
Neena Gill

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) **Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped from the CCP over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.**

Amendment

deleted

Or. en

Amendment 263

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 60

Text proposed by the Commission

Amendment

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped from the CCP over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.

deleted

Or. en

Amendment 264

Danuta Maria Hübner

Proposal for a regulation

Recital 60

Text proposed by the Commission

Amendment

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped from the

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped from the

CCP over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.

CCP over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress. ***It should be temporary in nature. Therefore, comprehensive and credible arrangements enabling the recoupment over an appropriate period of time of the public funds provided should be established.***

Or. en

Amendment 265
Burkhard Balz

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped from the ***CCP over time***. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.

Amendment

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped ***over time*** from the ***clearing participants, which benefit from the financial support***. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.

Or. en

Amendment 266
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped **from the CCP** over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.

Amendment

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped over time. The use of government stabilisation tools is notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress.

Or. en

Amendment 267
Danuta Maria Hübner

Proposal for a regulation
Recital 70

Text proposed by the Commission

(70) It is in the interest of an efficient resolution, and in order to avoid conflicts of jurisdiction, that no normal insolvency proceedings for the failing CCP be opened or continued whilst the resolution authority is exercising its resolution powers or using the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has time to put into practice the resolution tools. This should not, however, apply to obligations of a failing CCP towards systems designated under Directive 98/26/EC of the European Parliament and of the Council²³, other central counterparties and central banks.

Amendment

(70) It is in the interest of an efficient resolution, and in order to avoid conflicts of jurisdiction, that no normal insolvency proceedings for the failing CCP be opened or continued whilst the resolution authority is exercising its resolution powers or using the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has time to put into practice the resolution tools. This should not, however, apply to obligations of a failing CCP towards systems designated under Directive 98/26/EC of the European Parliament and of the Council²³, **including** other central counterparties and central

Directive 98/26/EC reduces the risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, a crisis prevention measure or a resolution action should not be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, the operation of a system designated under or the right to collateral security guaranteed by Directive 98/26/EC should not be undermined.

²³ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11. 6. 1998, p. 45).

banks. Directive 98/26/EC reduces the risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, a crisis prevention measure or a resolution action should not be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, the operation of a system designated under or the right to collateral security guaranteed by Directive 98/26/EC should not be undermined.

²³ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11. 6. 1998, p. 45).

Or. en

Justification

Alignment with relevant articles in the body of the text

Amendment 268

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Recital 79

Text proposed by the Commission

(79) When taking decisions or actions under this Regulation, competent authorities and resolution authorities should always have due regard to the

Amendment

(79) When taking decisions or actions under this Regulation, competent authorities and resolution authorities should always have due regard to the

impact of their decisions and actions on financial stability in other *Member States* and on the economic situation in other *Member States* and should give consideration to the significance of any clearing member for the financial sector and the economy of the *Member State* where such a clearing member is established.

impact of their decisions and actions on financial stability in other *jurisdictions* and on the economic situation in other *jurisdictions* and should give consideration to the significance of any clearing member for the financial sector and the economy of the *jurisdictions* where such a clearing member is established.

Or. en

Amendment 269
Jonás Fernández

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

Text proposed by the Commission

Amendment

1a. In the case of members of the ESCB acting as clearing participants, Articles 28 to 31 of this Regulation shall not apply.

Or. en

Amendment 270
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) "default event" means a scenario whereby one or more clearing members fail to honour their financial obligations towards the CCP;

Or. en

Amendment 271
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) 'default event' means a scenario where a clearing member fails to honour its financial obligations to the CCP;

Or. en

Amendment 272
Danuta Maria Hübner

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)

Text proposed by the Commission

Amendment

(7b) 'non-default event' means a scenario whereby a loss is incurred by a CCP for any reason other than the default of a clearing member, such as losses on investments or losses from operational failures or fraud;

Or. en

Amendment 273
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Article 2 – paragraph 1 – point 7 b (new)

Text proposed by the Commission

Amendment

(7b) 'non-default event' means a scenario where losses for the CCP arise from any event other than a default event, such as a business, custody, investment, legal or operational failure;

Amendment 274

Danuta Maria Hübner

Proposal for a regulation

Article 2 – paragraph 1 – point 15 a (new)

Text proposed by the Commission

Amendment

(15a) ‘O-SII’ means an Other Systemically Important Institution as referred to in Directive 2013/36/EU Article 131(3);

Or. en

Amendment 275

Neena Gill

Proposal for a regulation

Article 2 – paragraph 1 – point 26

Text proposed by the Commission

Amendment

(26) '*extraordinary* public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of a CCP or of a group of which such a CCP forms part;

(26) 'public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of a CCP or of a group of which such a CCP forms part;

Or. en

Amendment 276

Gabriel Mato

Proposal for a regulation

Article 2 – paragraph 1 – point 48 a (new)

Text proposed by the Commission

Amendment

(48a) 'non-default losses' means the losses suffered by the CCP, clearing members or clients of clearing members not resulting from and not related to the default of one or several clearing members. Non-default losses may result from or may be related to: i) investment and custody risks; ii) general business or operational risks, including cyber risk or fraud; or iii) uncovered liquidity shortfalls. Loss allocation for non-default losses shall be proportional to the level of responsibility of each stakeholder involved in the event that leads to the loss and to the level of gains or benefits obtained by the relevant stake holder from or in relation to such event.

Or. en

Amendment 277

Gabriel Mato

Proposal for a regulation

Article 2 – paragraph 1 – point 48 b (new)

Text proposed by the Commission

Amendment

(48b) 'default losses' means the losses suffered by the CCP, clearing members or clients of clearing members resulting from or related to the default of one or several clearing members.

Or. en

Amendment 278

Anne Sander, Alain Lamassoure

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Each Member State shall designate one or more resolution authorities that are empowered to **use** the resolution tools and exercise the resolution powers as set out in this Regulation.

Amendment

Each Member State shall designate one or more resolution authorities that are empowered to **apply** the resolution tools and exercise the resolution powers as set out in this Regulation.

Or. en

Justification

In order to ensure efficiency, it is important that all Member States have designated a resolution authority. If there is no authority, it creates uncertainty regarding who will be in charge to apply and verify the resolution decisions.

Amendment 279

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Each Member State shall designate one **or more** resolution **authorities that are** empowered to use the resolution tools and exercise the resolution powers as set out in this Regulation.

Amendment

Each Member State shall designate one resolution **authority that is** empowered to use the resolution tools and exercise the resolution powers as set out in this Regulation.

Or. en

Amendment 280

Jakob von Weizsäcker, Cătălin Sorin Ivan

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By ... [date to be inserted: 18 months after the establishment of a single European supervisor for CCPs pursuant

to Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (COM (2017)208) as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third country CCPs] a Single Resolution Board for CCPs ('CCP-SRB') shall become the designated resolution authority for CCPs which are under direct supervision of the single European supervisor for CCPs.

Or. en

Amendment 281
Danuta Maria Hübner

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the **Member State shall ensure** the operational independence of that resolution authority **and shall put in place** all necessary arrangements to avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.

Amendment

3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the operational independence of that resolution authority shall **be ensured and** all necessary arrangements **shall be established in order** to avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.

Or. en

Amendment 282
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the Member State shall ensure the operational independence of that resolution authority and shall put in place all necessary arrangements to avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.

Amendment

3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the Member State shall ensure the **full** operational independence of that resolution authority and shall put in place all necessary arrangements to avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.

Or. en

Amendment 283
Miguel Viegas

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

Text proposed by the Commission

The staff involved in carrying out the functions entrusted to the resolution authority pursuant to this Regulation shall be structurally separated from, and subject to separate reporting lines from, the staff involved in carrying out the other functions of that authority.

Amendment

The staff involved in carrying out the functions entrusted to the resolution authority pursuant to this Regulation shall be structurally separated from, and subject to separate reporting lines from, the staff involved in carrying out the other functions of that authority. ***The staff shall perform their duties and exercise their powers independently from political and other external influence.***

Or. en

Amendment 284
Anne Sander, Alain Lamassoure

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

Text proposed by the Commission

The staff involved in carrying out the functions entrusted to the resolution authority pursuant to this Regulation shall be structurally separated from, and subject to separate reporting lines from, the staff involved in carrying out the *other functions of that authority*.

Amendment

The staff involved in carrying out the functions entrusted to the resolution authority pursuant to this Regulation shall be structurally separated from, and subject to separate reporting lines from, the staff involved in carrying out the *tasks pursuant to Regulation (EU) No 648/2012*.

Or. en

Justification

It seems that a structural separation is not justified for other functions than the resolution and supervision of CCP. Furthermore, international standards don't foresee such provision.

Amendment 285
Danuta Maria Hübner

Proposal for a regulation
Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. By way of derogation from paragraph 3 and 4, the requirements on independence and structural separation shall not apply where all of the following conditions are met:

(a) no CCP is established in the Member State concerned;

(b) the resolution authority designated under this article is the same authority as the resolution authority designated under Article 3 of Directive 2014/59;

(c) adequate policies and procedures to mitigate conflicts of interests within the resolution authority are established.

Justification

Contrary to the full exemption for Member States where no CCPs is established from the requirement to establish a resolution authority, this provision ensures that there still will be some staff able to monitor resolution decisions affecting the State and able to take up the duty of resolution authority if a CCP were one day to establish itself in the Member State. However, making it possible to combine bank and CCP resolution, subject to less cumbersome procedures regarding conflicts of interests, is a way of more proportionately applying the Regulation to Member States without CCPs.

Amendment 286**Jakob von Weizsäcker, Cătălin Sorin Ivan****Proposal for a regulation****Article 3 – paragraph 6***Text proposed by the Commission*

6. *Where the resolution authority in a Member State is not the competent ministry*, the resolution authority shall inform the competent ministry of the decisions taken pursuant to this Regulation.

Amendment

6. The resolution authority shall inform the competent ministry *in a timely manner* of the decisions taken pursuant to this Regulation.

Or. en

Amendment 287**Jakob von Weizsäcker, Cătălin Sorin Ivan****Proposal for a regulation****Article 3 – paragraph 7***Text proposed by the Commission*

7. Where the decisions referred to in paragraph 6 have a direct fiscal impact *or systemic implications*, the resolution authority shall obtain the approval of *the competent ministry* before their implementation *unless otherwise* stipulated *in national* law.

Amendment

7. Where the decisions referred to in paragraph 6 have a direct fiscal impact, the resolution authority shall obtain the approval of *relevant executive and legislative decision making bodies* before their implementation *as* stipulated *by* law.

Or. en

Amendment 288

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 9 – introductory part

Text proposed by the Commission

9. *Where a Member State designates more than one resolution authority pursuant to paragraph 1*, the notification referred to in paragraph 8 shall include the following:

Amendment

9. The notification referred to in paragraph 8 shall include the following:

Or. en

Amendment 289

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 9 – point a

Text proposed by the Commission

(a) the reasons justifying that *multiple designation*;

Amendment

(a) *where the designated resolution authority combines other functions with those referred to in this Regulation*, the reasons justifying that *combination*;

Or. en

Amendment 290

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 9 – point b

Text proposed by the Commission

(b) the allocation of functions and

Amendment

(b) the *precise* allocation of functions

responsibilities *between* those authorities;

and responsibilities *within* those authorities;

Or. en

Amendment 291

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 9 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the measures taken to ensure full operational independence in conformity with this Article;

Or. en

Amendment 292

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 9 – point c

Text proposed by the Commission

Amendment

(c) the way in which *coordination* between them is *ensured*;

(c) the way in which *conflict of interest* between them is *avoided*;

Or. en

Amendment 293

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 9 – point d

Text proposed by the Commission

Amendment

(d) the resolution authority designated as the contact authority for the purposes of cooperation and coordination with the relevant authorities of other Member States. *deleted*

Or. en

Amendment 294

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) exchange information relevant for the development of resolution plans, for the application of preparatory and preventative measures and for resolution;

(a) exchange information relevant for the development of resolution plans, **for assessing the CCP's interconnectedness with other financial market infrastructures, with other financial institutions and with the financial system in general, and** for the application of preparatory and preventative measures and for resolution;

Or. en

Amendment 295

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) exchange recovery and resolution plans of clearing members and assess potential impact and interconnectedness with the CCP;

Or. en

Amendment 296
Jakob von Weizsäcker

Proposal for a regulation
Article 4 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the CCP-SRB, if already established, but not the designated resolution authority of the CCP in question;

Or. en

Amendment 297
Danuta Maria Hübner

Proposal for a regulation
Article 4 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) the central banks referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;

(h) the central banks ***of issue*** referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;

Or. en

Amendment 298
Danuta Maria Hübner

Proposal for a regulation
Article 4 – paragraph 2 – point i a (new)

Text proposed by the Commission

Amendment

(ia) the competent authorities tasked with the supervision of O-SIIs referred to in Article 131 (3) of Directive 2013/36/EU;

Or. en

Amendment 299
Kay Swinburne

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

Text proposed by the Commission

Amendment

2a. The CCP's competent authority, in consultation with the college, shall assess the CCP's recovery arrangements in terms of their effect on the Union's financial stability if these arrangements are fully deployed. The CCP's recovery arrangements shall be subject to regular stress-testing and crisis simulation exercises, under scenarios defined by the CCP's competent authority in consultation with the college. The results of these tests will be reported by the competent authority for the CCP to the members of the CCP's college and resolution college. ESMA, in cooperation with the ESCB and banking supervisors, including the ECB when performing its prudential supervision tasks, shall consider the aggregate effect on Union financial stability of the simultaneous deployment of two or more CCP's recovery or resolution arrangements as a consequence of a system-wide stress event. ESMA may share the results of its analysis with any relevant CCP's college and resolution college. Should it identify any shortcomings in the CCP's recovery arrangements, the CCP's competent authority in consultation with the college shall require the CCP to address these shortcomings and resubmit its arrangements for another round of stress tests within six months of the previous stress tests.

Or. en

Amendment 300
Danuta Maria Hübner

Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission

3. ESMA *and EBA* shall not have voting rights in resolution colleges.

Amendment

3. ESMA, *EBA and the competent authorities tasked with the supervision of O-SIIs* shall not have voting rights in resolution colleges.

Or. en

Amendment 301
Kay Swinburne

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

Text proposed by the Commission

The competent and resolution authorities of clearing members established in third countries and the competent and resolution authorities of third-country CCPs with which the CCP has established interoperability arrangements *may* be invited to participate in the resolution college as observers. Their attendance shall be conditional on those authorities being subject to confidentiality requirements equivalent, in the opinion of the chair of the college, to those laid down in Article 71.

Amendment

The competent and resolution authorities of clearing members established in third countries and the competent and resolution authorities of third-country CCPs with which the CCP has established interoperability arrangements *shall* be invited to participate in the resolution college as observers. Their attendance shall be conditional on those authorities being subject to confidentiality requirements equivalent, in the opinion of the chair of the college, to those laid down in Article 71.

Or. en

Amendment 302
Ramon Tremosa i Balcells, Lieve Wierinck

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

Text proposed by the Commission

Amendment

(ga) making sure the college members exchange all relevant information in a timely manner for the exercise of their tasks under this Regulation.

Or. en

Amendment 303
Kay Swinburne

Proposal for a regulation
Article 5 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The resolution committee shall promote the development and coordination of resolution plans and *develop* methods for the resolution of failing CCPs.

The resolution committee shall promote the development and coordination of resolution plans and *contribute to the development of* methods for the resolution of failing CCPs.

Or. en

Amendment 304
Danuta Maria Hübner

Proposal for a regulation
Article 5 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The resolution committee shall promote the development and coordination of resolution plans and *develop methods* for the resolution of failing CCPs.

The resolution committee shall *also* promote the development and coordination of resolution plans and *design strategies* for the resolution of failing CCPs.

Or. en

Amendment 305
Jakob von Weizsäcker, Molly Scott Cato, Danuta Maria Hübner, Pervenche Berès,

Proposal for a regulation

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. ESMA shall assess CCP recovery and resolution arrangements across the Union in terms of their aggregate effect on Union financial stability through regular stress-testing and crisis simulation exercises with respect to potential system-wide stress events. In exercising this role, ESMA shall ensure consistency with the assessments of the resilience of individual CCPs carried out pursuant to Article 21(6) of Regulation (EU) No 648/2012 with regard to the frequency and design of the tests and shall cooperate closely with the ESRB and competent authorities designated under Article 4 of Directive 2013/36/EU, including the ECB in carrying out its tasks within a single supervisory mechanism under Regulation (EU) No 1024/2013, and any national competent authorities tasked with the supervision of CCPs. In areas where these arrangements are found to be wanting as a result of these comprehensive stress tests, the responsible institution or institutions will have to address the shortcomings and resubmit their arrangements for another round of stress tests within 6 months of the previous stress tests.

Or. en

Amendment 306

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 5 – paragraph 2 a (new)

2a. ESMA shall assess CCP recovery and resolution arrangements across the Union in terms of their aggregate effect on Union financial stability through regular stress-testing and crisis simulation exercises with respect to potential system-wide stress events. In exercising this role, ESMA shall ensure consistency with the assessments of the resilience of individual CCPs carried out pursuant to Article 21(6) of Regulation (EU) No 648/2012 with regard to the frequency and design of the tests and shall cooperate closely with the ESRB and competent authorities designated under Article 4 of Directive 2013/36/EU, including the ECB in carrying out its tasks within a single supervisory mechanism under Regulation (EU) No 1024/2013, and any national competent authorities tasked with the supervision of CCPs. In areas where these arrangements are found to be wanting as a result of these comprehensive stress tests, the responsible institution or institutions will have to address the shortcomings and resubmit their arrangements for another round of stress tests within 6 months of the previous stress tests.

Or. en

Amendment 307

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

1. Competent authorities **and** resolution authorities shall cooperate closely in the preparation, planning and application of resolution decisions.

Amendment

1. Competent authorities, resolution authorities **and ESMA** shall cooperate closely in the preparation, planning and application of resolution decisions.

Amendment 308
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

Resolution authorities shall cooperate with resolution authorities designated in accordance with Article 3 of Directive 2014/59/EU for the purposes of this Regulation.

Or. en

Amendment 309
Miguel Viegas

Proposal for a regulation
Article 7 – paragraph 1 – point a – introductory part

Text proposed by the Commission

Amendment

(a) that the ***proportionality*** of any decision or action in relation to an individual CCP is ensured, taking into account at least the following factors:

(a) that the ***effectiveness*** of any decision or action in relation to an individual CCP is ensured, taking into account at least the following factors:

Or. en

Amendment 310
Danuta Maria Hübner

Proposal for a regulation
Article 7 – paragraph 1 – point a – point i

Text proposed by the Commission

Amendment

(i) ***the CCP's legal form;***

deleted

Justification

Replaced by paragraph (ia).

Amendment 311
Danuta Maria Hübner

Proposal for a regulation
Article 7 – paragraph 1 – point a – point i a (new)

Text proposed by the Commission

Amendment

(ia) the ownership, legal and organisational structure of the CCP, including whether it is part of a larger group of FMIs or other financial institutions;

Or. en

Justification

Aligns the co-rapporteurs' text more closely with FSB guidance.

Amendment 312
Danuta Maria Hübner

Proposal for a regulation
Article 7 – paragraph 1 – point a – point iii

Text proposed by the Commission

Amendment

(iii) the CCP's clearing membership structure;

(iii) the nature and diversity of the CCP's clearing membership, as well as the nature and diversity of the network of indirect users of the CCPs, including clients of members and other counterparties to which those clearing members and their clients provide clearing services under that CCP, where those can be easily identified;

Or. en

Justification

Alignment of rapporteurs' and Commission's text with point 7.6 (iii) of FSB's guidance

Amendment 313

Miguel Viegas

Proposal for a regulation

Article 7 – paragraph 1 – point b

Text proposed by the Commission

(b) that the imperatives of efficacy of decision-making *and of keeping costs as low as possible* when taking early intervention or resolution action are observed;

Amendment

(b) that the imperatives of efficacy of decision-making *while safeguarding financial stability* when taking early intervention or resolution action are observed;

Or. en

Amendment 314

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Article 7 – paragraph 1 – point f

Text proposed by the Commission

(f) that due consideration is given to the interests of the *Member States* where the CCP provides services and where its clearing members, their clients, and any *linked* CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those *Member States* and the *Union* as a whole;

Amendment

(f) that due consideration is given to the interests of the *jurisdictions* where the CCP provides services and where its clearing members, their clients, and any *interoperable* CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those *jurisdictions* and the *global financial system* as a whole;

Or. en

Amendment 315

Miguel Viegas

Proposal for a regulation
Article 7 – paragraph 1 – point f

Text proposed by the Commission

(f) that due consideration is given to the interests of the Member States where the CCP provides services and where its clearing members, their clients, and any linked CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those Member States and the Union as a whole;

Amendment

(f) that due consideration is given to the **public** interests of the Member States where the CCP provides services and where its clearing members, their clients, and any linked CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those Member States and the Union as a whole;

Or. en

Amendment 316
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Article 7 – paragraph 1 – point g

Text proposed by the Commission

(g) that due consideration is given to the objectives of balancing the interests of the various clearing **participants, affected** creditors and affected **holders** in the Member States involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular actors **in some Member States**, including avoiding unfair burden allocation across **Member States**;

Amendment

(g) that due consideration is given to the objectives of balancing the interests of the various clearing **members, their clients, wider** creditors and affected **stakeholders of the CCP** in the Member States involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular actors, including avoiding unfair burden allocation across **different jurisdictions**;

Or. en

Amendment 317
Danuta Maria Hübner

Proposal for a regulation
Article 7 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) that public financial support is avoided to the greatest extent possible and used only as a last resort and under the conditions set out in Article 45, and that no expectation of public financial support is created;

Or. en

Justification

One of the amendments setting a tighter frame than the Commission proposal on public financial support. "No expectation of public financial support" is from FSB guidance 6.5.

Amendment 318

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Article 7 – paragraph 1 – point h – point ii

Text proposed by the Commission

Amendment

(ii) an impact on the financial stability of the **Member State** where the clearing members, clients or linked FMIs are established or located;

(ii) an impact on the financial stability of the **jurisdiction** where the clearing members, clients or linked FMIs are established or located;

Or. en

Amendment 319

Danuta Maria Hübner

Proposal for a regulation

Article 7 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) that **transparency is ensured** wherever a proposed decision or action is likely to have implications on the financial stability or fiscal resources of any relevant

(j) that, wherever a proposed decision or action is likely to have implications on the financial stability or fiscal resources of any relevant Member State **or any other**

Member State;

jurisdiction, transparency is ensured towards the relevant authorities in that Member State or jurisdiction;

Or. en

Amendment 320

Anne Sander, Alain Lamassoure

Proposal for a regulation

Article 7 – paragraph 1 – point j

Text proposed by the Commission

(j) that transparency is ensured wherever a proposed decision or action is likely to have implications on the financial stability or fiscal resources of any relevant Member State;

Amendment

(j) that transparency is ensured wherever *possible, in particular where* a proposed decision or action is likely to have implications on the financial stability or fiscal resources of any relevant Member State;

Or. en

Justification

Unless a reciprocal arrangement has been put in place, transparency toward non-EU jurisdiction should not be ensured. This transparency should not question resolution actions or decisions that are taken to preserve first and foremost the EU financial stability.

Amendment 321

Danuta Maria Hübner

Proposal for a regulation

Article 7 – paragraph 1 – point k

Text proposed by the Commission

(k) that they coordinate and cooperate as closely as possible, *also with the goal to lower* the overall cost of resolution;

Amendment

(k) that they coordinate and cooperate as closely as possible, *with a view to, among others, lowering* the overall cost of resolution;

Or. en

Amendment 322
Kay Swinburne
on behalf of the ECR Group

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

Text proposed by the Commission

(1) that negative economic and social effects of any decision in all ***the Member States and third countries*** where the CCP provides services, including negative impacts on financial stability, are mitigated.

Amendment

(1) that negative economic and social effects of any decision in all ***jurisdictions*** where the CCP provides services, including negative impacts on financial stability, are mitigated.

Or. en

Amendment 323
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. Resolution authorities ***and*** competent authorities shall, on request, provide each other with ***all the*** information ***relevant*** for the exercise of their tasks under this Regulation.

Amendment

1. Resolution authorities, competent authorities ***and ESMA*** shall ***spontaneously and*** on request, provide, ***in a timely manner,*** each other with ***relevant*** information for the exercise of their tasks under this Regulation.

Or. en

Amendment 324
Pervenche Berès

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. CCPs shall draw up and maintain a recovery plan providing for measures to be

Amendment

1. CCPs shall draw up and maintain a recovery plan providing for measures to be

taken in order to restore their financial position following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

taken in order to restore their financial position following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012. ***This plan shall include a set of recovery tools that is comprehensive and effective, allowing the CCP to allocate any uncovered losses and cover liquidity shortfalls, addressing unbalanced positions and replenishing financial resources, including the CCP's own capital, which are necessary for the CCP to maintain its viability as a going concern and to continue providing its critical services in accordance with Article 1(2) of Commission Delegated Regulation (EU) No 152/2013 and Article 32(2) and (3) of Commission Delegated Regulation (EU) No 153/2013.***

Or. en

Amendment 325 **Jonás Fernández**

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

Text proposed by the Commission

1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in order to restore their financial position following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

Amendment

1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in order to restore their financial position following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012. ***This plan shall be comprehensive and effective, including at least tools that allow the CCP to allocate any uncovered losses and cover liquidity shortfalls, to address unbalanced positions and to replenishes its financial resources, including the CCP's own capital, necessary for the CCP to maintain its viability as a going concern and to***

continue providing its critical services in accordance with Article 1(2) of Commission Delegated Regulation (EU) No 152/2013 and Article 32(2) and (3) of Commission Delegated Regulation (EU) No 153/2013;

Or. en

Amendment 326

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in order to restore their financial position following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

Amendment

1. CCPs shall draw up and maintain a ***comprehensive*** recovery plan providing for measures to be taken in ***the case of both default and non-default events in*** order to restore their financial position ***without any public financial support in order to enable them to continue to provide clearing services*** following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

Or. en

Amendment 327

Neena Gill

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in order to restore their financial position following a significant deterioration of their financial situation or

Amendment

1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in order to restore their financial position following a significant deterioration of their financial situation or

a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

a risk of breaching their prudential requirements under Regulation (EU) No 648/2012. ***At least once a year CCPs shall be stress tested.***

Or. en

Amendment 328
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

Such recovery plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on:

- (a) default events;***
- (b) non-default events;***
- (c) a combination of both.***

Or. en

Amendment 329
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Article 9 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Those indicators shall be based on the CCP's risk profile. CCPs, resolution authorities, competent authorities and ESMA shall cooperate closely in order to assess regularly at least the financial, operational and cyber risk profile of the CCP.

Or. en

Amendment 330
Ramon Tremosa i Balcells, Lieve Wierinck

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

Text proposed by the Commission

CCPs shall put in place appropriate arrangements for the regular monitoring of the indicators.

Amendment

CCPs shall put in place appropriate arrangements for the regular monitoring of the indicators. ***CCPs shall regularly report to ESMA and competent authorities on the outcome of this monitoring.***

Or. en

Amendment 331
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

ESMA shall, by ... [one year after the entry into force of this Regulation], issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the minimum list of qualitative and quantitative indicators referred to in the first subparagraph.

Or. en

Justification

Alignment with Article 9 BRRD

Amendment 332
Miguel Viegas

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

Text proposed by the Commission

Any decision taken pursuant to paragraph 3 and its justification shall be notified *to* the competent authority without delay. Where a CCP intends to activate its recovery plan, it shall inform the competent authority of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation.

Amendment

Any decision taken pursuant to paragraph 3 and its justification shall be notified **and approved by** the competent authority without delay. Where a CCP intends to activate its recovery plan, it shall inform the competent authority of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation.

Or. en

Amendment 333

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Any decision taken pursuant to paragraph 3 and its justification shall be notified to the competent authority without delay. Where a CCP intends to activate its recovery plan, it shall inform the competent authority of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation.

Amendment

Any decision taken pursuant to paragraph 3 and its justification shall be notified to the competent authority without delay. Where a CCP intends to activate its recovery plan, it shall inform the competent authority **and ESMA** of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation.

Or. en

Amendment 334

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

When activating the recovery plan, in default and non-default cases, CCPs, resolution authorities, competent authorities and ESMA shall cooperate closely in order to assess the CCP's interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general. Recovery and resolution plans from clearing members shall be taken into account during this assessment.

Or. en

Amendment 335

Pervenche Berès

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, it may require the CCP to refrain from taking that measure.

Amendment

Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, ***is unlikely to be effective, or could unduly affect the clients of the clearing members compared with clearing members***, it may require the CCP to refrain from taking that measure.

Or. en

Amendment 336

Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, it may require the CCP to refrain from taking that measure.

Amendment

Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, it may, ***after consultation with ESMA***, require the CCP to refrain from taking that measure.

Or. en

Amendment 337

Miguel Viegas

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Where the competent authority considers that a recovery measure that the CCP intends to take may cause ***significant*** adverse effects to the financial system, it may require the CCP to refrain from taking that measure.

Amendment

Where the competent authority considers that a recovery measure that the CCP intends to take may cause adverse effects to the financial system, it may require the CCP to refrain from taking that measure.

Or. en

Amendment 338

Jakob von Weizsäcker

Proposal for a regulation

Article 9 – paragraph 7

Text proposed by the Commission

7. Recovery plans shall ***be drafted in accordance with Section A of the Annex. Competent authorities may require CCPs to include additional information in their recovery plans.***

Amendment

7. Recovery plans shall:

(a) ***not assume any access to or receipt of public financial support, central bank***

emergency liquidity assistance or central bank emergency liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;

(b) consider the interests of all stakeholders that are likely to be affected by that plan, specifically in relation to clearing members and their clients, both direct and indirect; and

(c) ensure that clearing members do not have unlimited exposures toward the CCP.

Or. en

Amendment 339
Pervenche Berès

Proposal for a regulation
Article 9 – paragraph 7

Text proposed by the Commission

7. Recovery plans shall *be drafted in accordance with Section A of the Annex. Competent authorities may require CCPs to include additional information in their recovery plans.*

Amendment

7. Recovery plans shall:

(a) not assume any access to or receipt of public financial support, central bank emergency liquidity assistance or central bank emergency liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;

(b) consider the interests of all stakeholders that are likely to be affected by that plan; and

(c) ensure that clearing members do not have unlimited exposures toward the CCP.

Or. en

Amendment 340
Anne Sander, Alain Lamassoure

Proposal for a regulation
Article 9 – paragraph 7

Text proposed by the Commission

7. Recovery plans shall ***be drafted in accordance with Section A of the Annex. Competent authorities may require CCPs to include additional information in their recovery plans.***

Amendment

7. Recovery plans shall :

(a) not assume any access to or receipt of public financial support;

(b) consider the interests of all stakeholders that are likely to be affected by the plan; and

(c) ensure that clearing members do not have unlimited exposures toward the CCP

Or. en

Amendment 341
Miguel Viegas

Proposal for a regulation
Article 9 – paragraph 7

Text proposed by the Commission

7. Recovery plans shall be drafted in accordance with Section A of the Annex. Competent authorities may require CCPs to include additional information in their recovery plans.

Amendment

7. Recovery plans shall be drafted in accordance with Section A of the Annex. Competent authorities may require CCPs to include additional information ***or measures which it deems necessary*** in their recovery plans.

Or. en

Amendment 342
Kay Swinburne
on behalf of the ECR Group

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

Text proposed by the Commission

Amendment

7a. In the case of a non-default event, and to maintain the strictly incentivised process, CCPs shall not use the default fund and the default waterfall or any position allocation tool, cash calls or loss allocation tool included in the CCP rulebook solely for default events that would imply the contribution of clearing members or their clients without their prior agreement. However, in line with current global considerations, a separate loss allocation tool in the case of a non-default event may be established.

Or. en

Justification

This is to be added to current paragraph 7f. of the draft report by Kay Swinburne MEP and Jacob von Weizsacker MEP (Am 88).

Amendment 343
Burkhard Balz

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

Text proposed by the Commission

Amendment

7a. CCPs are required to set up a framework defining which type of losses are covered by joint loss allocation arrangements in case of non-default events. The framework and the recovery plan shall set out in detail where exemptions from the exclusive use of own capital may be applied including all potential first loss arrangements being

passed on to the CCPs.

Or. en

Amendment 344
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

- 7a. Recovery plans shall:**
- (a) consider the interests of all stakeholders that are likely to be affected by that plan, specifically in relation to clearing members and their clients, both direct and indirect; and**
 - (b) ensure that clearing members do not have unlimited exposures toward the CCP.**

Or. en

Justification

Lifted from the Annex and consistent with the rapporteurs' text (mention of avoidance of public financial support is in a subsequent amendment)

Amendment 345
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

- 7b. Recovery plans shall not assume any of the following:**
- (a) extraordinary public financial support;**
 - (b) central bank emergency liquidity assistance;**

(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

Or. en

Justification

Mirroring provisions on resolution plans and consistent with co-rapporteurs' text

Amendment 346
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

7c. The recovery tools contemplated in recovery plans shall:

(a) be comprehensive;

(b) be effective;

(c) be as transparent as possible towards affected members and clients;

(d) create appropriate incentives for the CCP shareholders, members, their clients, and other relevant stakeholders to control the amount of risk that they bring to or incur in the system, monitor the risk-taking and risk-management of the CCP and participate in its default management process; and

(e) be designed so as to minimise the negative impact of their use on members, their clients and the wider financial system.

Or. en

Justification

From CPMI-IOSCO guidance on recovery planning 3.3.1 and 3.3.8

Amendment 347
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

- 7d. Recovery tools shall allow to:**
- (a) address losses from non-default events;**
 - (b) address losses from default events;**
 - (c) re-establish a matched book following a default event;**
 - (d) address uncovered liquidity shortfalls; and**
 - (e) replenish the financial resources of the CCP, including its own funds, to a level sufficient in order for the CCP to meet its obligations under Regulation (EU) No 648/2012 and to support the continued and timely operation of the critical functions of the CCP.**

Or. en

Justification

From CPMI-IOSCO guidance on recovery planning, section 4 (see list of paragraph 4.1.2)

Amendment 348
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

- 7e. Recovery plans shall contemplate a range of extreme but plausible scenarios relevant to the CCP's specific conditions, including its product mix, business model and liquidity and risk governance framework. That range of scenarios shall include both system wide events and stress**

specific to the CCP, taking into account the potential impact of domestic and cross-border contagion in crises, as well as simultaneous crises in several significant markets.

Or. en

Justification

Specification of stress scenarios, in accordance with Article 50 of RTS 153/2013, point 24.5 of CPMI-ISOCO guidance on recovery planning and Article 5, point 6 BRRD.

Amendment 349

Danuta Maria Hübner

Proposal for a regulation

Article 9 – paragraph 7 f (new)

Text proposed by the Commission

Amendment

7f. ESMA shall, by ... [12 months after the date of entry into force of this Regulation] issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 further specifying the range of scenarios to be considered for the purposes of paragraph 1. In issuing such guidelines, ESMA shall have regard, where appropriate, to the relevant international work carried out in the area of CCP supervisory stress testing and of CCP recovery. It shall seek to take advantage, where achievable, of synergies between supervisory stress testing and recovery scenarios modelling.

Or. en

Amendment 350

Danuta Maria Hübner

Proposal for a regulation

Article 9 – paragraph 7 g (new)

7g. Following a default event and prior to the use of any recovery tool, a CCP shall use an additional share of those own resources that exceed the minimum capital requirements set in Article 16 of Regulation (EU) No 648/2012. Such amount shall, to the greatest extent possible and practicable, be calibrated based on the ability of the CCP to control risk in the scenario contemplated. It shall not be higher than the amount required to be used under Article 45(4) of Regulation (EU) No 648/2012, as further specified by delegated Regulation 153/2013.

Following a non-default event and prior to the use of any recovery tool, the CCP shall use up to all of its own resources in excess of the minimum capital requirements set in Article 16 of Regulation (EU) No 648/2012 in order to cover the losses incurred.

By way of derogation from the second subparagraph, the amount contributed to by the CCP pursuant to the second subparagraph may be lower where a non-default loss arises in a scenario where the control of risk is spread between the CCP and its members.

Or. en

Justification

Adjustments to the default amounts of the draft report, if practicable without being too burdensome, should be possible in order to align as closely as possible cost-sharing with responsibilities and ability to control risk.

Amendment 351

Ramon Tremosa i Balcells, Lieve Wierinck

**Proposal for a regulation
Article 9 – paragraph 8**

Text proposed by the Commission

8. The board of the CCP shall assess, taking into account the advice of the risk committee in accordance with Article 28(3) of Regulation (EU) No 648/2012, and approve the recovery plan before submitting it to the competent authority.

Amendment

8. The board of the CCP shall assess, taking into account the advice of the risk committee in accordance with Article 28(3) of Regulation (EU) No 648/2012, and approve the recovery plan before submitting it to the competent authority **and to ESMA.**

Or. en

Amendment 352

Danuta Maria Hübner

Proposal for a regulation

Article 9 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Where the Board of the CCP decides not to follow the advice of the risk committee, this decision shall be duly justified.

Or. en

Justification

Safeguard for clients and members.

Amendment 353

Anne Sander, Alain Lamassoure

Proposal for a regulation

Article 9 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. Clearing members shall ensure that any provisions affecting their clients are adequately explained to them.

Or. en

Justification

Recovery tools should be public, however, recovery plans should be confidential as they contain sensitive information and data on the CCP business and the management of the CCP in stress conditions.

Amendment 354

Gabriel Mato

Proposal for a regulation

Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to measures taken by a CCP in accordance with its recovery plan established under this Regulation.

Or. en

Amendment 355

Burkhard Balz

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. CCPs ***or, in cases where Article 11 applies their parent undertakings***, shall submit their recovery plans to the competent authority ***for approval***.

1. CCPs shall submit their recovery plans to the competent authority.

Or. en

Amendment 356

Pervenche Berès

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

Amendment

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, ***including the substitutability of its activities***, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole. ***The competent authority shall take into due consideration whether the recovery plan ensures appropriate incentives for the CCP's owners and clearing members and their clients to control the amount of risk that they bring to or incur in the system. The competent authority shall encourage monitoring of the CCP's risk-taking and risk management activities, and encourage as full participation as possible in the CCP's default management process.***

Or. en

Amendment 357
Anne Sander, Alain Lamassoure

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, and the impact that the implementation of the

Amendment

3. When assessing the recovery plan, the competent authority shall ***consult the ESRB and*** take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, ***the substitutability of its***

recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

activities, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole. ***The competent authority shall take into due consideration whether the recovery plan ensures appropriate incentives for the CCP's owners and clearing members and their clients to control the amount of risk that they bring to or incur in the system. The competent authority shall encourage monitoring of the CCP's risk-taking and risk management activities, and encourage as full participation as possible in the CCP's default management process.***

Or. en

Justification

As proposed by the co-rapporteurs, the consultation of the ESRB seems necessary from a macroeconomic perspective. However, it is important to take into consideration the substitutability of the CCP's activities. If a CCP is not substitutable, it can create great threats to the financial system.

Amendment 358

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

Amendment

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall ***and whether it respects the general principle that losses should be distributed between CCPs, clearing members and clients as a function of their ability to monitor and manage risks***, the level of complexity of the organisational structure and the risk profile of the CCP, and the impact that the

implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

Or. en

Amendment 359
Danuta Maria Hübner

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

Amendment

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, ***the availability of other CCPs that could credibly and feasibly act as a substitute for the critical functions of the CCP*** and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

Or. en

Amendment 360
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

3. When assessing the recovery plan, the competent authority shall take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure

Amendment

3. When assessing the recovery plan, the competent authority shall, ***in cooperation with ESMA***, take into consideration the CCP's capital structure, its default waterfall, the level of

and the risk profile of the CCP, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

complexity of the organisational structure and the risk profile of the CCP, ***including in terms of financial, operational and cyber risks***, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole.

Or. en

Amendment 361
Danuta Maria Hübner

Proposal for a regulation
Article 10 – paragraph 4

Text proposed by the Commission

4. The resolution authority shall examine the recovery plan in order to identify any measures which may adversely impact the resolvability of the CCP. The resolution authority shall make recommendations to the competent authority ***with regard to those matters***.

Amendment

4. The resolution authority shall examine the recovery plan in order to identify any measures which may adversely impact the resolvability of the CCP. ***Where any such measures are identified***, the resolution authority shall ***bring them to the attention of the competent authority and*** make recommendations to the competent authority ***regarding the ways to address their potential adverse effect***.

Or. en

Amendment 362
Miguel Viegas

Proposal for a regulation
Article 10 – paragraph 9 – subparagraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) to request changes to the ownership structure of the CCP.

Or. en

Amendment 363
Danuta Maria Hübner

Proposal for a regulation
Article 10 – paragraph 10

Text proposed by the Commission

10. The request referred to in the second subparagraph of paragraph 9 shall be reasoned ***and be*** notified in writing to the CCP.

Amendment

10. The request referred to in the second subparagraph of paragraph 9 shall be reasoned, notified in writing to the CCP ***and subject to a right of appeal.***

Or. en

Justification

Alignment with Article 6 BRRD.

Amendment 364
Danuta Maria Hübner

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

Text proposed by the Commission

Amendment

10a. ESMA shall develop draft regulatory technical standards specifying the minimum criteria that the competent authority is to assess for the purposes of the assessment of paragraph 2 of this Article and of Article 11(1).

ESMA shall submit those draft regulatory technical standards to the Commission by ... [12 months after the entry into force of this regulation].

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

Or. en

Justification

Alignment with Article 6 BRRD- the need for standards is even clearer in an area where there is less experience of recovery plans than in banking.

Amendment 365

Jonás Fernández

Proposal for a regulation

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the parent undertaking of the group to which a CCP belongs is not an institution or entity referred to in the first subparagraph and where *appropriate* in order to *meet the criteria* of Section A of the Annex, competent authorities may, after consulting the college and in accordance with the procedure laid down in Article 10 of this Regulation, require the *parent undertaking* to submit a plan for the recovery of the CCP *as part of the recovery plan for* the group. *That* request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.

Amendment

Where the parent undertaking of the group to which a CCP belongs is not an institution or entity referred to in the first subparagraph and where *necessary* in order to *assess that all elements* of Section A of the Annex *are complied with*, competent authorities may, after consulting the college and in accordance with the procedure laid down in Article 10 of this Regulation, require the *CCP* to submit a plan for the recovery of the CCP *taking into account all relevant elements related to the structure of the group to which it belongs*. *This* request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.

Or. en

Amendment 366

Burkhard Balz

Proposal for a regulation

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the parent undertaking of the group to which a CCP belongs is not an institution or entity referred to in the first subparagraph and where *appropriate* in order to *meet the criteria* of Section A of

Amendment

Where the parent undertaking of the group to which a CCP belongs is not an institution or entity referred to in the first subparagraph and where *necessary* in order to *assess all elements* of Section A of the

the Annex, competent authorities may, ***after consulting the college and*** in accordance with the procedure laid down in Article 10 of this Regulation, require the ***parent undertaking*** to submit a plan for the recovery of the CCP ***as part of the recovery plan for*** the group. ***That*** request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.

Annex, competent authorities may in accordance with the procedure laid down in Article 10 of this Regulation, require the ***CCP*** to submit a plan for the recovery of the CCP ***taking into account all relevant elements related to*** the group ***structure***. ***Such a*** request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.

Or. en

Amendment 367 **Burkhard Balz**

Proposal for a regulation **Article 11 – paragraph 2**

Text proposed by the Commission

2. Where the parent undertaking submits the recovery plan in accordance with paragraph 1, the provisions on the recovery of the CCP shall constitute a distinct part of that recovery plan and shall comply with the requirements of this Regulation and the CCP ***shall*** not be required to prepare an individual recovery plan.

Amendment

2. Where the parent undertaking submits the recovery plan in accordance with ***the first subparagraph of*** paragraph 1, the provisions on the recovery of the CCP shall constitute a distinct part of that recovery plan and shall comply with the requirements of this Regulation and the CCP ***may*** not be required to prepare an individual recovery plan.

Or. en

Amendment 368 **Jonás Fernández**

Proposal for a regulation **Article 11 – paragraph 2**

Text proposed by the Commission

2. Where the ***parent undertaking*** submits the recovery plan in accordance with paragraph 1, the provisions on the recovery of the CCP shall constitute a

Amendment

2. Where the ***CCP*** submits the recovery plan in accordance with ***the first subparagraph of*** paragraph 1, the provisions on the recovery ***of the CCP that***

distinct part of that recovery plan and shall comply with the requirements of this Regulation ***and the CCP shall not be required to prepare an individual recovery plan.***

relate to the group of the CCP shall constitute a distinct part of that recovery plan and shall comply with the requirements of this Regulation.

Or. en

Amendment 369
Danuta Maria Hübner

Proposal for a regulation
Article 12 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Where, after four months from the date of transmission of the recovery plan, the college has failed to reach a joint decision on the issues referred to in ***points (a) and (b) of paragraph 1, the competent authority of the CCP*** shall ***make its own*** decision.

Amendment

Where, after four months from the date of transmission of the recovery plan, the college has failed to reach a joint decision on the issues referred to in paragraph 1, ***and without prejudice to paragraph 4, the college shall adopt a majority decision within the same period.***

Or. en

Amendment 370
Danuta Maria Hübner

Proposal for a regulation
Article 12 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The competent authority of the CCP shall make the decision referred to in the first subparagraph taking into account the views of the other college members expressed during the four-month period. The competent authority of the CCP shall notify in writing ***that*** decision to the CCP, to its parent undertaking, where relevant, ***and to the other members of the college.***

Amendment

The competent authority of the CCP shall notify in writing ***the*** decision ***of the supervisory college*** to the CCP ***and*** to its parent undertaking, where relevant.

Or. en

Amendment 371
Danuta Maria Hübner

Proposal for a regulation
Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *A majority decision of the supervisory college shall be adopted on the basis of a simple majority of its members. For colleges of up to and including 12 members, a maximum of two college members from the same Member State shall have one vote and each voting member shall have one vote. For colleges with more than 12 members, a maximum of three members from the same Member State shall have one vote and each voting member shall have one vote. ESMA shall have no voting rights regarding the decisions of the college.*

Or. en

Amendment 372
Danuta Maria Hübner

Proposal for a regulation
Article 12 – paragraph 4

Text proposed by the Commission

Amendment

4. Where, by the end of that four-month period, **any member** of the college **has referred** to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the assessment of recovery plans and implementation of the measures pursuant to points (a), (b) and (d) of Article 10(9) of this Regulation, **the competent authority** of the **CCP** shall await the decision taken by ESMA in accordance with Article 19(3) of Regulation (EU) No 1095/2010 and decide

4. Where, by the end of that four-month period, **a joint decision as referred to in paragraph 1 has not been reached, any group of members of the supervision college representing two-thirds of the members of this college, may, within 30 calendar days of the adoption of the decision** of the college, **refer** to ESMA, in accordance with Article 19 of Regulation (EU) No 1095/2010, a matter in relation to the assessment of recovery plans and implementation of the measures pursuant

in accordance with the decision of ESMA.

to points (a), (b) and (d) of Article 10(9) of this Regulation.

The referral decision shall state in writing the full and detailed reasons why the concerned members of the supervisory college consider that the decision taken by the college does not meet the requirements laid down by this Regulation or by any other Union law.

The supervisory college shall await the decision taken by ESMA in accordance with Article 19(3) of Regulation (EU) No 1095/2010 and decide in accordance with the decision of ESMA.

Or. en

Amendment 373

Danuta Maria Hübner

Proposal for a regulation

Article 12 – paragraph 5

Text proposed by the Commission

5. The ***four-month period*** shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the ***four month time period*** or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the ***competent authority of the CCP*** shall apply.

Amendment

5. The ***30 calendar days*** shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the ***30 calendar days*** or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the ***supervisory college*** shall apply.

Or. en

Amendment 374

Jakob von Weizsäcker, Paul Tang

Proposal for a regulation
Article 12 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Once established, the single European supervisor for CCPs shall take all decisions referred to in paragraph 1 with respect to the CCPs under its direct supervision after consultation with the supervisory college.

Or. en

Amendment 375
Ramon Tremosa i Balcells, Lieve Wierinck

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. The resolution authority shall, after consultation with the competent authority and in coordination with the resolution college, in accordance with the procedure set out in Article 15, draw up a resolution plan for each CCP.

1. The resolution authority shall, after consultation with the competent authority **and ESMA** and in coordination with the resolution college, in accordance with the procedure set out in Article 15, draw up a resolution plan for each CCP.

Or. en

Amendment 376
Miguel Viegas

Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. The resolution plan **shall** provide for the resolution actions that the resolution authority may take where the CCP meets the conditions for resolution referred to in Article 22.

2. The resolution plan **may** provide for the resolution actions that the resolution authority may take where the CCP meets the conditions for resolution referred to in Article 22.

Amendment 377

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 3 – point a – point i

Text proposed by the Commission

(i) *the default of one or more of its members;*

Amendment

(i) default *events*;

Or. en

Amendment 378

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 3 – point a – point ii

Text proposed by the Commission

(ii) *other reasons including losses from its investment activities or operational problems;*

Amendment

(ii) *non-default events, distinguishing where relevant between different types of non-default events;*

Or. en

Amendment 379

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 3 – point c

Text proposed by the Commission

(c) the manner and the circumstances under which a CCP may apply for the use of central bank facilities and the identification of the assets that would be expected to qualify as collateral.

Amendment

(c) the manner and the circumstances under which a CCP may apply, *under standard collateralisation, tenor and interest rate terms*, for the use of central bank facilities and the identification of the assets that would be expected to qualify as

collateral *in such circumstances*.

Or. en

Amendment 380
Jonás Fernández

Proposal for a regulation
Article 13 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

A resolution authority shall make prudent assumptions regarding the financial resources that may be required to achieve the resolution objectives and the resources that it expects will be available in accordance with the CCP's rules and arrangements at the time of entering into resolution.

Or. en

Amendment 381
Jakob von Weizsäcker, Cătălin Sorin Ivan, Pervenche Berès

Proposal for a regulation
Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The resolution plan shall make prudent assumptions, that would therefore still be valid in extreme scenarios including the default of several additional clearing members beyond the largest two compounded by the resulting troubles in other large CCPs, regarding the financial resources that may be required to achieve the resolution objectives and the resources that it expects to be available in accordance with the CCP's rules and arrangements at the time of entering into resolution.

Amendment 382
Danuta Maria Hübner

Proposal for a regulation
Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Resolution authorities shall not use the default fund, the default waterfall and position allocation tools, cash calls or loss allocation tools in non-default scenarios.

Or. en

Amendment 383
Danuta Maria Hübner

Proposal for a regulation
Article 13 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The resolution plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on the circumstances referred to in, respectively, points i), ii) and iii) of point a) of paragraph 3.

Or. en

Amendment 384
Danuta Maria Hübner

Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) a summary of the key elements of the plan;

(a) a summary of the key elements of the plan *distinguishing between scenarios based on the circumstances referred to in, respectively, points i), ii) and iii) of point a) of paragraph 3;*

Or. en

Amendment 385
Kay Swinburne

Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) *a demonstration* of how the CCP's critical functions could be legally and economically separated, to the extent necessary, from its other functions so as to ensure their continuity upon the failure of the CCP;

(c) *an assessment* of how *and whether* the CCP's critical functions could be legally and economically separated, to the extent necessary, from its other functions so as to ensure their continuity upon the failure of the CCP.

Or. en

Amendment 386
Danuta Maria Hübner

Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) an estimation of the timeframe for *executing* each material aspect of the plan;

(d) an estimation of the timeframe for *carrying out* each material aspect of the plan, *including for replenishing the CCP's financial resources;*

Or. en

Amendment 387
Danuta Maria Hübner

Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 1 – point k

Text proposed by the Commission

(k) a description of critical interdependencies between the CCP and other market participants;

Amendment

(k) a description of critical interdependencies between the CCP and other market participants, ***including intra-group interdependencies, interoperability arrangements and links with other FMIs, together with the ways of addressing such interdependencies;***

Or. en

Justification

Alignment with FSB resolution guidance point 7.5 (viii)

Amendment 388
Anne Sander, Alain Lamassoure

Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 1 – point l – point v

Text proposed by the Commission

(v) the portability of the positions of clearing ***participants;***

Amendment

(v) the portability of the ***assets and positions of clearing members and the clients of clearing members as referred to in Article 39 of Regulation (EU) No 648/2012;***

Or. en

Justification

The portability should not be restricted to clearing members, but should also concern clients of clearing members.

Amendment 389
Pervenche Berès

Proposal for a regulation

Article 13 – paragraph 6 – subparagraph 1 – point l – point v

Text proposed by the Commission

(v) the portability of the positions of clearing *participants*;

Amendment

(v) the portability of the *assets and* positions of *the* clearing *members and of their clients as referred to in Article 39 of Regulation (EU) No 648/2012*;

Or. en

Amendment 390

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 6 – subparagraph 1 – point l – point v

Text proposed by the Commission

(v) the portability of the positions of *clearing participants*;

Amendment

(v) the portability of the positions of *clients and indirect clients*;

Or. en

Justification

Only clients' positions may be portable, not members' positions.

Amendment 391

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 6 – subparagraph 1 – point l a (new)

Text proposed by the Commission

Amendment

(la) a description of the approach that the resolution authority plans to follow in order to determine the scope and value of any contracts to be terminated in accordance with Article 29;

Or. en

Justification

Alignment with FSB guidance 7.5 (iv)

Amendment 392

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 6 – subparagraph 1 – point n

Text proposed by the Commission

(n) a plan for communicating with the media and the public;

Amendment

(n) a plan for communicating with the media and the public ***providing for the highest possible degree of transparency;***

Or. en

Amendment 393

Pervenche Berès, Jakob von Weizsäcker

Proposal for a regulation

Article 13 – paragraph 6 – subparagraph 1 – point o a (new)

Text proposed by the Commission

Amendment

(oa) a description of the arrangements for exchanging information within the resolution college prior to and during resolution, in line with the written arrangements and procedures set out in the regulatory technical standards referred to in Article 4(6).

Or. en

Amendment 394

Danuta Maria Hübner

Proposal for a regulation

Article 13 – paragraph 6 – subparagraph 1 – point o a (new)

Text proposed by the Commission

Amendment

(oa) a description of the arrangements for exchanging information within the resolution college prior to and during resolution, in line with the written arrangements and procedures set out in the regulatory technical standards referred to in Article 4(6).

Or. en

Amendment 395
Jonás Fernández

Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 1 – point o a (new)

Text proposed by the Commission

Amendment

(oa) a description of the arrangements for information exchange within the resolution college prior to and during resolution, in line with the procedures set out in the regulatory technical standards referred to in Article 4(6);

Or. en

Amendment 396
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 13 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The resolution authority shall ensure that the resolution plan is compatible with resolution plans drawn up by the resolution authorities of the CCP's clearing members.

Amendment 397**Kay Swinburne****Proposal for a regulation****Article 13 – paragraph 8 – subparagraph 1***Text proposed by the Commission*

ESMA, after consulting with the ESRB and taking into account the relevant provisions of Commission Delegated Regulation (EU) –/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 10(9) of Directive 2014/59/EU, **shall** develop draft regulatory technical standards further specifying the contents of the resolution plan in accordance with paragraph 6.

Amendment

ESMA, after consulting with the ESRB and taking into account the relevant provisions of Commission Delegated Regulation (EU) –/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 10(9) of Directive 2014/59/EU **and fully respecting the principle of proportionality, may** develop draft regulatory technical standards further specifying the contents of the resolution plan in accordance with paragraph 6.

Or. en

Amendment 398**Ramon Tremosa i Balcells, Lieve Wierinck****Proposal for a regulation****Article 14 – paragraph 2 a (new)***Text proposed by the Commission**Amendment*

2a. A CCP shall exchange information on a timely manner with competent authorities and ESMA in order to facilitate the assessment of the risk profiles of the CCP and the interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general as defined in Articles 9 and 10 of this Regulation.

Or. en

Amendment 399
Danuta Maria Hübner

Proposal for a regulation
Article 15 – paragraph 5

Text proposed by the Commission

5. Where, after four months from the date of transmission of the resolution plan, the college has failed to reach a joint decision, ***the resolution authority shall make its own decision on the resolution plan. The resolution authority shall make its decision taking into account the views of the other college members expressed during the four-month period.*** The resolution authority shall notify in writing the decision to the CCP, to its parent undertaking where relevant, ***and to the other members of the college.***

Amendment

5. Where, after four months from the date of transmission of the resolution plan, the ***resolution*** college has failed to reach a joint decision ***and without prejudice to paragraph 6, the college shall adopt a majority decision within the same period.*** The resolution authority shall notify in writing the decision ***of the resolution college*** to the CCP ***and*** to its parent undertaking where relevant.

Or. en

Amendment 400
Danuta Maria Hübner

Proposal for a regulation
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. A majority decision of the resolution college shall be adopted on the basis of a simple majority of its members. For resolution colleges of up to and including 12 members, a maximum of two college members from the same Member State shall have a vote and each voting member shall have one vote. For resolution colleges with more than 12 members, a maximum of three members from the same Member State shall have one vote and each voting member shall have one vote. ESMA shall have no voting

rights regarding the decisions of the resolution college.

Or. en

Amendment 401
Danuta Maria Hübner

Proposal for a regulation
Article 15 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Where, by the end of that four-month period, **any member** of the resolution college **has referred** to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the resolution plan, the resolution **authority of the CCP** shall await any decision that ESMA may take in accordance with Article 19(3) of **that Regulation and take** its decision in accordance with the decision of ESMA.

Amendment

Where, by the end of that four-month period, **a joint decision as referred to in paragraph 1 has not been reached, any group of members** of the resolution college **representing two-thirds of the members of this college, may, within 30 calendar days of the adoption of the decision of the college, refer** to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the resolution plan. **The referral decision shall state in writing the full and detailed reasons why the concerned members of the resolution college consider that the decision taken by the resolution college does not meet the requirements laid down in this Regulation or any other Union law. The resolution college** shall await any decision that ESMA may take in accordance with Article 19(3) of Regulation **(EU) No 1095/2010 and adopt** its decision in accordance with the decision of ESMA.

Or. en

Amendment 402
Danuta Maria Hübner

Proposal for a regulation
Article 15 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The **four-month time period** shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the **four month time period** or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution **authority** shall apply.

Amendment

The **30 calendar days** shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the **30 calendar days** or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution **college** shall apply.

Or. en

Amendment 403

Jakob von Weizsäcker

Proposal for a regulation

Article 15 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Once established, the CCP-SRB shall, for all CCPs under its remit, take the decision delegated to the resolution college in this article after consultation with the resolution college.

Or. en

Amendment 404

Miguel Viegas

Proposal for a regulation

Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The resolution authority, in cooperation with the resolution college in accordance with Article 17, shall assess the

1. The resolution authority, in cooperation with the resolution college in accordance with Article 17, shall assess the

extent to which a CCP is resolvable
without *assuming* any of the following:

extent to which a CCP is resolvable
without *being able to envisage* any of the
following:

Or. pt

Amendment 405

Miguel Viegas

Proposal for a regulation

Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

A CCP shall be deemed resolvable where the resolution authority considers it feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it using the resolution tools and exercising the resolution powers while ensuring the continuity of the CCP's critical functions and avoiding *to the maximum extent possible any significant* adverse effect on the financial system.

Amendment

A CCP shall be deemed resolvable where the resolution authority considers it feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it using the resolution tools and exercising the resolution powers while ensuring the continuity of the CCP's critical functions and avoiding *any* adverse effect on the financial system.

Or. en

Amendment 406

Miguel Viegas

Proposal for a regulation

Article 16 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The adverse effects referred to in the first subparagraph shall include broader financial instability or system wide events in any Member State.

Amendment

The adverse effects referred to in the first subparagraph shall include broader financial instability or system wide events in *the Union as a whole, in* any Member State *or in a region of a Member State*.

Or. en

Amendment 407
Danuta Maria Hübner

Proposal for a regulation
Article 16 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. ESMA shall adopt guidelines to promote the convergence of supervisory and resolution practices regarding the application of section C of the Annex by ... [18 months after the entry into force of this Regulation].

Or. en

Justification

More flexible than a RTS but leaves a possibility to adapt the Annex, copied from BRRD and therefore untried in the case of CCPs, if needs be. The timeline is deliberately slightly longer than standard practice so that experience can be gained.

Amendment 408
Miguel Viegas

Proposal for a regulation
Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Where, following the assessment in Article 16, the resolution authority and resolution college conclude that there are **substantive** impediments to the resolvability of a CCP, the resolution authority, in cooperation with the competent authority, shall prepare and submit a report to the CCP and to the resolution college.

Where, following the assessment in Article 16, the resolution authority and resolution college conclude that there are impediments to the resolvability of a CCP, the resolution authority, in cooperation with the competent authority, shall prepare and submit a report to the CCP and to the resolution college.

Or. en

Amendment 409
Kay Swinburne

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

Text proposed by the Commission

The report referred to in the first subparagraph shall analyse the substantive impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those impediments.

Amendment

The report referred to in the first subparagraph shall analyse the substantive impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those impediments *where possible*.

Or. en

Amendment 410
Miguel Viegas

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

Text proposed by the Commission

The report referred to in the first subparagraph shall analyse the *substantive* impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those impediments.

Amendment

The report referred to in the first subparagraph shall analyse the impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those impediments.

Or. en

Amendment 411
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Article 17 – paragraph 4 – subparagraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the effects on the provision of integrated clearing services for different products and portfolio margining across asset classes.

Or. en

Amendment 412

Miguel Viegas

Proposal for a regulation

Article 17 – paragraph 4 – subparagraph 3

Text proposed by the Commission

Amendment

For the purposes of point (b) of the second subparagraph, the resolution authority shall consult the competent authority and the resolution college and, where appropriate, the designated national macroprudential authority.

For the purposes of point (b) of the second subparagraph, the resolution authority shall consult the competent authority and the resolution college and, where appropriate, the designated national macroprudential authority *and the ESRB*.

Or. en

Amendment 413

Miguel Viegas

Proposal for a regulation

Article 17 – paragraph 7 – point d a (new)

Text proposed by the Commission

Amendment

(da) require higher capital requirements pursuant to Article 16 of Regulation (EU) No 648/2012;

Or. en

Amendment 414

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Article 17 – paragraph 7 – point f

Text proposed by the Commission

(f) require the CCP to divest specific assets;

Amendment

(f) ***to the extent other powers under this Article are insufficient to make resolvability possible,*** require the CCP to divest specific assets;

Or. en

Amendment 415

Danuta Maria Hübner

Proposal for a regulation

Article 17 – paragraph 7 – point f

Text proposed by the Commission

(f) require the CCP to divest specific assets;

Amendment

(f) require the CCP to divest ***itself of*** specific assets;

Or. en

Amendment 416

Miguel Viegas

Proposal for a regulation

Article 17 – paragraph 7 – point j

Text proposed by the Commission

(j) require changes to legal ***or*** operational structures of the CCP or any group entity directly or indirectly under its control ***to ensure that critical functions may be legally and operationally separated from other functions through the application of resolutions tools;***

Amendment

(j) require changes to legal, operational, ***ownership or management*** structures of the CCP or any group entity directly or indirectly under its control;

Or. en

Amendment 417
Danuta Maria Hübner

Proposal for a regulation
Article 17 – paragraph 7 – point k

Text proposed by the Commission

Amendment

(k) require the CCP to set up a parent financial holding company in a Member State or a Union parent financial holding company; *deleted*

Or. en

Justification

Meaningless tool in the context of entities that are anyway capitalised on a stand-alone basis.

Amendment 418
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Article 17 – paragraph 7 – point k

Text proposed by the Commission

Amendment

(k) require the CCP to set up a parent financial holding company in a Member State or a Union parent financial holding company; *deleted*

Or. en

Amendment 419
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Article 17 – paragraph 7 – point l

Text proposed by the Commission

Amendment

(l) require the CCP or any group entity directly or indirectly under its control which provides financial support to the CCP to issue liabilities that can be written down and converted or to set aside other resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;

deleted

Or. en

**Amendment 420
Burkhard Balz**

**Proposal for a regulation
Article 17 – paragraph 7 – point l**

Text proposed by the Commission

Amendment

(l) require *the CCP or any group entity directly or indirectly under its control which provides financial support* to the CCP to issue liabilities that can be written down and converted or to set aside other resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;

(l) require the CCP to issue liabilities that can be written down and converted or to set aside other resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;

Or. en

**Amendment 421
Burkhard Balz**

**Proposal for a regulation
Article 17 – paragraph 7 – point m**

Text proposed by the Commission

Amendment

(m) require *the CCP, or any group entity directly or indirectly under its control which provides financial support*

(m) require the CCP to take other steps to enable capital, other liabilities and contracts to be able to absorb losses, to

to the CCP to take other steps to enable capital, other liabilities and contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources, **including** in particular **to attempt** to renegotiate any liability *it* has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;

recapitalise the CCP or to replenish pre-funded resources. **Actions considered may include** in particular **attempting** to renegotiate any liability *the CCP* has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;

Or. en

Amendment 422

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Article 17 – paragraph 7 – point m

Text proposed by the Commission

(m) require the CCP, or any group entity **directly or indirectly under its control** which provides financial support to the CCP to take other steps to enable capital, other liabilities and contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources, including in particular to attempt to renegotiate any liability it has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;

Amendment

(m) require the CCP, or any group entity which provides financial support to the CCP to take other steps to enable capital, other liabilities and contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources, including in particular to attempt to renegotiate any liability it has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;

Or. en

Amendment 423
Kay Swinburne

Proposal for a regulation
Article 17 – paragraph 7 – point n

Text proposed by the Commission

Amendment

(n) where the CCP is a subsidiary, coordinate with relevant authorities with a view to requiring the parent undertaking to set up a separate financial holding company to control the CCP, where that measure is necessary in order to facilitate the resolution of the CCP and to avoid the adverse effects that the use of the resolution tools and the exercise of the resolution powers could have on other entities of the group. **deleted**

Or. en

Amendment 424
Burkhard Balz

Proposal for a regulation
Article 17 – paragraph 7 – point n

Text proposed by the Commission

Amendment

(n) where the CCP is a subsidiary, coordinate with relevant authorities with a view to requiring the parent undertaking to set up a separate financial holding company to control the CCP, where that measure is necessary in order to facilitate the resolution of the CCP and to avoid the adverse effects that the use of the resolution tools and the exercise of the resolution powers could have on other entities of the group. **deleted**

Or. en

Amendment 425
Danuta Maria Hübner

Proposal for a regulation
Article 17 – paragraph 7 – point n a (new)

Text proposed by the Commission

Amendment

(na) restrict or suspend interoperability links of the CCP where such a restriction or suspension is necessary in order to prevent the adverse effects that the application of the resolution tools and the exercise of the resolution powers could have on interoperable CCPs.

Or. en

Justification

As a potential channel for contagion, interoperability arrangements might be impediments to resolvability

Amendment 426
Pervenche Berès, Jakob von Weizsäcker

Proposal for a regulation
Article 17 – paragraph 7 – point n a (new)

Text proposed by the Commission

Amendment

(na) restrict or suspend interoperability links of the CCP where such a restriction or suspension is necessary to avoid the adverse effects that the use of the resolution tools and the exercise of the resolution powers could have on interoperating CCPs.

Or. en

Amendment 427
Anne Sander, Alain Lamassoure

Proposal for a regulation
Article 17 – paragraph 7 – point n a (new)

Text proposed by the Commission

Amendment

(na) restrict or suspend interoperability links of the CCP where such restriction or suspension is necessary to avoid the adverse effects that the use of the resolution tools and the exercise of resolution powers could have on the interoperating CCPs.

Or. en

Justification

Interoperability links need to be taken into consideration as an impediment for resolvability. Indeed it could lead to further risk in the system by way of propagation.

Amendment 428
Danuta Maria Hübner

Proposal for a regulation
Article 18 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Where, after four months from the date of transmission of the report provided for in Article 17(1), the college has failed to adopt a joint decision, the resolution **authority** shall **take its own** decision on the appropriate measures to be taken in accordance with Article 17(5). **The resolution authority shall take its decision having taken into account the views of the other college members expressed during the four-month period.**

Where, after four months from the date of transmission of the report provided for in Article 17(1), the **resolution** college has failed to adopt a joint decision, the resolution **and without prejudice to paragraph 4, the resolution college** shall **adopt a majority** decision **within the same period** on the appropriate measures to be taken in accordance with Article 17(5).

Or. en

Amendment 429
Danuta Maria Hübner

Proposal for a regulation
Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The resolution authority shall notify the decision to the CCP, to its parent undertaking where relevant, **and to the other members of the college in writing.**

Amendment

The resolution authority shall notify the decision **of the resolution college in writing** to the CCP **and** to its parent undertaking where relevant.

Or. en

Amendment 430
Danuta Maria Hübner

Proposal for a regulation
Article 18 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Where, by the end of that four-month period, **any member** of the resolution college **has referred** to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter referred to in points (j), (k) or (n) of Article 17(7), the resolution **authority of the CCP shall defer its decision and** await any decision that ESMA may take in accordance with Article 19(3) of **that** Regulation. In that case, the resolution **authority** shall **take** its decision in accordance with the decision of ESMA.

Amendment

Where, by the end of that four-month period, **a joint decision as referred to in paragraph 1 has not been reached, any group of members** of the resolution college **representing two-thirds of the members of this college, may, within 30 calendar days of the adoption of the decision of the college, refer** to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter referred to in points (j), (k) or (n) of Article 17(7) **of this Regulation. The referral decision shall state in writing the full and detailed reasons why the concerned members of the resolution college consider that the decision taken by the resolution college does not meet the requirements laid down in this Regulation or any other Union law. The resolution college shall** await any decision that ESMA may take in accordance with Article 19(3) of Regulation **(EU) No 1095/2010**. In that case, the resolution **college** shall **adopt** its decision in accordance with the decision of ESMA.

Or. en

Amendment 431
Danuta Maria Hübner

Proposal for a regulation
Article 18 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The ***four-month time period*** shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the ***four month time period*** or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution ***authority*** shall apply.

Amendment

The ***30 calendar days*** shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the ***30 calendar days*** or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution ***college*** shall apply.

Or. en

Amendment 432
Jakob von Weizsäcker, Cătălin Sorin Ivan, Pervenche Berès

Proposal for a regulation
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a CCP infringes or is likely to infringe ***in the near future*** the prudential requirements of Regulation (EU) No 648/2012, or where the competent authority has determined that there are other indications of ***an emerging crisis situation*** that could affect the operations of the CCP, competent authorities may:

Amendment

1. Where a CCP infringes or is likely to infringe the prudential requirements of Regulation (EU) No 648/2012, ***or poses a risk to the financial stability of the Union financial system or parts thereof***, or where the competent authority has determined that there are other indications of ***developments*** that could affect the operations of the CCP, ***in particular its ability to provide clearing services***, the competent authorities may:

Or. en

Amendment 433
Miguel Viegas

Proposal for a regulation
Article 19 – paragraph 1 – point g

Text proposed by the Commission

(g) require changes to the legal *or* operational structures of the CCP;

Amendment

(g) require changes to the legal, operational, ***ownership or management*** structures of the CCP;

Or. en

Amendment 434
Jakob von Weizsäcker

Proposal for a regulation
Article 19 – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(ka) exceptionally and on a one-off basis allow clients of clearing members to participate directly in auctions, while waiving prudential requirements pursuant to Chapter 3 of Title IV of Regulation (EU) 648/2012 other than margin requirements as set out in Article 41 of Regulation (EU) 648/2012 for those clients. The clients' clearing members shall inform clients comprehensively about the auction and facilitate the bidding process for clients. Required margin payments by the clients shall be passed through a non-defaulting clearing member.

Or. en

Amendment 435
Gabriel Mato

Proposal for a regulation
Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to early intervention measures taken by the competent authority in accordance with this Regulation.

Or. en

Amendment 436
Miguel Viegas

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other Member States where the CCP operates or provides services, in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and FMIs are established.

deleted

Or. en

Amendment 437
Kay Swinburne
on behalf of the ECR Group

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other **Member States** where the CCP operates or provides services, in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and FMIs are established.

3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other **jurisdictions** where the CCP operates or provides services, in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and FMIs are established.

Or. en

Amendment 438
Miguel Viegas

Proposal for a regulation
Article 19 – paragraph 4 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) ***maintain the*** financial stability of the ***Union***;

(a) ***the*** financial stability of the ***Member States***.

Or. pt

Amendment 439
Miguel Viegas

Proposal for a regulation
Article 19 – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) ***maintain the continuity of the critical services of the CCP***;

deleted

Or. pt

Amendment 440

Miguel Viegas

Proposal for a regulation

Article 19 – paragraph 4 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) maintain and enhance the financial resilience of the CCP. *deleted*

Or. pt

Amendment 441

Kay Swinburne

on behalf of the ECR Group

Proposal for a regulation

Article 19 – paragraph 7

Text proposed by the Commission

Amendment

7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the confidentiality provisions laid down in Article 71. *deleted*

Or. en

Amendment 442

Danuta Maria Hübner

Proposal for a regulation

Article 19 – paragraph 7

Text proposed by the Commission

Amendment

7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the

7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the

confidentiality provisions laid down in Article 71.

confidentiality provisions laid down in Article 71 *as well as to the framework on market soundings laid down in Article 11 of Regulation (EU) No 596/2014 and in relevant delegated and implementing legislation.*

Or. en

Justification

Specification that this tool constitutes a market sounding and is therefore subject to market abuse rules.