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Committee on Economic and Monetary Affairs

2012/0029(COD)

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AMENDMENTS 408 – 686

Draft report

Kay Swinburne

(PE492.931v01-00)

on the proposal for a regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories (CSDs) and amending Directive 98/26/EC

Proposal for a regulation

(COM(2012)0073 – C7-0071/2012 – 2012/0029(COD))

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United in diversity

EN

Amendment 408
Sharon Bowles, Olle Schmidt

Proposal for a regulation
Recitals 54 a (new)

Text proposed by the Commission

Amendment

(54a) Market making activities play a crucial role in providing liquidity to markets within the Union and market makers need to take short positions to perform that role , particularly in less liquid securities and those admitted to SME growth markets.

Or. en

Justification

It is essential, both to reflect the importance of not undermining the confidence in less liquid and SME growth markets, and to ensure a consistent approach across different legislation, that the requirements for settlement discipline in Short Selling are amended to reflect those provided in, and calibrated by, CSDR. This can be achieved by amendments to Article 15 of the Short Selling Regulation.

Amendment 409
Sharon Bowles, Olle Schmidt

Proposal for a regulation
Recital 54 b (new)

Text proposed by the Commission

Amendment

(54b) Measures to address and prevent settlement fails should be balanced against the need to maintain and protect liquidity in these securities. Regulation (EU) No 236/2012 should provide for flexibility in rules on settlement discipline to prevent and address settlement fails. This Regulation therefore amends Regulation (EU) No 236/2012 to provide for measures to allow for calibrated buy-in procedures for illiquid securities where

a national competent authority has determined that this is necessary to promote and maintain liquidity.

Or. en

Justification

It is essential, both to reflect the importance of not undermining the confidence in less liquid and SME growth markets, and to ensure a consistent approach across different legislation, that the requirements for settlement discipline in Short Selling are amended to reflect those provided in, and calibrated by, CSDR. This can be achieved by amendments to Article 15 of the Short Selling Regulation.

Amendment 410
Sari Essayah

Proposal for a regulation
Article 24 – paragraph 6

Text proposed by the Commission

6. A CSD shall be subject to frequent and independent audits. The results of these audits shall be communicated to the board and made available to the competent authority.

Amendment

6. A CSD shall be subject to frequent and independent audits. The results of these audits shall be communicated to the board and ***to the user committee referred to in Article 26 and*** made available to the competent authority, ***as well as, when services are provided under Article 21, to relevant authorities referred to in Article 11. The main findings shall also be made publicly available except for parts containing business secrets.***

Or. en

Amendment 411
Jürgen Klute

Proposal for a regulation
Article 25 – paragraph 1

Text proposed by the Commission

1. The senior management of a CSD shall be of sufficiently good repute and experience so as to ensure the sound **and prudent** management of the CSD.

Amendment

1. The senior management of a CSD shall be of sufficiently good repute and experience so as to ensure the sound, **prudent and risk-averse** management of the CSD.

Or. en

Amendment 412
Olle Schmidt

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

2. A CSD shall have a board of which **at least one third, but** no less than two, **of its** members are independent.

Amendment

2. A CSD shall have a board of which no less than two members are independent.

Or. en

Amendment 413
Kay Swinburne

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

2. A CSD shall have a board of which at least one third, but no less than two, of its members are independent.

Amendment

2. A CSD shall have a board of which at least one third, but no less than two, of its members are independent. **The user committee referred to in Article 26 shall designate at least one of its user members as a member of the board.**

Or. en

Amendment 414
Olle Schmidt, Sharon Bowles

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

4. The board shall be composed of suitable members with an appropriate mix of skills, experience and knowledge of the entity and of the market.

Amendment

4. *Competent authorities shall require the board and the nomination committees to take into account diversity as one of the criteria for selection of members of the board.* The board shall be composed of suitable members with an appropriate mix of skills, experience and knowledge of the entity and of the market. ***In particular the board shall put in place a policy promoting gender, age, geographical, educational and professional diversity on the management body, as well as take concrete steps towards a more balanced representation on the board. Such concrete measures may for example include training of nomination committees, the creation of rosters of competent candidates, and the introduction of a nomination process where at least one candidate of each sex is presented.***

Or. en

Amendment 415
Sylvie Goulard

Proposal for a regulation
Article 25 – paragraph 5

Text proposed by the Commission

5. A CSD shall clearly determine the roles and responsibilities of the board and shall make the minutes of the board meetings available to the competent authority.

Amendment

5. A CSD shall clearly determine the roles and responsibilities of the board and shall make the minutes of the board meetings available to the competent authority ***and the auditor.***

Justification

The amendment makes this provision consistent with Article 27(2) of EMIR.

Amendment 416
Olle Schmidt

Proposal for a regulation
Article 25 – paragraph 5

Text proposed by the Commission

5. A CSD shall clearly determine the roles and responsibilities of the board and shall make the minutes of the board meetings available to the competent authority.

Amendment

5. A CSD shall clearly determine the roles and responsibilities of the board and shall make the minutes of the board meetings available to the competent authority ***and the auditor.***

Amendment 417
Antolín Sánchez Presedo

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. A CSD shall establish user committees for each securities settlement system it operates, which shall be composed of representatives of issuers ***and of*** participants to such securities settlement systems. The advice of the user committee shall be independent from any direct influence by the management of the CSD.

Amendment

1. A CSD shall establish user committees for each securities settlement system it operates, which shall be composed of representatives of issuers, participants to such securities settlement systems ***and different types of securities holders.*** The advice of the user committee shall be independent from any direct influence by the management of the CSD.

Amendment 418
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 26 – paragraph 3

Text proposed by the Commission

3. User committees shall advise the board of the CSD on key arrangements that impact their members, including the criteria for accepting issuers or participants to their respective securities settlement systems, ***service level and pricing structure***.

Amendment

3. User committees shall advise the board of the CSD on key arrangements that impact their members, including the criteria for accepting issuers or participants to their respective securities settlement systems.

Or. en

Justification

Given that some banks are users of the CSD while offering competing services at the same time, it is important to avoid conflicts of interest when making a recommendation on CSDs service offering and pricing structure.

Amendment 419
Antolín Sánchez Presedo

Proposal for a regulation
Article 26 – paragraph 4

Text proposed by the Commission

4. Without prejudice to the right of competent authorities to be duly informed, the members of the user committees shall be bound by confidentiality. Where the chairman of a user committee determines that a member has an actual or a potential conflict of interest on a particular matter, that member shall not be allowed to vote on that matter.

Amendment

4. Without prejudice to the right of competent authorities to be duly informed, the members of the user committees shall be bound by confidentiality ***on the aspects that do not affect the settlement conditions***. Where the chairman of a user committee determines that a member has an actual or a potential conflict of interest on a particular matter, that member shall not be allowed ***to discuss or*** to vote on that matter.

Or. en

Amendment 420
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. A CSD shall promptly inform the competent authority of any decision in which the board decides not to follow the advice of a user committee.

deleted

Or. en

Justification

§5 is inconsistent with the advisory role of user committees established by §3 and creates potential conflicts of interest between CSDs and their users, who are also competitors.

Amendment 421
Antolín Sánchez Presedo

Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission

Amendment

1. A CSD shall maintain, **for a period of at least five years**, all the records on the services and activity provided so as to enable the competent authority to monitor the compliance with the requirements under this Regulation.

1. A CSD shall maintain all the records on the services and activity provided so as to enable the competent authority to monitor the compliance with the requirements under this Regulation. **It shall do so for a period of at least five years. This period shall be automatically extended where a competent authority opens an investigation to ensure that affected records are maintained until such investigation has been concluded.**

Or. en

Amendment 422
Antolín Sánchez Presedo

Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

2. A CSD shall make the records referred to in paragraph 1 available upon request to the competent authority and the relevant authorities referred to in Article 11 for the purpose of fulfilling their mandates.

Amendment

2. A CSD shall make the records referred to in paragraph 1 available upon request to the competent authority and the relevant authorities referred to in Article 11, ***ESMA or another EU or Member State public authority with legal powers directly related to the records*** for the purpose of fulfilling their mandates.

Or. en

Amendment 423
Sylvie Goulard

Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission

5. Paragraphs 1 to 4 shall not apply where a CSD outsources some of its services or activities to a public entity and where that outsourcing is governed by a dedicated legal, regulatory and operational framework which has been jointly agreed and formalised by the public entity and the relevant CSD and ***agreed*** by the competent authorities ***on the basis of the requirements established in this Regulation.***

Amendment

5. Paragraphs 1 to 4 shall not apply where a CSD outsources some of its services or activities to a public entity and where that outsourcing is governed by a dedicated legal, regulatory and operational framework which has been jointly agreed and formalised by the public entity and the relevant CSD and ***endorsed*** by the competent authorities of the ***relevant CSD.***

Or. en

Justification

The amendment introduces editorial suggestions. In addition, it is proposed to delete the last part of the sentence, since no specific requirements are provided for in the proposed

regulation for the development of this operational framework.

Amendment 424

Kay Swinburne, Olle Schmidt, Sharon Bowles, Gunnar Hökmark

Proposal for a regulation

Article 28 a (new)

Text proposed by the Commission

Amendment

Article 28a

Shared services

1. Member States may provide for a person other than the CSD to be responsible for recording entries into securities accounts at the level of the CSD.

Where Member States provide for such shared services, , the requirements of this Regulation shall apply, where relevant, also to that other person.

2. Where Member States provide for shared services pursuant to paragraph 1, they shall specify the applicable requirements, including requirements pursuant to this Regulation, in their national law.

3. Where Member States provide for shared services pursuant to paragraph 1, they shall notify the Commission and ESMA accordingly. ESMA shall include information on shared services in the CSD register referred to in Article 19.

Or. en

Justification

Necessary adjustment to take account of the specificities of the direct holding model.

Amendment 425
Olle Schmidt, Sharon Bowles

Proposal for a regulation
Article 28 a (new)

Text proposed by the Commission

Amendment

Article 28a

Direct holding model

1. Member states may provide for a person other than the CSD to be responsible for the performance of certain, but not all, functions of the relevant CSD pursuant to this Regulation.

Where Member States provide for such shared services, provisions of this Regulation shall apply mutatis mutandis to the person responsible for performing the function to which the provision applies.

2. Where Member States provide for shared services pursuant to paragraph 1, they shall specify the functions for which that other person is responsible, and the applicable requirements, including requirements under this Regulation.

3. Where Member States provide for shared services pursuant to paragraph 1, they shall notify the Commission and ESMA accordingly. ESMA shall include information on shared services in the CSD register referred to in Article 19.

Or. en

Justification

It is necessary to complement Article 28 on outsourcing with a provision that explicitly recognises the sharing of responsibilities that is typical for direct holding markets. This sharing of responsibilities is a response to the challenge of safely maintaining vast numbers of owner accounts at the level of the CSD. In a direct holding system, the account operators provide for registrations on accounts at the CSD level under an enclosed responsibility according to law.

Amendment 426
Jürgen Klute

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. A CSD shall be designed to meet the needs of its participants and the markets it serves.

Amendment

1. A CSD shall be designed to meet the needs of its participants and the markets it serves. ***It shall contribute to the efficient allocation of financial resources into productive investments to the benefit of the needs of the real economy.***

Or. en

Amendment 427
Sari Essayah

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

1. For each securities settlement system it operates a CSD shall have publicly disclosed criteria for participation which allow fair and open access. Such criteria shall be transparent, objective, risk-based, and non-discriminatory so as to ensure fair and open access to the CSD. Criteria that restrict access shall only be permitted to the extent that their objective is to control the risk for the CSD.

Amendment

1. For each securities settlement system it operates ***and for all other services it provides*** a CSD shall have publicly disclosed criteria for participation which allow fair and open access. Such criteria shall be transparent, objective, risk-based, and non-discriminatory so as to ensure fair and open access to the CSD. Criteria that restrict access shall only be permitted to the extent that their objective is to control the risk for the CSD.

Or. en

Amendment 428
Sharon Bowles

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

1. For each securities settlement system it operates a CSD shall have publicly disclosed criteria for participation which allow fair and open access. Such criteria shall be transparent, objective, risk-based, and non-discriminatory so as to ensure fair and open access to the CSD. Criteria that restrict access shall only be permitted to the extent that their objective ***is to control the*** risk for the CSD.

Amendment

1. For each securities settlement system it operates a CSD shall have publicly disclosed criteria for participation which allow fair and open access. Such criteria shall be transparent, objective, risk-based, and non-discriminatory so as to ensure fair and open access to the CSD. Criteria that restrict access shall only be permitted to the extent that their objective ***justifiably controls the specified*** risk for the CSD.

Or. en

Justification

Restriction of access to a CSD must only be allowed when the risk is justifiable.

Amendment 429
Sari Essayah

Proposal for a regulation
Article 30 – paragraph 5

Text proposed by the Commission

5. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 64*** concerning measures to specify the risks which may justify a refusal by a CSD of access to participants and the elements of the procedure referred to in paragraph 3.

Amendment

5. ***ESMA shall develop in close co-operation with the members of the ESCB draft regulatory technical standards*** concerning measures to specify the risks which may justify a refusal by a CSD of access to participants and the elements of the procedure referred to in paragraph 3. ***ESMA shall submit those draft regulatory technical standards to the Commission by six months from the date of entry into force of this Regulation.***

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down

Amendment 430

Ildikó Gáll-Pelcz

Proposal for a regulation

Article 31 – paragraph 1

Text proposed by the Commission

1. For each securities settlement system it operates, ***as well as for the each of the other services it performs***, a CSD shall publicly disclose the prices and fees associated with the services provided. It shall disclose the prices and fees of each service and function provided separately, including discounts and rebates and the conditions to benefit from those reductions. It shall allow its customers separate access to the specific services provided.

Amendment

1. For each securities settlement system it operates a CSD shall publicly disclose the prices and fees associated with the ***core*** services provided. It shall disclose the prices and fees of each service and function provided separately, including discounts and rebates and the conditions to benefit from those reductions. ***Where practical***, it shall allow its customers separate access to the specific services provided.

Justification

A CSD should not be obliged to disclose prices and fees for services that it offers in competition with other market actors, such as banks. It is important to deliver a level playing field with regard to such services. The requirement in the last sentence of §1 to unbundle access to “specific services” which are not defined, is likely to be impossible to deliver, if those services refer to all of the services in the Annex.

Amendment 431

Ildikó Gáll-Pelcz

Proposal for a regulation

Article 31 – paragraph 3

Text proposed by the Commission

Amendment

3. A CSD shall be bound by its published pricing policy. **deleted**

Or. en

Justification

Competition law allows for private discounts provided that there is no abuse of market power. Prohibiting such discounts would distort competition and could lead to prices that are artificially high.

Amendment 432
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 31 – paragraph 5

Text proposed by the Commission

Amendment

5. A CSD shall disclose **to all** participants the risks associated with the services provided.

5. A CSD shall disclose **sufficient information to allow** participants **to assess** the risks associated with the services provided.

Or. en

Justification

CSDs cannot assess all of the risks to which its participants are exposed. CSD participants are either intermediaries or account operators who are required by regulators to be equipped and responsible for assessing their own risks and any risks posed to their clients. The proposed wording would make this paragraph more realistic to implement.

Amendment 433
Kay Swinburne

Proposal for a regulation
Article 31 – paragraph 6

Text proposed by the Commission

6. A CSD shall account separately for costs and revenues of the services provided and shall disclose that information to the competent authority.

Amendment

6. A CSD shall account separately for costs and revenues of the services provided and shall disclose that information to the competent authority, ***as well as to its users in order to avoid cross-subsidisation and to ensure no undue revenue generation from the settlement discipline process.***

Or. en

Justification

Replaces amendment 79

Amendment 434
Sharon Bowles

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

CSDs shall use in their communication procedures with participants of the securities settlement systems they operate and with the market infrastructures they interface with ***the recognised*** communication procedures and standards for messaging and reference data in order to facilitate efficient recording, payment and settlement.

Amendment

CSDs shall use in their communication procedures with participants of the securities settlement systems they operate, and with the market infrastructures they interface with, ***international and transparent open*** communication procedures and standards for messaging and reference data in order to facilitate efficient recording, payment and settlement.

Or. en

Amendment 435
Sari Essayah

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

CSDs shall use in their communication procedures with participants of the securities settlement systems they operate and ***with the market infrastructures they interface with the recognised communication procedures and standards for messaging and reference data in order to facilitate efficient recording, payment and settlement.***

Amendment

By 1 February 2017, CSDs shall use in their communication procedures with participants of the securities settlement systems they operate and other CSD service they provide communication procedures and messaging and transaction standards established by ESMA, when they have not mutually agreed upon other communication solutions providing at least the same service level and data content.

Or. en

Amendment 436
Sari Essayah

Proposal for a regulation
Article 32 – paragraph 1 a (new)

Text proposed by the Commission

Amendment 437
Sari Essayah

Proposal for a regulation
Article 32 – paragraph 1 b (new)

Amendment

By 1 February 2017, CSDs shall use for communication between CSDs procedures and messaging and transaction standards established by ESMA, where they have not mutually agreed upon other communication solutions providing at least the same service level and data content. ESMA shall develop those standards with the objective of supporting end-to-end straight-through processing.

Or. en

Text proposed by the Commission

Amendment

By 1 February 2017, all employed links between CSDs operating in Members States shall be interoperable DVP-settlement supporting links.

Or. en

Amendment 438
Sari Essayah

Proposal for a regulation
Article 32 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

By 1 February 2017, CSDs shall use, for communication with market venues and CCPs, procedures and messaging and transaction standards established by ESMA, where they have not mutually agreed upon other communication solutions providing at least the same service level and data content.

Or. en

Amendment 439
Sari Essayah

Proposal for a regulation
Article 32 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

ESMA shall develop in cooperation with the members of the ESCB draft regulatory technical standards containing the standards and procedures required in paragraphs 1, 2 and 4. ESMA shall submit those draft regulatory technical standards to the Commission by six

months from the date of entry into force of this Regulation.

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

Or. en

Amendment 440
Sari Essayah

Proposal for a regulation
Article 32 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

ESMA shall develop these standards with the objective of supporting end-to-end straight-through-processing.

Or. en

Amendment 441
Sharon Bowles

Proposal for a regulation
Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33 a

Recording and storage of repurchase agreements and securities lending processed and serviced by CSDs

CSDs shall record and store, at least on an aggregate basis, all repurchase agreements and securities lending which they have processed and serviced. This shall include all forms of encumbrance

and claw back arrangements.

The CSD shall allow competent authorities to access this information.

Or. en

Justification

It is important that competent authorities can access this data and a CSD is in a unique position to store this data.

Amendment 442
Sari Essayah

Proposal for a regulation
Article 34 – paragraph 1

Text proposed by the Commission

1. A CSD shall take appropriate reconciliation measures to verify that the number of securities making up a securities issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts *of the participants of the securities settlement system* operated by the CSD. Such reconciliation measures shall be conducted *intraday*.

Amendment

1. A CSD shall take appropriate reconciliation measures to verify that the number of securities making up a securities issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts *at the top tier-level* operated by the CSD. Such reconciliation measures shall be conducted *continuously when possible*.

Or. en

Amendment 443
Olle Schmidt, Sharon Bowles

Proposal for a regulation
Article 34 – paragraph 1

Text proposed by the Commission

1. A CSD shall take appropriate reconciliation measures to verify that the number of securities making up a securities

Amendment

1. A CSD shall take appropriate reconciliation measures to verify that the number of securities making up a securities

issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts of the participants of the securities settlement system operated by the CSD. Such reconciliation measures shall be conducted *intraday*.

issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts of the participants of the securities settlement system operated by the CSD *and, where relevant, on owner accounts maintained by the CSD*. Such reconciliation measures shall be conducted *at least daily*.

Or. en

Justification

This follows from the proposed additions of Recital 28a and Article 28a.

Amendment 444

Sari Essayah

Proposal for a regulation

Article 35 – title

Text proposed by the Commission

Protection of participants' securities

Amendment

Protection of participants' *and end-investors'* securities

Or. en

Amendment 445

Olle Schmidt

Proposal for a regulation

Article 35 – paragraph 1

Text proposed by the Commission

1. For each securities settlement system it operates a CSD shall keep records and accounts that shall enable it, at any time and without delay, to *distinguish* in the accounts with the CSD the securities of a participant from the securities of any other participant and, if applicable, from the

Amendment

1. For each securities settlement system it operates a CSD shall keep records and accounts that shall enable it, at any time and without delay, to *segregate* in the accounts with the CSD the securities of a participant from the securities of any other participant and, if applicable, from the

CSD's own assets.

CSD's own assets.

Or. en

Justification

Securities held by clients should be segregated from the securities of the CSD and of other clients. This is consistent with principle 11 of the CPSS-IOSCO principles.

Amendment 446

Jean-Paul Besset

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 35 – paragraph 1

Text proposed by the Commission

1. For each securities settlement system it operates a CSD shall keep records and accounts that shall enable it, ***at any time and without delay, to distinguish*** in the accounts with the CSD the securities of ***a*** participant from the securities of any other participant and, if applicable, from the CSD's own assets.

Amendment

1. For each securities settlement system it operates a CSD shall keep records and accounts that shall enable it to ***segregate*** in the accounts with the CSD the securities of ***any one*** participant from the securities of any other participant and, if applicable, from the CSD's own assets.

Or. fr

Justification

Segregation of assets in line with CPSS-IOSCO recommendations.

Amendment 447

Olle Schmidt

Proposal for a regulation

Article 35 – paragraph 2

Text proposed by the Commission

2. A CSD shall keep records and accounts that enable a participant to ***distinguish*** the

Amendment

2. A CSD shall keep records and accounts that enable a participant to ***segregate*** the

securities of that participant from those of that participant's clients.

securities of that participant from those of that participant's clients.

Or. en

Justification

Securities held by clients should be segregated from the securities of the CSD and of other clients. This is consistent with principle 11 of the CPSS-IOSCO principles.

Amendment 448

Antolín Sánchez Presedo

Proposal for a regulation

Article 35 – paragraph 3

Text proposed by the Commission

3. A CSD shall ***offer to*** keep records and accounts enabling ***a participant*** to distinguish the securities of each of that participant's clients, ***if and as required by that participant*** ('individual client segregation').

Amendment

3. A CSD shall keep records and accounts enabling to distinguish the securities of each of that participant's clients ('individual client segregation').

Or. en

Amendment 449

Herbert Dorfmann

Proposal for a regulation

Article 35 – paragraph 3

Text proposed by the Commission

3. A CSD shall offer to keep records and accounts enabling a participant to distinguish the securities of each of that participant's clients, if and as required by that participant ('individual client segregation').

Amendment

3. A CSD shall offer to keep records and accounts enabling a participant to distinguish the securities of each of that participant's clients, if and as required by that participant ('individual client segregation'). ***A CSD shall allow its participants to open and to hold both omnibus securities accounts and single***

*beneficiary securities accounts
concurrently.*

Or. en

Amendment 450

Olle Schmidt

Proposal for a regulation

Article 35 – paragraph 3

Text proposed by the Commission

3. A CSD shall offer to keep records and accounts enabling a participant to *distinguish* the securities of each of that participant's clients, if and as required by that participant ('individual client segregation').

Amendment

3. A CSD shall offer to keep records and accounts enabling a participant to *segregate* the securities of each of that participant's clients, if and as required by that participant ('individual client segregation').

Or. en

Amendment 451

Jean-Paul Basset

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 35 – paragraph 3

Text proposed by the Commission

3. A CSD shall offer to keep records and accounts enabling a participant to *distinguish* the securities of each of that participant's clients, if and as required by that participant ('individual client segregation').

Amendment

3. A CSD shall offer to keep records and accounts enabling a participant to *segregate* the securities of each of that participant's clients, if and as required by that participant ('individual client segregation').

Or. fr

Amendment 452

Sari Essayah

Proposal for a regulation
Article 35 – paragraph 3

Text proposed by the Commission

3. A CSD shall offer to keep records and accounts enabling a participant to **distinguish** the securities of **each** of that participant's clients, if and as required by that participant ('individual client segregation').

Amendment

3. A CSD shall offer to keep records and accounts enabling a participant to **separate** the securities of **any** of that participant's clients, if and as required by that participant ('individual client segregation'). **Participants shall require individual segregation at CSD-level for any individual end-investor upon such a request by an individual end-investor.**

Or. en

Amendment 453
Corien Wortmann-Kool

Proposal for a regulation
Article 35 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. A CSD shall allow its participants to open and to hold both omnibus securities accounts and single beneficiary securities accounts concurrently. Those services should be provided on reasonable commercial terms, including costs.

Member States shall not prevent CSDs from fulfilling the obligation in the first subparagraph.

Or. en

Amendment 454
Sari Essayah

Proposal for a regulation
Article 35 – paragraph 5

Text proposed by the Commission

5. A CSD shall not use the securities of a participant for any purpose unless it has obtained that participant's express consent.

Amendment

5. A CSD shall not use the securities of a participant ***or an end-investor*** for any purpose unless it has obtained that participant's ***or end-investor's*** express consent.

Or. en

Amendment 455
Antolín Sánchez Presedo

Proposal for a regulation
Article 35 – paragraph 5

Text proposed by the Commission

5. A CSD shall not use the securities of a participant for any purpose unless it has obtained that participant's express consent.

Amendment

5. A CSD shall not use the securities of a participant for any purpose unless it has obtained ***previously and case by case*** that participant's express consent.

Or. en

Amendment 456
Sari Essayah

Proposal for a regulation
Article 35 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Member States may require certain customer groups to keep certain parts of their securities holdings on individual direct or segregated accounts at the CSD-level.

Or. en

Amendment 457
Olle Schmidt

Proposal for a regulation
Article 36 – paragraph 6

Text proposed by the Commission

6. A CSD shall achieve settlement finality no later than by the end of the business day of the intended settlement date. Upon demand by its user committee, it shall install systems that allow for intraday or real-time settlement.

Amendment

6. A CSD shall achieve settlement finality no later than by the end of the business day of the intended settlement date. Upon demand by its user committee, it shall install **operational procedures or** systems that allow for intraday or real-time settlement.

Or. en

Amendment 458
Sylvie Goulard

Proposal for a regulation
Article 36 – paragraph 6

Text proposed by the Commission

6. A CSD shall achieve settlement finality no later than by the end of the business day of the intended settlement date. Upon demand by its user committee, it shall install **systems** that allow for intraday or real-time settlement.

Amendment

6. A CSD shall achieve settlement finality no later than by the end of the business day of the intended settlement date. Upon demand by its user committee, it shall install **operational procedures** that allow for intraday or real-time settlement.

Or. en

Justification

In the context of the proposed regulation, the term ‘system’ has a specific meaning, as defined in Article 2 of Directive 98/26/EC. The amendment aims at avoiding any unintended interpretations of the term ‘system’.

Amendment 459
Antolín Sánchez Presedo

Proposal for a regulation
Article 36 – paragraph 6

Text proposed by the Commission

6. A CSD shall achieve settlement finality no later than by the end of the business day of the *intended* settlement date. Upon demand by its user committee, it shall install systems that allow for intraday or real-time settlement.

Amendment

6. A CSD shall achieve settlement finality no later than by the end of the business day of the settlement *due* date. Upon demand by its user committee, it shall install systems that allow for intraday or real-time settlement.

Or. en

Amendment 460
Antolín Sánchez Presedo

Proposal for a regulation
Article 36 – paragraph 7

Text proposed by the Commission

7. The cash proceeds of securities settlements shall be available for recipients to use no later than by the end of the business day of the *intended* settlement date.

Amendment

7. The cash proceeds of securities settlements shall be available for recipients to use no later than by the end of the business day of the settlement *due* date.

Or. en

Amendment 461
Sari Essayah

Proposal for a regulation
Article 36 – paragraph 8

Text proposed by the Commission

8. All securities transactions against cash *between direct participants to the securities settlement systems operated by a CSD* shall be settled on a DVP basis.

Amendment

8. All securities transactions against cash *within a CSD system and between system participants* shall be settled on a DVP basis.

Amendment 462
Sari Essayah

Proposal for a regulation
Article 37 – paragraph 1

Text proposed by the Commission

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with a central bank operating in such currency whenever practical and available.

Amendment

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with a central bank operating **domestically** in such currency whenever practical and available.

Amendment 463
Sylvie Goulard

Proposal for a regulation
Article 37 – paragraph 1

Text proposed by the Commission

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with **a** central bank **operating in such** currency whenever practical and available.

Amendment

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with **the** central bank **of issue of that** currency whenever practical and available.

Justification

This amendment addresses problems relating to the possible creation of securities where a

provisional transfer is cancelled and the provisionally transferred securities are transferred into another CSD. These risks relate to the integrity of the issue.

Amendment 464
Olle Schmidt

Proposal for a regulation
Article 37 – paragraph 1

Text proposed by the Commission

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with **a** central bank **operating in such** currency whenever practical and available.

Amendment

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with **the** central bank **of issue of that** currency whenever practical and available.

Or. en

Amendment 465
Jean-Paul Gauzès

Proposal for a regulation
Article 37 – paragraph 1

Text proposed by the Commission

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with a central bank operating in such currency whenever **practical and** available.

Amendment

1. For transactions denominated in the currency of the country where the settlement takes place, a CSD shall settle the cash payments of its respective securities settlement system through accounts opened with a central bank operating in such currency whenever available.

Or. en

Amendment 466
Jean-Paul Gauzès

Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

2. When ***it is not practical and available to settle*** in central bank accounts, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution. If a CSD offers to settle in accounts opened with a credit institution, it shall do so in accordance with the provisions of Title IV.

Amendment

2. When ***settlement*** in central bank accounts ***is not available***, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution. If a CSD offers to settle in accounts opened with a credit institution, it shall do so in accordance with the provisions of Title IV.

Or. en

Amendment 467
Burkhard Balz

Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

2. When it is not practical and available to settle in central bank accounts, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution. If a CSD offers to settle in accounts opened with a credit institution, it shall do so in accordance with the provisions of Title IV.

Amendment

2. When it is not practical and available to settle in central bank accounts, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution ***or through accounts opened in its own books***. If a CSD offers to settle in accounts opened with a credit institution ***or in accounts opened in its own books***, it shall do so in accordance with the provisions of Title IV.

Or. en

Amendment 468
Jean-Paul Gauzès

Proposal for a regulation
Article 37 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the CSD offers settlement both in central bank accounts and in accounts opened with a credit institution, its participants shall have the right to choose between these two options.

deleted

Or. en

Amendment 469
Burkhard Balz

Proposal for a regulation
Article 37 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the CSD offers settlement both in central bank accounts and in accounts opened with a credit institution, its participants shall have the right to choose between these two options.

3. Where the CSD offers settlement both in central bank accounts and in accounts opened with a credit institution, **or both in central bank accounts and in accounts opened in its own books**, its participants shall have the right to choose between these two options.

Or. en

Amendment 470
Jean-Paul Gauzès

Proposal for a regulation
Article 37 – paragraph 4

Text proposed by the Commission

Amendment

4. A CSD shall provide sufficient information to market participants to allow them to identify and evaluate the risks and costs associated with these

deleted

services.

Or. en

Amendment 471
Jean-Paul Gauzès

Proposal for a regulation
Article 37 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 64 concerning measures defining the cases when the settlement of the cash payments in a specific currency through accounts opened with a central bank is not ***practical and*** available and the methods of assessment thereof.

Amendment

5. The Commission shall be empowered to adopt, ***in close cooperation with the members of the ESCB,*** delegated acts in accordance with Article 64 concerning measures defining the cases when the settlement of the cash payments in a specific currency through accounts opened with a central bank is not available and the methods of assessment thereof.

Or. en

Amendment 472
Olle Schmidt

Proposal for a regulation
Article 39 – paragraph 1

Text proposed by the Commission

A CSD shall adopt a sound risk-management framework for comprehensively managing legal, business, operational and other risks.

Amendment

A CSD shall adopt a sound risk-management framework for comprehensively managing legal, business, operational and other ***direct or indirect risks, for example systemic*** risks.

Or. en

Amendment 473
Sylvie Goulard

Proposal for a regulation
Article 39 – paragraph 1

Text proposed by the Commission

A CSD shall adopt a sound risk-management framework for comprehensively managing legal, business, operational and other risks.

Amendment

A CSD shall adopt a sound risk-management framework for comprehensively managing legal, business, operational, **systemic** and other risks.

Or. en

Justification

CSDs are deemed to be systemically important market infrastructures. For this reason, the prudential requirements applicable to them should aim to address systemic risk.

Amendment 474
Sari Essayah

Proposal for a regulation
Article 42 – paragraph 1

Text proposed by the Commission

1. A CSD shall identify all **potential** sources of operational risk, both internal and external, and minimise their impact through the deployment of appropriate IT tools, controls and procedures, including for all the securities settlement systems it operates.

Amendment

1. A CSD shall identify all **plausible** sources of operational risk, both internal and external, and minimise their impact through the deployment of appropriate IT tools, controls and procedures, including for all the securities settlement systems it operates.

Or. en

Amendment 475
Sari Essayah

Proposal for a regulation
Article 42 – paragraph 3

Text proposed by the Commission

3. For ***its notary and central maintenance services as well*** as for each securities settlement system it operates, a CSD shall establish, implement and maintain an adequate business continuity policy and disaster recovery plan to ensure the preservation of its services, the timely recovery of operations and the fulfilment of the CSD's obligations in the case of events that pose a significant risk of disrupting operations.

Amendment

3. For ***all services it provides*** as for each securities settlement system it operates, a CSD shall establish, implement and maintain an adequate business continuity policy and disaster recovery plan to ensure the preservation of its services, the timely recovery of operations and the fulfilment of the CSD's obligations in the case of events that pose a significant risk of disrupting operations.

Or. en

Amendment 476
Sharon Bowles

Proposal for a regulation
Article 42 – paragraph 3

Text proposed by the Commission

3. For its notary and central maintenance services as well as for each securities settlement system it operates, a CSD shall establish, implement and maintain an adequate business continuity policy ***and*** disaster recovery ***plan*** to ensure the preservation of its services, the timely recovery of operations and the fulfilment of the CSD's obligations in the case of events that pose a significant risk of disrupting operations.

Amendment

3. For its notary and central maintenance services as well as for each securities settlement system it operates, a CSD shall establish, implement and maintain an adequate business continuity policy, disaster recovery ***plans and recovery plans*** to ensure the preservation of its services, the timely recovery of operations and the fulfilment of the CSD's obligations in the case of events that pose a significant risk of disrupting operations. ***Where a CSD also performs banking-type ancillary services as specified in Annex C of this Regulation, it shall comply with the requirements specified in Article 52(2a).***

Or. en

Amendment 477
Sari Essayah

Proposal for a regulation
Article 42 – paragraph 4

Text proposed by the Commission

4. The plan referred to in paragraph 3 shall **at a minimum provide for the recovery of all transactions at** the time of disruption to allow the participants of a CSD to continue to operate with certainty and to complete settlement on the scheduled date. It shall include the setting up of a second processing site with the requisite level of key resources, capabilities and functionalities, **including appropriately skilled and experienced staff.**

Amendment

4. The plan referred to in paragraph 3 shall **ensure that critical information technology systems can resume operations as soon as possible from** the time of disruption to allow the participants of a CSD to continue to operate with certainty and to complete settlement on the scheduled date. **In case of extreme circumstances, settlement shall be ensured by the end of the day.** It shall include the setting up of a second processing site with the requisite level of key resources, capabilities and functionalities.

Or. en

Amendment 478
Sharon Bowles

Proposal for a regulation
Article 42 – paragraph 4

Text proposed by the Commission

4. The **plan** referred to in paragraph 3 shall at a minimum provide for the recovery of all transactions at the time of disruption to allow the participants of a CSD to continue to operate with certainty and to complete settlement on the scheduled date. It shall include the setting up of a second processing site with the requisite level of key resources, capabilities and functionalities, including appropriately skilled and experienced staff.

Amendment

4. The **plans** referred to in paragraph 3 shall at a minimum provide for the recovery of all transactions at the time of disruption to allow the participants of a CSD to continue to operate with certainty and to complete settlement on the scheduled date. It shall include the setting up of a second processing site with the requisite level of key resources, capabilities and functionalities, including appropriately skilled and experienced staff.

Or. en

Amendment 479
Sharon Bowles

Proposal for a regulation
Article 42 – paragraph 7 – subparagraph 1

Text proposed by the Commission

ESMA shall develop in consultation with the members of the ESCB draft regulatory technical standards to specify the operational risks referred to in paragraphs 1 and 6, the methods to test, address or minimise those risks, including the business continuity policies *and* disaster recovery plans referred to in paragraphs 3 and 4 and the methods of assessment thereof.

Amendment

ESMA shall develop in consultation with the members of the ESCB draft regulatory technical standards to specify the operational risks referred to in paragraphs 1 and 6, the methods to test, address or minimise those risks, including the business continuity policies, disaster recovery plans *and recovery plans* referred to in paragraphs 3 and 4 and the methods of assessment thereof.

Or. en

Amendment 480
Sharon Bowles

Proposal for a regulation
Article 42 – paragraph 7 – subparagraph 2

Text proposed by the Commission

ESMA shall submit those draft regulatory technical standards to the Commission by six months from the date of entry into force of this Regulation.

Amendment

ESMA shall submit those draft regulatory technical standards to the Commission by six months from the date of entry into force of this Regulation. *These draft technical standards shall be applicable to both a CSD which performs banking type ancillary services to settlement and a credit institution which obtains authorisation to operate a CSD, and shall explicitly emphasise resolvability and safety.*

Or. en

Justification

A symmetrical arrangement should be in place whereby this Regulation provides for CSD wishing to provide limited banking services and a limited credit institution wishing to operate a CSD.

Amendment 481

Sari Essayah

Proposal for a regulation

Article 43 – paragraph 3

Text proposed by the Commission

3. A CSD shall invest its financial resources only in cash or in highly liquid financial instruments with minimal market and credit risk. These investments shall be capable of being liquidated rapidly with minimal adverse price effect.

Amendment

3. A CSD's investment strategy shall be consistent with its overall risk-management strategy and fully disclosed to its participants, and investments shall be secured by, or be claims on, high-quality obligors. These investments shall be capable of being liquidated rapidly with minimal adverse price effect.

Or. en

Amendment 482

Sari Essayah

Proposal for a regulation

Article 43 – paragraph 4

Text proposed by the Commission

4. A CSD shall take into account its overall **credit** risk exposures to individual institutions **in making its investment decision** and shall ensure that its overall risk exposure to any **individual** institution remains within acceptable concentration limits.

Amendment

4. A CSD shall take into account its overall risk exposures to individual institutions **with which it holds its own financial assets** and shall ensure that its overall risk exposure to any **such** institution remains within acceptable concentration limits.

Or. en

Amendment 483
Herbert Dorfmann

Proposal for a regulation
Article 43 – paragraph 4

Text proposed by the Commission

4. A CSD shall take into account its overall **credit** risk exposures to individual institutions **in making its investment decision** and shall ensure that its overall risk exposure to any **individual** institution remains within acceptable concentration limits.

Amendment

4. A CSD shall take into account its overall risk exposures to individual institutions **with which it holds its own assets** and shall ensure that its overall risk exposure to any **such** institution remains within acceptable concentration limits.

Or. en

Justification

The proposed amendment is much closer to the wording of CPSS-IOSCO Principle 16 (Key consideration 3). As a result, art. 43(3) refers to investment risk, while art.43(4) refers to the related custody risk.

Amendment 484
Jean-Paul Basset
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 44 – paragraph 3 – subparagraph 1

Text proposed by the Commission

ESMA shall develop in consultation with the members of the ESCB draft regulatory technical standards to specify the capital, retained earnings and reserves of a CSD referred to in paragraph 1 and the features of the plan referred to in paragraph 2.

Amendment

ESMA shall develop in consultation with **the ERSB and** the members of the ESCB draft regulatory technical standards to specify the capital, retained earnings and reserves of a CSD referred to in paragraph 1 and the features of the plan referred to in paragraph 2.

Or. fr

Justification

Since CSDs are considered to be systematically important infrastructures, the ESRB ought to be involved in drawing up 'resolution plans' for CSDs.

Amendment 485
Sharon Bowles

Proposal for a regulation
Article 44 a (new)

Text proposed by the Commission

Amendment

Article 44 a

CSD with a banking licence

1. Where a CSD authorised to perform banking-type ancillary services as defined in Annex C of this Regulation, it shall comply with the specific capital requirements laid down in Directive 2006/48/EC, and any subsequent legislative act on prudential supervision of credit institutions.

Or. en

Amendment 486
Olle Schmidt

Proposal for a regulation
Article 44 a (new)

Text proposed by the Commission

Amendment

Article 44 a

Liability regime

A CSD shall be liable for the losses suffered by its members and or participants arising from the loss of a financial instrument when they are related to the functions for which the CSD has been authorised, unless it can prove that the loss is the result of an external

event beyond its control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary. A CSD shall be liable for (but not limited to) the following cases:

- reconciliation errors with registrars and/or issuers;*
- theft of securities (either physical or electronic);*
- systems failure;*
- failure within the CSD's central counterparty functionality, if applicable;*
- CSD errors, omissions or fraud impacting settlement, safekeeping and asset servicing activities;*
- CSD insolvency / default;*
- force majeure events.*

A CSD shall demonstrate that it has sufficient provision to cover such instances in the form of liability insurance and/or capital provision. ESMA shall develop draft regulatory technical standards to specify the details of insurance and capital provision.

The liability regime should take into account if the Member States provide for shared services.

Or. en

Justification

The CSD Regulation should include a liability regime applying to losses caused by the CSD, e.g. due to operational failures. Liability regimes across the EU should be harmonised.

Amendment 487
Antolín Sánchez Presedo

Proposal for a regulation
Article 45 – paragraph 2

Text proposed by the Commission

Amendment

2. Link arrangements shall be submitted to authorisation as required under point (d) of Article 17(1).

2. **Interoperability** link arrangements shall be submitted to authorisation as required under point (d) of Article 17(1).

Or. en

Amendment 488
Sylvie Goulard

Proposal for a regulation
Article 45 – paragraph 4

Text proposed by the Commission

Amendment

4. In case of a provisional transfer of securities between linked CSDs, retransfer of securities prior to the first transfer becoming final shall be prohibited.

4. In case of a provisional transfer of securities between linked CSDs, retransfer **or onward transfer to a third CSD** of securities prior to the first transfer becoming final shall be prohibited.

Or. en

Justification

This amendment addresses problems relating to the possible creation of securities where a provisional transfer is cancelled and the provisionally transferred securities are transferred into another CSD. These risks relate to the integrity of the issue.

Amendment 489
Olle Schmidt

Proposal for a regulation
Article 45 – paragraph 4

Text proposed by the Commission

Amendment

4. In case of a provisional transfer of securities between linked CSDs, retransfer of securities prior to the first transfer becoming final shall be prohibited.

4. In case of a provisional transfer of securities between linked CSDs, retransfer **or onward transfer to a third CSD** of securities prior to the first transfer

becoming final shall be prohibited.

Or. en

Amendment 490
Kay Swinburne

Proposal for a regulation
Article 45 – paragraph 7

Text proposed by the Commission

7. Links between CSDs shall permit DVP settlement of transactions between participants in linked CSDs, wherever practical and feasible. **The** reasons for any **non-DVP** settlement shall be notified to the competent authorities.

Amendment

7. Links between CSDs shall permit DVP settlement of transactions between participants in linked CSDs, wherever practical and feasible. **Detailed** reasons for any **CSD link not allowing for DVP** settlement shall be notified to the competent authorities.

Or. en

Amendment 491
Sylvie Goulard

Proposal for a regulation
Article 45 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. A CSD shall provide appropriate account structures to enable participants, including other CSDs, to connect to its systems. The account structure shall be supported by the appropriate settlement, custody and fiscal arrangements.

Or. en

Justification

Unless appropriate accounts structures are offered by a CSD to which another CSD is linked, in the form of omnibus accounts structures, for example, the proper functioning of the link

between these CSDs is not possible.

Amendment 492
Olle Schmidt

Proposal for a regulation
Article 45 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. A CSD shall provide appropriate access to the account structures in order to enable participants and CSDs, to connect and have access to its systems. The account structure shall be supported by the appropriate arrangements addressing relevant risks to the system.

Or. en

Amendment 493
Sylvie Goulard

Proposal for a regulation
Article 45 – paragraph 9 – subparagraph 1

Text proposed by the Commission

Amendment

ESMA shall develop in ***consultation*** with the members of the ESCB draft regulatory technical standards to specify the conditions as provided in paragraph 3 under which each type of link arrangement provides for adequate protection of the linked CSDs and of their participants, in particular when a CSD intends to participate in the securities settlement system operated by another CSD, the monitoring and managing of additional risks referred to in paragraph 5 arising from the use of intermediaries, the reconciliation methods referred to in paragraph 6, the cases where DVP settlement through links is practical and

ESMA shall develop in ***close cooperation*** with the members of the ESCB draft regulatory technical standards to specify the conditions as provided in paragraph 3 under which each type of link arrangement provides for adequate protection of the linked CSDs and of their participants, in particular when a CSD intends to participate in the securities settlement system operated by another CSD, the monitoring and managing of additional risks referred to in paragraph 5 arising from the use of intermediaries, the reconciliation methods referred to in paragraph 6, the cases where DVP settlement through links is practical and

feasible as provided in paragraph 7 and the methods of assessment thereof.

feasible as provided in paragraph 7, ***the provisions of paragraph [8a] on the appropriate account structures including the relevant arrangements*** and the methods of assessment thereof.

Or. en

Justification

The purpose of the amendment is to provide for the adoption of technical standards by ESMA with respect to account structures for CSD links.

Amendment 494 **Olle Schmidt**

Proposal for a regulation **Article 45 – paragraph 9 – subparagraph 1**

Text proposed by the Commission

ESMA shall develop in consultation with the members of the ESCB draft regulatory technical standards to specify the conditions as provided in paragraph 3 under which each type of link arrangement provides for adequate protection of the linked CSDs and of their participants, in particular when a CSD intends to participate in the securities settlement system operated by another CSD, the monitoring and managing of additional risks referred to in paragraph 5 arising from the use of intermediaries, the reconciliation methods referred to in paragraph 6, the cases where DVP settlement through links is practical and feasible as provided in paragraph 7 and the methods of assessment thereof.

Amendment

ESMA shall develop in consultation ***and close cooperation*** with the members of the ESCB draft regulatory technical standards to specify the conditions as provided in paragraph 3 under which each type of link arrangement provides for adequate protection of the linked CSDs and of their participants, in particular when a CSD intends to participate in the securities settlement system operated by another CSD, the monitoring and managing of additional risks referred to in paragraph 5 arising from the use of intermediaries, the reconciliation methods referred to in paragraph 6, the cases where DVP settlement through links is practical and feasible as provided in paragraph 7, ***the provisions of paragraph 8a on the appropriate account structures including the relevant arrangements*** and the methods of assessment thereof.

Or. en

Amendment 495
Jean-Paul Gauzès

Proposal for a regulation
Article 46

Text proposed by the Commission

Amendment

Article 46

deleted

Applicable law to proprietary aspects

1. Any question with respect to proprietary aspects in relation to financial instruments held by a CSD shall be governed by the law of the country where the account is maintained.

2. Where the account is used for settlement in a securities settlement system, the applicable law shall be the one governing that securities settlement system.

3. Where the account is not used for settlement in a securities settlement system, that account shall be presumed to be maintained at the place where the CSD has its habitual residence as determined by Article 19 of Regulation (EC) No 593/2008 of the European Parliament and the Council.

4. The application of the law of any country specified in this Article shall comprise the application of the rules of law in force in that country other than its rules of private international law.

Or. en

Amendment 496
Olle Schmidt

Proposal for a regulation
Article 46

Article 46

deleted

Applicable law to proprietary aspects

1. Any question with respect to proprietary aspects in relation to financial instruments held by a CSD shall be governed by the law of the country where the account is maintained.

2. Where the account is used for settlement in a securities settlement system, the applicable law shall be the one governing that securities settlement system.

3. Where the account is not used for settlement in a securities settlement system, that account shall be presumed to be maintained at the place where the CSD has its habitual residence as determined by Article 19 of Regulation (EC) No 593/2008 of the European Parliament and the Council.

4. The application of the law of any country specified in this Article shall comprise the application of the rules of law in force in that country other than its rules of private international law.

Or. en

Justification

The question about applicable law for the proprietary aspects in relation to book-entry securities is very close connected with the issues in the forthcoming proposal for a Securities Law Legislation. In SLL there should be possible find a coherent and coordinated solution all market actors in the EU. For that reason and because of no current legislative need regarding CSDs article 46 should be deleted and the choice of law question moved to the forthcoming Securities Law legislation.

Amendment 497
Sylvie Goulard

Proposal for a regulation
Article 46 – paragraph 1

Text proposed by the Commission

1. Any question with respect to proprietary aspects in relation to financial instruments held by a CSD shall be governed by the law of the country where the account is maintained.

Amendment

1. ***Without prejudice to Articles 2(a), 9 and 10 of Directive 98/26/EC***, any question with respect to proprietary aspects in relation to financial instruments held by a CSD shall be governed by the law of the country where the account is maintained. ***The account shall be presumed to be maintained at the place where the CSD has its habitual residence as determined by Article 19 of Regulation (EC) No 593/2008 of the European Parliament and the Council.***

Or. en

Justification

The proposed regulation provides for an exception to the principal rule set out in Article 46(1) and allows for a choice of law in relation to any account used for settlement in a securities settlement system. The notion of securities settlement system is defined as a formal arrangement governed by the law of a Member State chosen by the participants.

Amendment 498

Jean-Paul Basset

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 46 – paragraph 1

Text proposed by the Commission

1. Any question with respect to proprietary aspects in relation to financial instruments held by a CSD shall be governed by the law of the country where the account is maintained.

Amendment

1. ***Without prejudice to Articles 2, 9 and 10 of Directive 98/26/EC***, any question with respect to proprietary aspects in relation to financial instruments held by a CSD shall be governed by the law of the country where the account is maintained. ***The account shall be considered to be maintained in the country in which the CDS has its habitual residence, in***

accordance with Article 19 of Regulation (EC) No 593/2008 of the European Parliament and of the Council.

Or. fr

Justification

This amendment seeks to limit ambiguity as to which case-law should apply, while still catering for certain specific cases where the law of the Member State where the accounts are maintained is different from the law governing the securities settlement systems.

Amendment 499
Sylvie Goulard

Proposal for a regulation
Article 46 – paragraph 2

Text proposed by the Commission

2. Where the account is **used for** settlement **in a** securities settlement system, the applicable law shall be the one governing that securities settlement system.

Amendment

2. **Where the law of the Member State** where the account is **maintained differs from the law governing the securities settlement system, and the securities settlement system has been designated in accordance with Article 2 of Directive 98/26/EC**, the applicable law shall be the one governing that securities settlement system.

Or. en

Justification

The law governing a securities settlement system, as referred to in Article 46(2) of the proposed regulation, is subject to a choice of law and may differ from the law of the place of establishment of the CSD. The amendment aims at limiting the scope of choice of law while catering for certain specific cases where the law of the Member State where the accounts are maintained differs from the law governing the rules of the securities settlement system.

Amendment 500
Jean-Paul Besset
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 46 – paragraph 2

Text proposed by the Commission

2. Where the account is ***used for*** settlement ***in a securities*** settlement system, ***the applicable law*** shall be the one ***governing*** that ***securities*** settlement system.

Amendment

2. Where the ***case-law of the Member State in which*** the account is ***maintained differs from the case-law regulating the*** settlement system, ***and where the settlement system has been designated in accordance with Article 2 of Directive 98/26/EC, the applicable case-law shall be the one regulating*** said settlement system.

Or. fr

Justification

This amendment seeks to limit ambiguity as to which case-law should apply, while still catering for certain specific cases where the law of the Member State where the accounts are maintained is different from the law governing the securities settlement systems.

Amendment 501
Sylvie Goulard

Proposal for a regulation
Article 46 – paragraph 3

Text proposed by the Commission

3. Where the account is not used for settlement in a securities settlement system, that account shall be presumed to be maintained at the place where the CSD has its habitual residence as determined by Article 19 of Regulation (EC) No 593/2008 of the European Parliament and the Council.

Amendment

deleted

Or. en

Amendment 502
Jean-Paul Besset
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 46 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the account is not used for settlement in a securities settlement system, that account shall be presumed to be maintained at the place where the CSD has its habitual residence as determined by Article 19 of Regulation (EC) No 593/2008 of the European Parliament and the Council.

deleted

Or. fr

Justification

This amendment seeks to limit ambiguity as to which case-law should apply, while still catering for certain specific cases where the law of the Member State where the accounts are maintained is different from the law governing the securities settlement systems.

Amendment 503
Sari Essayah

Proposal for a regulation
Article 46 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. A CSD shall analyse and define the law applicable to each book-entry account it maintains and present the outcome to the competent authority for verification.

Or. en

Amendment 504
Sari Essayah

Proposal for a regulation
Article 46 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4 b. After the verification by the competent authority of the CSD- and account-specific rules regarding the applicable law, the outcome will become unchallengeable and the CSD shall inform the account holder of the applicable law.

Or. en

Amendment 505
Sari Essayah

Proposal for a regulation
Article 47 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to the corporate law under which the securities are constituted, an issuer shall have the right to arrange for its securities to be recorded in any CSD established in any Member State.

1. Without prejudice to the **law, including** corporate law **and tax collection laws**, under which the securities are constituted, an issuer shall have the right to arrange for its securities to be recorded in any CSD established in any Member State.

Or. en

Amendment 506
Sari Essayah

Proposal for a regulation
Article 48 – title

Text proposed by the Commission

Amendment

Standard link access

CSD link access

Or. en

Amendment 507
Sari Essayah

Proposal for a regulation
Article 48 – paragraph 1

Text proposed by the Commission

A CSD shall have the right to *become a participant of another CSD in accordance with Article 30 and subject to the authorisation of the CSD link provided under Article 17.*

Amendment

A CSD shall have the right to *open a link with any other CSD within the Union.*

Or. en

Amendment 508
Sari Essayah

Proposal for a regulation
Article 48 – paragraph 1 a (new)

Text proposed by the Commission

Text proposed by the Commission

Amendment

By 1 February 2017, CSD links shall be interoperable DVP-supporting links.

Or. en

Amendment 509
Sari Essayah

Proposal for a regulation
Article 49 – title

Text proposed by the Commission

Customised link access

Amendment

Interim standard and customised link access

Or. en

Amendment 510
Sari Essayah

Proposal for a regulation
Article 49 – paragraph –1 (new)

Text proposed by the Commission

Amendment

-1. Until 1 February 2017 a CSD shall have the right to become a participant of another CSD and use a standardized link access.

Or. en

Amendment 511
Sari Essayah

Proposal for a regulation
Article 49 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a CSD requests another CSD to develop special functions for having access to the latter, the receiving CSD may reject such request only based on risk considerations. It may not deny a request on the grounds of loss of market share.

1. Where a CSD requests another CSD ***before 1 February 2017*** to develop ***a customised link containing*** special functions for having access to the latter, the receiving CSD may reject such request only based on risk considerations. It may not deny a request on the grounds of loss of market share.

Or. en

Amendment 512
Sari Essayah

Proposal for a regulation
Article 50 – paragraph 2 – subparagraph 5

Text proposed by the Commission

The responsible competent authority shall consult the competent authority of the requesting CSD on its assessment of the complaint. Where **the authority** of the requesting CSD disagrees with the assessment provided, **each** of the **two** authorities may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.

Amendment

The responsible competent authority shall consult the competent authority of the requesting CSD **and the relevant authorities referred to in Article 11** on its assessment of the complaint. Where **any of the authorities** of the requesting CSD disagrees with the assessment provided, **any one** of the authorities may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010

Or. en

Amendment 513

Sari Essayah

Proposal for a regulation

Article 50 – paragraph 4

Text proposed by the Commission

4. The competent authorities of the respective CSDs shall consult each other regarding the approval of the link and may, if necessary in case of divergent decisions, refer the matter to ESMA which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.

Amendment

4. The competent **and relevant** authorities, **as referred to in Article 11** of the respective CSDs shall consult each other regarding the approval of the link and may, if necessary in case of divergent decisions, refer the matter to ESMA which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.

Or. en

Amendment 514

Sari Essayah

Proposal for a regulation

Article 51 – paragraph 1 – subparagraph 1

Text proposed by the Commission

A CCP and a trading venue shall provide transaction feeds on a non-discriminatory and transparent basis to a CSD upon request by the CSD **and** may charge a fee for such transaction feeds to the requesting CSD on a cost-plus basis, ***unless otherwise agreed by both parties.***

Amendment

A CCP and a trading venue shall provide transaction feeds on a non-discriminatory and transparent basis to a CSD upon request by the CSD. ***Transaction feeds based on ESMA standards should be free of charge. CDSs, CCPs and trading venues may charge a fee for extra services provided in connection with*** such transaction feeds to the requesting CSD on a cost-plus basis.

Or. en

Amendment 515

Ildikó Gáll-Pelcz

Proposal for a regulation

Article 51 – paragraph 1 – subparagraph 1

Text proposed by the Commission

A CCP and a trading venue shall provide transaction feeds on a non-discriminatory and transparent basis to a CSD upon request by the CSD **and may charge a fee for such transaction feeds to the requesting CSD on a cost-plus basis, unless otherwise agreed by both parties.**

Amendment

A CCP and a trading venue shall provide transaction feeds on a non-discriminatory and transparent basis to a CSD upon request by the CSD.

Or. en

Justification

It is not appropriate for Level 1 legislation to specify the price and fee structure of CSDs. The provision does not add any value to the Regulation because the terms used are not clear and can be very widely interpreted (“cost-plus basis”).

Amendment 516

Sari Essayah

Proposal for a regulation
Article 51 – paragraph 1 – subparagraph 2

Text proposed by the Commission

A CSD shall provide access to its securities settlement systems on a non-discriminatory and transparent basis to a CCP or a trading venue and may charge a fee for such access on a cost-plus basis, unless otherwise agreed by both parties.

Amendment

A CSD shall provide access to its securities settlement systems on a non-discriminatory and transparent basis to a CCP or a trading venue and may charge a fee for ***extra services in connection to*** such access on a cost-plus basis, unless otherwise agreed by both parties. ***Access based on ESMA standards should be free of charge.***

Or. en

Amendment 517
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 51 – paragraph 1 – subparagraph 2

Text proposed by the Commission

A CSD shall provide access to its securities settlement systems on a non-discriminatory and transparent basis to a CCP or a trading venue ***and may charge a fee for such access on a cost-plus basis, unless otherwise agreed by both parties.***

Amendment

A CSD shall provide access to its securities settlement systems on a non-discriminatory and transparent basis to a CCP or a trading venue.

Or. en

Justification

It is not appropriate for Level 1 legislation to specify the price and fee structure of CSDs. The provision does not add any value to the Regulation because the terms used are not clear and can be very widely interpreted (“cost-plus basis”).

Amendment 518
Sari Essayah

Proposal for a regulation
Article 51 – paragraph 3 – subparagraph 3

Text proposed by the Commission

The responsible competent authority shall duly examine the complaint by assessing the reasons for refusal and shall provide the requesting party with a reasoned reply.

Amendment

The responsible competent authority **and the relevant authorities referred to in Article 11** shall duly examine the complaint by assessing the reasons for refusal and shall provide the requesting party with a reasoned reply.

Or. en

Amendment 519
Sari Essayah

Proposal for a regulation
Article 51 – paragraph 3 – subparagraph 4

Text proposed by the Commission

The responsible competent authority shall consult the competent authority of the requesting party on its assessment of the complaint. Where **the authority** of the requesting party disagrees with the assessment provided, **each of the two authorities** may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.

Amendment

The responsible competent authority shall consult the competent authority of the requesting party **and the relevant authorities referred to in Article 11** on its assessment of the complaint. Where **any of the authorities** of the requesting party disagrees with the assessment provided, **any of them** may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.

Or. en

Amendment 520
Burkhard Balz, Corien Wortmann-Kool

Proposal for a regulation
Title 4

Text proposed by the Commission

Amendment

Credit institutions designated to provide banking type of ancillary services for CSDs' participants

Provision of banking type of ancillary services for CSDs' clients

Or. en

Justification

The 1+2-model and the 2+2-model shall be able to exist in parallel (CSD-option). The authorisation for the 1+2-model shall be regulated in Article 52a (new).

Amendment 521

Sylvie Goulard

Proposal for a regulation

Article –52 (new)

Text proposed by the Commission

Amendment

Article –52

Assessment report

By the end of 2014, the Commission shall, in close cooperation with the ECB, submit a report assessing the provision of ancillary banking services with an appropriate mitigation of risks, whilst safeguarding the efficiency of CSDs in providing their services. In accordance with the conclusions of that report, the Commission shall submit a legislative proposal to amend Title IV if appropriate.

Or. en

Justification

This would be of assistance in fully determining different risks, including resolution-based risks as well as legal, credit, liquidity, operational and business risks, but also efficiency profiles inherent to these options and it would help to define the safest and most efficient model.

Amendment 522
Burkhard Balz, Corien Wortmann-Kool

Proposal for a regulation
Article 52 – title

Text proposed by the Commission

Authorisation to provide banking type of ancillary services

Amendment

Authorisation to provide banking type of ancillary services ***by designating an authorised credit institution***

Or. en

Amendment 523
Burkhard Balz

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. A CSD shall not provide itself any banking type of ancillary services set out in Section C of the Annex.

Amendment

deleted

Or. en

Amendment 524
Säid El Khadraoui

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. A CSD shall not provide itself any banking type of ancillary services set out in Section C of the Annex.

Amendment

1. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall either :

- (i) designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC in accordance with paragraphs 3 to 5a, or*
- (ii) undertake directly those banking services in accordance with paragraphs 2a to 5a.*

Or. en

Amendment 525
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. A CSD shall not provide itself any banking type of ancillary services set out in Section C of the Annex.

Amendment

1. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall either :

- (i) designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC in accordance with paragraphs 3 to 5a, or*
- (ii) undertake directly those banking services in accordance with paragraphs 2a to 5a.*

Or. en

Justification

This amendment aims at introducing two parallel regimes: (i) one whereby the CSD designates a credit institution (2+2 regime) and (ii) one whereby the CSD can be a credit institution itself (1+2 regime), whereby the 1+2 regime includes additional requirements included in paragraphs 2a. In both cases, the settlement agent should be a credit institution that is limited in its authorisation (paragraph 5) and that follows specific prudential requirements included in paragraph 5a.

Amendment 526
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. A CSD **shall not provide itself any banking type of ancillary services set out in Section C of the Annex.**

Amendment

1. A CSD **that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall either :**

(i) designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC in accordance with paragraph 3, or

(ii) undertake directly those banking services in accordance with paragraph 2.

Or. en

Amendment 527
Astrid Lulling

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. A CSD **shall not** provide itself **any** banking type of ancillary **services** set out in Section C of the Annex.

Amendment

1. A CSD **which wishes to** provide itself **a** banking type of ancillary **service** set out in Section C of the Annex **shall be required to obtain additional authorisation as a credit institution, in accordance with Directive 20XX/XX/EC (CRD IV), from the competent authority of the Member State where it is established before commencing its activities.**

Or. fr

Justification

Restricting banking ancillary services to those listed in Section C of the Annex will make them more secure and effective.

Amendment 528
Olle Schmidt

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. A CSD shall not provide itself any banking type of ancillary services set out in Section C of the Annex.

Amendment

1. A CSD shall not provide itself any banking type of ancillary services set out in Section C of the Annex, ***unless it has demonstrated and provided assurance to the national competent authority referred to in Article 53(1) of this Regulation, that the risks incurred for offering such banking type ancillary services in the same legal entity are duly mitigated in line with the European implementing acts of the CPSS-IOSCO Principles applicable to CSDs and the ad-hoc national CSD Recovery and Resolution safeguards, as set in this Article.***

Or. en

Justification

The proposal of the European Commission is incompatible with the European and international legal reality. The current tested model adopted by CSDs to provide ancillary services, is an integrated model. Recent international best-practice exercises are also based on this integrated model.

Amendment 529
Sharon Bowles

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

Amendment

1. A CSD shall **not** provide **itself any** banking type of ancillary services set out in Section C of the Annex.

1. A CSD shall **only** provide banking type of ancillary services, **as** set out in Section C of the Annex, **if the requirements in paragraph 2(a) are met.**

Or. en

Justification

A 1+2 model can continue but only if very strict provisions are met.

Amendment 530

Antolín Sánchez Presedo

Proposal for a regulation

Article 52 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. A credit institution shall only obtain an authorisation to provide the banking type of ancillary services listed in Section C of the Annex if this is its exclusive activity and it does not carry out other banking or CSD services.

Or. en

Amendment 531

Burkhard Balz

Proposal for a regulation

Article 52 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow

deleted

it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. en

Amendment 532
Jean-Paul Gauzès

Proposal for a regulation
Article 52 – paragraph 2

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Amendment 533
Saïd El Khadraoui

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

deleted

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be

limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. en

Amendment 534
Astrid Lulling

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

deleted

a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an

implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. fr

Amendment 535

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Article 52 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

deleted

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. en

Justification

The derogation possibility is removed as it is replaced by the proposed parallel authorisation regime.

Amendment 536
Sharon Bowles

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow

deleted

it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. en

Justification

This issue is now covered in Article 52 (2) a (New)

Amendment 537
Antolín Sánchez Presedo

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the

deleted

fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. en

Amendment 538
Herbert Dorfmann

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

2. By way of derogation from paragraph 1, *when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:*

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and

Amendment

2. By way of derogation from paragraph 1, a CSD *may provide banking type of ancillary services set out in Section C of the Annex only when it is authorised to do so by its competent authority under the conditions and procedures laid down in this Article.*

2a. The competent authority shall grant an authorisation only when the following conditions are fulfilled:

(a) the CSD is an authorised credit institution as provided in Title II of Directive 2006/48/EC and provides only the banking type of ancillary services and not other banking services or activities under that authorisation;

(b) the CSD complies fully with the requirements of this Regulation, in particular with the prudential and supervisory requirements provided in Articles 57 and 58(3);

(c) the resilience of the CSD is not affected by the provision of the banking type of ancillary services;

the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

(d) the CSD has adequate recovery and resolution plans to ensure the continuity of its core services, in particular when the banking type of ancillary services are subject to severe stress;

(e) the CSD discloses all the costs that it would incur to use a separate legal entity for the provision of the banking type of ancillary services.

2b. The CSD applying for an authorisation referred to in paragraph 2 shall submit an application to its competent authority. The application shall contain all information necessary to satisfy the competent authority that the CSD is able to fulfil the conditions provided in paragraph 2a.

2c. Within 30 working days of receipt of the application, the competent authority shall assess whether the application is complete. If the application is not complete, the competent authority shall set a time limit by which the CSD shall provide additional information.

2d. After assessing that an application is complete, the competent authority shall immediately transmit all the information received from the CSD to the following authorities:

(a) the competent authority referred to in Article 4 (4) of Directive 2006/48/EC;

(b) the relevant authorities referred to in points (a) and (b) of Article 11 (1);

(c) the competent authorities in the Member State where the CSD has established interoperability links with another CSD in accordance with Article 50;

(d) the competent authorities in the host Member State where the activities of the CSD are of substantial importance for the functioning of the securities markets and the protection of investors within the meaning of Article 22(4);

(e) the competent authorities responsible for the supervision of the participants of the CSD that are established in the three Member States with the largest settlement volumes in the CSD's securities settlement system, on an aggregate basis over a one-year period;

(f) EBA and ESMA;

2e. If the competent authority considers that the CSD is able to fulfil the conditions provided for in paragraph 2a, it shall draft a report assessing how these conditions are fulfilled. It shall send that report within three months from the submission of a complete application to the authorities referred to in paragraph 2d.

2f. The authorities referred to in points (a) to (e) of paragraph 2d shall issue a reasoned opinion on the authorisation within 30 days of receipt of the report referred to in paragraph 2e and shall send the opinion without delay to the competent authority.

2g. Where an authority does not provide an opinion within the deadline provided in the previous paragraph that authority shall be deemed to have a positive opinion.

2h. If at least one of the authorities referred to in paragraph 2f issues a negative opinion, the matter shall be referred to ESMA, which may act in accordance with the powers conferred on

it under Article 19 of Regulation (EU) No 1095/2010.

2i. The competent authority of the CSD shall grant an authorisation only where:

i) all authorities referred to in paragraph 2f issue positive opinions on the authorisation;

ii) agreement is reached with an authority which issued a negative opinion through the procedure referred to in paragraph 2h; or

iii) ESMA issues a binding opinion in accordance with Article 19(3) of Regulation (EU) No 1095/2010 which permits the competent authority to grant the authorisation.

2j. Within six months from the submission of a complete application, the competent authority shall take a decision and inform the CSD whether the authorisation has been granted or refused.

2k. The authorisation granted under this Article shall be limited exclusively to the provision of the banking type of ancillary services that the CSD is authorised to provide.

Or. en

Amendment 539
Olle Schmidt

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 1

Text proposed by the Commission

By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the

Amendment

deleted

competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Or. en

Justification

The proposal of the European Commission is incompatible with the European and international legal reality. The current tested model adopted by CSDs to provide ancillary services, is an integrated model. Recent international best-practice exercises are also based on this integrated model.

Amendment 540

Jean-Paul Besset

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 52 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request

deleted

shall include:

a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

c) an analysis of the expected impact on the relevant financial market and financial stability.

Or. fr

Amendment 541
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

By way of derogation from paragraph 1, when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex. This request shall include:

deleted

(a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

(b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

(c) an analysis of the expected impact on the relevant financial market and financial stability.

Amendment 542
Jean-Paul Basset
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

deleted

Amendment 543
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Following a detailed impact assessment, a consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

deleted

Amendment 544
Olle Schmidt

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Following a detailed impact assessment, a consultation of the *undertakings* concerned and after taking into account the opinions of the EBA, the ESMA and the *ECB*, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

Amendment

Following a detailed impact assessment, a consultation of the *CSD* concerned and after taking into account the opinions of the EBA, the ESMA, *the EIOPA, the ECB*, and the *competent authorities and the assessment of the ESRB*, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

Or. en

Amendment 545
Sylvie Goulard

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Following a detailed impact assessment, a consultation of the *undertakings* concerned and after taking into account the opinions of the EBA, the ESMA and the *ECB*, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

Amendment

Following a detailed impact assessment, a consultation of the *CSD* concerned and after taking into account the opinions of the EBA, the ESMA, *the ECB* and the *supervisory authorities and the assessment of the ESRB*, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

Or. en

Amendment 546
Jürgen Klute

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Following a detailed impact assessment, a consultation of the **undertakings** concerned and after taking into account the opinions of the EBA, the ESMA **and** the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

Amendment

Following a detailed impact assessment, a consultation of the **CSD** concerned and after taking into account the opinions of the EBA, the ESMA, the ECB, **and the supervisory authorities and the assessment of the ESRB**, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision.

Or. en

Justification

Based on a proposal by the ECB.

Amendment 547
Jean-Paul Basset
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 52 – paragraph 2 – subparagraph 3

Text proposed by the Commission

A CSD which benefits from a derogation shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Amendment

deleted

Or. fr

Justification

The derogation enabling CSDs to provide banking type ancillary services linked to settlement business (rather than a separate legal entity with a banking licence) should be a temporary measure, not a permanent one, giving CSDs which provide these services time to reorganise.

Amendment 548

Olle Schmidt

Proposal for a regulation

Article 52 – paragraph 2 – subparagraph 3

Text proposed by the Commission

A CSD which ***benefits from a derogation*** shall ***be authorised as*** a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Amendment

A CSD which ***has been authorised to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation*** shall ***apply under paragraph 3 of this Article*** for a credit institution ***authorisation*** as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

The credit institution of the CSD or the designated credit institution under paragraph 3 shall only provide the services listed in Annex 1 of the amended Directive 20XX/XX/EU (CRD), sections 1, 2, 4, 6, 7b and 7e. The credit institution of the CSD or the designated credit institution shall not provide any of the services listed in sections 3, 5, 7 (except b and e) and 8 to 15, unless otherwise indicated in Section C of the Annex.

Or. en

Justification

The proposal of the European Commission is incompatible with the European and international legal reality. The current tested model adopted by CSDs to provide ancillary services, is an integrated model. Recent international best-practice exercises are also based on this integrated model.

Amendment 549 **Ildikó Gáll-Pelcz**

Proposal for a regulation **Article 52 – paragraph 2 – subparagraph 3**

Text proposed by the Commission

A CSD which ***benefits from a derogation*** shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services ***that it is authorised to provide in accordance with paragraph 4*** and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Amendment

A CSD which ***intends to provide directly the banking services referred to in Article 52(1)*** shall be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services ***set out in Section C of the Annex*** and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

In addition, a CSD that intends to be authorised as credit institution should have in place adequate recovery plans aiming at continuity of its critical operations including the activity authorised under its banking licence.

Or. en

Justification

This paragraph establishes the conditions for a 1+2 regime, where the CSD provides itself limited ancillary banking services as authorised credit institution. In addition to all the laws and regulations applicable to credit institutions, the CSD has to fulfil the extensive prudential requirements set out in articles 57 and 58 of this regulation and is strictly limited to the provision of those banking services that are directly related to other core and ancillary services (sections A and B). However such a reference requires a redrafting of Section C of the Annex, given that the current annex is not appropriate. In particular, Section C needs to be aligned with CRD and clearly refer to the relevant sections in that Directive. In addition to

the mentioned requirements, CSDs should have in place adequate recovery plans to ensure the continuity of critical operations.

Amendment 550

Sharon Bowles

Proposal for a regulation

Article 52 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. A CSD wishing to perform banking type of ancillary services, as set out in Section C of the Annex and described in paragraph 1 of this Article, shall obtain authorisation as a credit institution in accordance with Regulation (EU) No .../2012 of the European Parliament and of the Council... (CRR IV). The authorisation shall be limited exclusively to the provision of the banking type of ancillary services in accordance with paragraph 4 and comply with the prudential and supervisory requirements provided in Articles 57 and 58. It shall also:

(i) follow the rules issued by the Financial Stability Board with regard to G-SIFIs and the required capital add-ons to increase the CSD's loss absorption capacity;

(ii) have in place, before its authorisation as a credit institution, robust recovery and resolution plans to ensure continuity of all its operations, as defined in Section A, B and C of the Annex. These plans shall be in accordance with CPSS-IOSCO and FSB Key Attributes for Recovery and Resolution of Financial Market Infrastructures that incur credit risk, such plans covering the continuity of the entire service offering of the CSD. The functions, as set out in Annex C of the Regulation, shall also comply with the national laws, regulations and

administrative provisions implementing Directive .../.../EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms .

(iii) Publically report in its annual Pillar 3 disclosure, as required under Directive 2006/48/EC, a detailed analysis of its intraday credit and liquidity risks, and how these risks are mitigated and managed. This analysis should take into consideration the Basel Committee on Banking Supervision Consultative Document, "Monitoring Indicators for Intraday Liquidity Management" (July 2012).

Or. en

Justification

An CSD which provides banking services ancillary to settlement should be strictly limited in terms of the services it provides and the business it engages in, in order to reduce credit and liquidity risks from other banking services.

Amendment 551

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Article 52 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. A CSD shall be able to obtain authorisation to undertake limited banking services. It should therefore – in addition to its authorisation as CSD:

(i) be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. It shall comply with all laws and regulations applicable to credit institutions;

(ii) have in place adequate recovery plans

aiming at continuity of its critical operations including the activity authorised under its banking licence;

(iii) publicly report in its annual Pillar 3 disclosure, as required under Directive 2006/48/EC, an overview of its intraday credit and liquidity risks and how these risks are managed.

Or. en

Justification

Paragraph 2a includes a specific 1+2 regime for CSDs obtaining an authorisation as a credit institution. The CSD should be authorised as a credit institution and follow all relevant laws and regulations; have adequate recovery plans in place to ensure it can continue operating its critical operations, including banking. Moreover, the CSD could be requested for specific transparency related to its intraday credit and liquidity risk.

Amendment 552 **Saïd El Khadraoui**

Proposal for a regulation **Article 52 – paragraph 2 – subparagraph 3 a (new)**

Text proposed by the Commission

Amendment

A CSD shall be able to obtain authorisation to undertake limited banking services. It should therefore – in addition to its authorisation as CSD:

(i) be authorised as a credit institution as provided in Title II of Directive 2006/48/EC. It shall comply with all laws and regulations applicable to credit institutions;

(ii) have in place adequate recovery plans aiming at continuity of its critical operations including the activity authorised under its banking licence;

(iii) publicly report in its annual Pillar 3 disclosure, as required under Directive 2006/48/EC, an overview of its intraday credit and liquidity risks and how these

risks are managed.

Or. en

Amendment 553

Sharon Bowles

Proposal for a regulation

Article 52 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. If the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of the CSD authorised to perform banking type ancillary services to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions, in either case, shall be considered as settlement agents.

Or. en

Amendment 554

Astrid Lulling

Proposal for a regulation

Article 52 – paragraph 3

Text proposed by the Commission

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive

deleted

2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Or. fr

Amendment 555
Kay Swinburne

Proposal for a regulation
Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose **an** authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose **at least one** authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Or. en

Justification

To provide a level playing field for settlement banks operated by banks and those operated by a CSD.

Amendment 556

Burkhard Balz

Proposal for a regulation

Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation ***shall obtain authorisation to designate for this purpose an*** authorised credit institution as provided in Title II of Directive 2006/48/EC, ***unless*** the competent authority referred to in Article 53(1) ***of this Regulation*** demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation ***by designating one*** authorised credit institution as provided in Title II of Directive 2006/48/EC ***shall obtain authorisation from*** the competent authority referred to in Article 53(1) ***for this purpose, unless the competent authority*** demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Or. en

Amendment 557

Olle Schmidt

Proposal for a regulation

Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall ***apply to become, or*** obtain authorisation to designate for this purpose, an authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents ***as defined in point (d) of Article 2 of Directive 98/26/EC.***

Or. en

Justification

The proposal of the European Commission is incompatible with the European and international legal reality. The current tested model adopted by CSDs to provide ancillary services, is an integrated model. Recent international best-practice exercises are also based on this integrated model.

Amendment 558
Sylvie Goulard

Proposal for a regulation
Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of

this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents *as defined in point (d) of Article 2 of Directive 98/26/EC*.

Or. en

Justification

The amendment aims at clarifying that a designated credit institution is to be considered a settlement agent within the meaning of Directive 98/26/EC for the cash leg of securities transactions, thereby providing finality to transfer orders relating to that cash leg.

Amendment 559 **Saïd El Khadraoui**

Proposal for a regulation **Article 52 – paragraph 3**

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, ***unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the***

Amendment

3. A CSD ***which has not requested or obtained an authorisation in accordance with paragraph 2a and*** that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC. ***The designated*** credit

exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

institution is subject to the requirements in paragraphs 5 and 5a.

Or. en

Amendment 560

Marianne Thyssen, Philippe De Backer

Proposal for a regulation Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, ***unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.***

Amendment

3. A CSD ***which has not requested or obtained an authorisation in accordance with paragraph 2a and*** that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC. ***The designated credit institution is subject to the requirements in paragraphs 5 and 5a.***

Or. en

Justification

Establishment of a 2+2 regime whereby the CSD designates a credit institution that is limited

in its authorisation in line with paragraph 5 and additional prudential requirements in paragraph 5a. The reference to the possibility of appointing more than one settlement agent has been removed as this would increase overall credit and liquidity risk as liquidity would be split between settlement agents, reducing netting possibilities; would represent additional intraday risks between settlement agents.

Amendment 561
Ildikó Gáll-Pelcz

Proposal for a regulation
Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, ***unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.***

Amendment

3. A CSD ***which has not requested or obtained an authorisation in accordance with paragraph 2 and*** that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC. ***The designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services set out in Section C of the Annex and shall comply with the prudential and supervision requirements provided in Articles 57 and 58.***

Or. en

Justification

Paragraph 3 establishes the conditions for a 2+2 regime, where the CSD designates an external settlement bank to provide the ancillary banking services for the purpose of commercial bank money settlement. Apart from an explicit requirement for recovery plans the same conditions should apply whether the settlement agent is the CSD itself or an external bank to ensure the safety of both models: i) the external settlement agent should be a limited purpose bank and ii) it has to fulfil the specific prudential requirements established by this regulation. The first point is also highlighted by the ECB in its opinion on the CSD regulation

proposal (see 5.4 of the Opinion CON/2012/62). In addition, the possibility to designate more than one settlement agent should be removed from paragraph 3 because splitting up liquidity would decrease the possibilities for netting and would increase the resulting overall credit and liquidity risk. Here again, the same conditions should apply independent of which model is used.

Amendment 562
Sharon Bowles

Proposal for a regulation
Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) **of this Regulation** demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation **but which has not obtained an authorisation in accordance with Paragraph 2(a), from the competent authority referred to in Article 53(1) of this Regulation**, shall obtain authorisation to designate for this purpose an authorised credit institution as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Or. en

Amendment 563
Antolín Sánchez Presedo

Proposal for a regulation
Article 52 – paragraph 3

Text proposed by the Commission

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose **an** authorised credit **institution** as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Amendment

3. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 37(2) of this Regulation shall obtain authorisation to designate for this purpose, **through a transparent, open and objective call, one or several** authorised credit **institutions** as provided in Title II of Directive 2006/48/EC, unless the competent authority referred to in Article 53(1) of this Regulation demonstrates, based on the available evidence, that the exposure of one credit institution to the concentration of risks under Article 57(3) and (4) of this Regulation is not sufficiently mitigated. In the latter case, the competent authority referred to in Article 53(1) may require the CSD to designate more than one credit institution. The designated credit institutions shall be considered as settlement agents.

Or. en

Amendment 564
Saïd El Khadraoui

Proposal for a regulation
Article 52 – paragraph 4

Text proposed by the Commission

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a derogation under paragraph 2 of this Article may want to provide for its participants.

Amendment

deleted

Or. en

Amendment 565

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

Amendment

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a derogation under paragraph 2 of this Article may want to provide for its participants. **deleted**

Or. en

Justification

Content of paragraph 4 is integrated in amendments to paragraph 5.

Amendment 566

Ildikó Gáll-Pelcz

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

Amendment

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a derogation under paragraph 2 of this Article may want to provide for its participants. **deleted**

Or. en

Justification

Paragraph 4 is redundant and can be removed given that the amended paragraphs 2 and 3

already clearly specify the banking type of ancillary services that authorised CSDs (§2) and designated credit institutions (§3) are allowed to offer.

Amendment 567

Sharon Bowles

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or **a CSD that has been granted a derogation under paragraph 2 of this Article** may want to provide for its participants.

Amendment

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or **CSD** may want to provide for its participants.

Or. en

Amendment 568

Olle Schmidt

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a **derogation** under paragraph 2 of this Article may want to provide for its participants.

Amendment

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a **credit institution authorisation** under paragraph 3 of this Article may want to provide for its participants.

Or. en

Justification

The proposal of the European Commission is incompatible with the European and

international legal reality. The current tested model adopted by CSDs to provide ancillary services, is an integrated model. Recent international best-practice exercises are also based on this integrated model.

Amendment 569

Burkhard Balz

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

4. The authorisation referred to in **paragraph 3** shall cover the ancillary services set out in Section C of the Annex that the designated credit institution **or a CSD that has been granted a derogation under paragraph 2 of this Article** may want to provide for **its participants**.

Amendment

4. The authorisation referred to in **paragraph 1** shall cover the ancillary services set out in Section C of the Annex that the designated credit institution may want to provide for **the CSD's clients**.

Or. en

Amendment 570

Astrid Lulling

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the **designated credit institution or a CSD that has been granted a derogation under paragraph 2 of this Article** may want to provide for its participants.

Amendment

4. The authorisation referred to in paragraph 1 shall cover the ancillary services set out in Section C of the Annex that the **CSD licensed as a credit institution** under paragraph 1 of this Article may want to provide for its participants.

The CSD credit institution shall only be authorised to provide the services listed in Annex 1 of Directive 20XX/XX/CE (CRD IV) points 1, 2, 4, 6, 7b and 7e. It shall not be authorised to provide any of the services listed in points 3, 5, 7 (except for 7b and 7e) and points 8 to 15, unless

otherwise specified in section C of the Annex.

Or. fr

Justification

It is important to ensure that the tried and tested integrated model remains an option.

Amendment 571

Jean-Paul Basset

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 52 – paragraph 4

Text proposed by the Commission

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a derogation under *paragraph 2* of this *Article* may want to provide for its participants.

Amendment

4. The authorisation referred to in paragraph 3 shall cover the ancillary services set out in Section C of the Annex that the designated credit institution or a CSD that has been granted a derogation under *Article 67(4) (new)* of this *Regulation* may want to provide for its participants.

Or. fr

Amendment 572

Ildikó Gáll-Pelcz

Proposal for a regulation

Article 52 – paragraph 5

Text proposed by the Commission

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated

Amendment

deleted

credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a derogation under paragraph 2 of this Article.

Or. en

Justification

Paragraph 5 is redundant and can be removed given that the amended paragraphs 2 and 3 already clearly specify the banking type of ancillary services that authorised CSDs (§2) and designated credit institutions (§3) are allowed to offer.

Amendment 573
Burkhard Balz

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with ***paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a derogation under paragraph 2*** of this Article.

Amendment

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with ***paragraphs 1 and 2*** of this Article.

Or. en

Amendment 574
Olle Schmidt

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a **derogation** under **paragraph 2** of this Article.

Amendment

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a **credit institution authorisation** under **paragraph 3** of this Article.

Or. en

Amendment 575
Jean-Paul Gauzès

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

5. **Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking**, the authorisation as provided in Title II of Directive 2006/48/EC of **such** designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. **The same requirement applies in respect of a CSD that has been granted a derogation under**

Amendment

5. The authorisation as provided in Title II of Directive 2006/48/EC of **the** designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article.

paragraph 2 of this Article.

Or. en

Amendment 576
Saïd El Khadraoui

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a derogation under paragraph 2 of this Article.

Amendment

5. The authorisation granted in accordance with Title II of Directive 2006/48/EC of a CSD authorised according to paragraph 2a or of a credit institution designated in accordance with paragraph 3 shall be limited exclusively to the provision of the banking type of ancillary services supporting core and ancillary CSD services as included in Sections A and B of the Annex. Therefore, for purposes of the previous paragraph, the activities listed in Annex 1 of Directive 2006/48/EC, Sections 1, 2, 4, 6, 7 (b) and 7(e), may only be performed within the limits set out under Section C of the Annex.

The activities listed in Annex 1 of Directive 2006/48/EC in Sections 3, 5, 7 (except (b) and (e)), 9, 10, 11, 13 and 15 may not be performed unless indicated in Section C of the Annex.

Or. en

Amendment 577
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

Amendment

5. Whenever the CSD and the designated credit institution *belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a derogation under paragraph 2 of this Article.*

5. The authorisation granted in accordance with Title II of Directive 2006/48/EC of a CSD authorised according to paragraph 2a or of a credit institution designated in accordance with paragraph 3 shall be limited exclusively to the provision of the banking type of ancillary services supporting core and ancillary CSD services as included in Sections A and B of the Annex. Therefore, for purposes of the previous paragraph, the activities listed in Annex 1 of Directive 2006/48/EC, Sections 1, 2, 4, 6, 7 (b) and 7(e), may only be performed within the limits set out under Section C of the Annex.

The activities listed in Annex 1 of Directive 2006/48/EC in Sections 3, 5, 7 (except (b) and (e)), 9, 10, 11, 13 and 15 may not be performed unless indicated in Section C of the Annex.

Or. en

Justification

The settlement agent should be limited in its banking services. Imposing a restriction on the settlement agent services only if in the same group or in the same legal entity as the CSD, raises systemic risk and level playing field concerns. The limitation refers to the relevant provisions in the CRD. This amendment is also in line with the ECB opinion on the CSD Regulation (see 5.4 of the Opinion CON/2012/62) which recommends limitations of banking services for any settlement agent.

**Amendment 578
Astrid Lulling**

**Proposal for a regulation
Article 52 – paragraph 5**

Text proposed by the Commission

Amendment

5. Whenever the CSD **and the designated**

5. Whenever the CSD credit institution

credit institution *belong* to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such *designated* credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. *The same requirement applies in respect of a CSD that has been granted a derogation under paragraph 2 of this Article.*

belongs to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 1 of this Article.

Or. fr

Amendment 579

Jean-Paul Besset

on behalf of the Verts/ALE Group

Proposal for a regulation Article 52 – paragraph 5

Text proposed by the Commission

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a derogation under *paragraph 2* of this Article.

Amendment

5. Whenever the CSD and the designated credit institution belong to a group of undertakings ultimately controlled by the same parent undertaking, the authorisation as provided in Title II of Directive 2006/48/EC of such designated credit institution shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of a CSD that has been granted a derogation under *Article 67(4) (new)* of this *Regulation*.

Or. fr

Amendment 580

Sharon Bowles

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

5. Whenever the CSD and the designated credit institution *belong to a group of undertakings ultimately controlled by the same parent undertaking*, the authorisation *as provided in* Title II of Directive 2006/48/EC *of such designated credit institution* shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of *a CSD that has been granted a derogation under paragraph 2* of this Article.

Amendment

5. When a CSD is authorised as a credit institution *in accordance with* Title II of Directive 2006/48/EC *and in accordance with paragraph 2*, that authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 3 of this Article. The same requirement applies in respect of *separate legal credit institution(s) as settlement bank(s) which have been designated by an authorised CSD*.

Banking type ancillary services shall only be performed when supporting core and ancillary CSD services as included in Sections A and B of the Annex of this Regulation. These services shall include those specified in Sections 1, 2, 4, 6 and 7(b) and (e) of Annex 1 of Directive 2006/48/EC and may only be performed within the limits set out in Section C of the Annex.

Or. en

Amendment 581
Saïd El Khadraoui

Proposal for a regulation
Article 52 – paragraph 5 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Any CSD that has been authorised as a credit institution according to paragraph 2bis and any credit institution designated in accordance with paragraph 3 shall be subject to the fulfilment of the prudential

and supervision requirements provided in Articles 42, 57 and, in case of a credit institution, 58.

Or. en

Amendment 582
Sharon Bowles

Proposal for a regulation
Article 52 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Any CSD that has been authorised as a credit institution according to paragraph 2, and any credit institution(s) designated in accordance with paragraph 3, shall be subject to the fulfilment of the prudential and supervision requirements provided in Articles 42, 57 and, in the case of a credit institution, 58.

Or. en

Amendment 583
Olle Schmidt

Proposal for a regulation
Article 52 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. A CSD that has been authorised as a credit institution according to paragraph 3 of this Article shall fulfil prudential and supervision requirements provided in Articles 42, 57 and 58.

Or. en

Amendment 584
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Article 52 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Any CSD that has been authorised as a credit institution according to paragraph 2a and any credit institution designated in accordance with paragraph 3 shall be subject to the fulfilment of the prudential and supervision requirements provided in Articles 42, 57 and, in case of a credit institution, 58.

Or. en

Justification

Prudential requirements related to credit and liquidity risk for settlement agent (as included in Article 57). Specific prudential requirements should also include Article 42 on operational resilience.

Amendment 585
Burkhard Balz

Proposal for a regulation
Article 52 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Amendment

The CSD and the designated credit institutions shall comply at all times with the conditions necessary for authorisation under this Regulation.

4. The CSD and the designated credit institutions shall comply at all times with the conditions necessary for authorisation under this Regulation.

Or. en

Amendment 586
Burkhard Balz, Corien Wortmann-Kool

Proposal for a regulation
Article 52 a (new)

Text proposed by the Commission

Amendment

Article 52 a

Provision of banking type of ancillary services by a CSD with a limited banking licence

- 1. A CSD shall not provide banking services, except as otherwise stated under this Title.***
- 2. When providing banking type of ancillary services as set out in Section C of the Annex to its clients a CSD needs to be authorised as a credit institution as provided in Title II of Directive 2006/48 by the competent authority.***
- 3. The CSD shall notify to the competent authority which banking type of ancillary services as set out in Section C of the Annex it intends to provide. The notification shall contain all the information that is necessary to enable the competent authority to satisfy itself that the CSD has established all the necessary arrangements to meet its obligations set out in this Regulation. It shall contain the information on how the CSD intends to meet the prudential requirements as set out in Article 57 (3) and (4).***
- 4. The CSD shall comply at all times with the conditions necessary for authorisation under this Regulation in particular Article 57 and the applicable requirements under Directive 2006/48/EC.***

The CSD shall, without undue delay, notify the competent authorities of any material changes affecting the conditions for authorisation, the provision of banking type of ancillary services as set out in Section C of the Annex or any change in the scope of the banking

services provided.

5. The competent authority shall inform all relevant authorities of any notification of a CSD received under this Article.

6. ESMA shall develop in consultation with the members of the ESCB draft regulatory technical standards to specify the information that the CSD shall provide to the competent authority for the notification in accordance with paragraphs 3 and 4.

ESMA shall submit those draft regulatory technical standards to the Commission by six months from the date of entry into force of this Regulation.

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

Or. en

Amendment 587

Sharon Bowles

Proposal for a regulation

Article 52 a (new)

Text proposed by the Commission

Amendment

Article 52 a

Ongoing monitoring of CSDs with a banking licence

ESMA shall, in line with the principle of an open market economy with free competition in accordance with Article 119(1) and (2) of the TFEU and in cooperation with EBA, monitor and report annually to the Commission on CSDs with a banking licence and in particular on any possible unintended

consequences and spill over effects on other Member States or distortion of the single market and competition. ESMA may request additional information from CSDs to aid them in their reporting.

Where these reports demonstrate that CSDs with a banking licence are making use of this in such a way that the distortion of the internal market poses systemic risk or indicates an implicit taxpayer guarantee to CSD, the Commission may intervene or shall submit legislative proposals.

Or. en

Amendment 588
Sharon Bowles

Proposal for a regulation
Article 52 b(new)

Text proposed by the Commission

Amendment

Article 52 b

Ongoing monitoring of access requirements

ESMA shall closely monitor and annually report to the Commission on access to financial market infrastructure licensing arrangements and any negative impacts on the establishment of a competitive single market in post trade financial services, in particular where the use of such licences may be used to prevent competition from other trading venues and CCPs.

Where these reports demonstrate ongoing barriers to competition in post trade financial services in such a way that poses systemic risk and an implicit taxpayer guarantee to financial market infrastructure the Commission may intervene to remove these barriers or shall

come forward with legislative proposals.

Or. en

Amendment 589

Sharon Bowles

Proposal for a regulation

Article 53 – paragraph 1

Text proposed by the Commission

1. The CSD shall submit its application for authorisation to designate a credit institution, as required under Article 52, to the competent authority of the Member State where it is established.

Amendment

1. The CSD shall submit its application for authorisation to ***become a credit institution, or to*** designate a credit institution, as required under Article 52, to the competent authority of the Member State where it is established.

Or. en

Amendment 590

Burkhard Balz

Proposal for a regulation

Article 53 – paragraph 1

Text proposed by the Commission

1. The CSD shall submit its application for authorisation to designate a credit institution, ***as required under*** Article 52, to the competent authority of the Member State where it is established.

Amendment

1. The CSD shall submit its application for authorisation to designate a credit institution, ***in accordance with*** Article 52, to the competent authority of the Member State where it is established.

Or. en

Amendment 591

Sari Essayah

Proposal for a regulation

Article 53 – paragraph 4 – point a

Text proposed by the Commission

(a) The relevant **authority** referred to in **point (a) of Article 11(1)** on whether the envisaged provision of services by the designated credit institution will not affect the functioning of the securities settlement system operated by the applicant CSD;

Amendment

(a) The relevant **authorities** referred to in Article 11 on whether the envisaged provision of services by the designated credit institution will not affect the functioning of the securities settlement system operated by the applicant CSD **or stability or functionality of the market or protection of investors**;

Or. en

Amendment 592
Burkhard Balz

Proposal for a regulation
Article 53 – paragraph 4 – point b

Text proposed by the Commission

(b) The competent authority referred to in Article 58(1) on the ability of the credit institutions to comply with the prudential requirements under Article 57.

Amendment

(b) The competent authority referred to in Article 58(1) on the ability of the **designated** credit institutions to comply with the prudential requirements under Article 57;

Or. en

Amendment 593
Antolín Sánchez Presedo

Proposal for a regulation
Article 53 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(b a) ESMA;

Or. en

Amendment 594
Antolín Sánchez Presedo

Proposal for a regulation
Article 53 – paragraph 4 – point b b (new)

Text proposed by the Commission

Amendment

(b b) EBA.

Or. en

Amendment 595
Olle Schmidt

Proposal for a regulation
Article 53 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Amendment

ESMA shall develop in consultation with the members of the ESCB draft regulatory technical standards to specify the information that the applicant CSD shall provide to the competent authority.

ESMA shall develop in consultation **and close cooperation** with the members of the ESCB **and EBA** draft regulatory technical standards to specify the information that the applicant CSD shall provide to the competent authority.

Or. en

Amendment 596
Sylvie Goulard

Proposal for a regulation
Article 53 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Amendment

ESMA shall develop in **consultation** with the members of the ESCB draft regulatory technical standards to specify the information that the applicant CSD shall provide to the competent authority.

ESMA shall develop in **close cooperation** with the members of the ESCB **and EBA** draft regulatory technical standards to specify the information that the applicant CSD shall provide to the competent authority.

Justification

The amendment aims at involving EBA in the development of the draft regulatory standards referred to in Article 53(5), as the subject matter of these standards relates to information concerning credit institutions.

Amendment 597

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Article 54 – paragraph 1

Text proposed by the Commission

1. A CSD that intends to extend the banking type of ancillary services for which it designates a credit institution shall submit a request for extension to the competent authority of the Member State where that CSD is established.

Amendment

1. A CSD that intends to extend the banking type of ancillary services ***which it provides or*** for which it designates a credit institution shall submit a request for extension to the competent authority of the Member State where that CSD is established.

Justification

This amendment brings Article 54 paragraph 1 in line with the proposed amendments to Article 52 which allows a CSD to be authorised as a limited purpose credit institution.

Amendment 598

Burkhard Balz

Proposal for a regulation

Article 55 – paragraph 1 – introductory part

Text proposed by the Commission

1. The competent authority of the Member State where the CSD is established shall withdraw the authorisation in any of the following circumstances:

Amendment

1. The competent authority of the Member State where the CSD is established shall withdraw the authorisation ***under Article 52*** in any of the following circumstances:

Amendment 599
Burkhard Balz

Proposal for a regulation
Article 55 – paragraph 1 – point c

Text proposed by the Commission

(c) where the CSD **and** the designated credit institution are no longer in compliance with the conditions under which authorisation was granted and have not taken the remedial actions requested by the competent authority within a set time frame;

Amendment

(c) where the CSD **or** the designated credit institution are no longer in compliance with the conditions under which authorisation was granted and have not taken the remedial actions requested by the competent authority within a set time frame;

Or. en

Amendment 600
Burkhard Balz

Proposal for a regulation
Article 55 – paragraph 1 – point d

Text proposed by the Commission

(d) where the CSD **and** the designated credit institution have seriously and systematically infringed the requirements set out in this Regulation.

Amendment

(d) where the CSD **or** the designated credit institution have seriously and systematically infringed the requirements set out in this Regulation.

Or. en

Amendment 601
Jürgen Klute

Proposal for a regulation
Article 55 – paragraph 1 – point d

Text proposed by the Commission

(d) where the CSD and the designated credit institution have seriously **and systematically** infringed the requirements set out in this Regulation.

Amendment

(d) where the CSD and the designated credit institution have seriously infringed the requirements set out in this Regulation.

Or. en

Amendment 602

Sari Essayah

Proposal for a regulation

Article 55 – paragraph 2

Text proposed by the Commission

2. Before withdrawing authorisation, the competent authority shall consult the relevant authorities **under point (a) of Article 11(1)** and the authorities referred to in Article 58(1) on the necessity to withdraw the authorisation except where such a decision is required urgently.

Amendment

2. Before withdrawing authorisation, the competent authority shall consult the relevant authorities **referred to in** Article 11 and the authorities referred to in Article 58(1) on the necessity to withdraw the authorisation except where such a decision is required urgently.

Or. en

Amendment 603

Sari Essayah

Proposal for a regulation

Article 55 – paragraph 3

Text proposed by the Commission

3. ESMA, any relevant authority **under point (a) of Article 11(1)** and any authority referred to in Article 58(1) may, at any time, request that the competent authority of the Member State where the CSD is established examine whether the CSD and the designated credit institution are still in compliance with the conditions under

Amendment

3. ESMA, any relevant authority **referred to in** Article 11 and any authority referred to in Article 58(1) may, at any time, request that the competent authority of the Member State where the CSD is established examine whether the CSD and the designated credit institution are still in compliance with the conditions under

which the authorisation is granted.

which the authorisation is granted.

Or. en

Amendment 604
Burkhard Balz

Proposal for a regulation
Article 55 – paragraph 3

Text proposed by the Commission

3. ESMA, any relevant authority under point (a) of Article 11(1) and any authority referred to in Article 58(1) may, at any time, request that the competent authority of the Member State where the CSD is established examine whether the CSD *and* the designated credit institution are still in compliance with the conditions under which the authorisation is granted.

Amendment

3. ESMA, any relevant authority under point (a) of Article 11(1) and any authority referred to in Article 58(1) may, at any time, request that the competent authority of the Member State where the CSD is established examine whether the CSD *or* the designated credit institution are still in compliance with the conditions under which the authorisation is granted.

Or. en

Amendment 605
Burkhard Balz

Proposal for a regulation
Article 56 – paragraph 1

Text proposed by the Commission

1. Decisions taken by competent authorities under Articles 52, 54 and 55 shall be notified to ESMA.

Amendment

1. Decisions taken by competent authorities under Articles 52, 54 and 55 *or notifications received under Article 52a (3) or (4)* shall be notified to ESMA.

Or. en

Amendment 606
Burkhard Balz

Proposal for a regulation
Article 56 – paragraph 2 – point a

Text proposed by the Commission

(a) the name of each CSD which was subject to a decision under Articles 52, 54 and 55;

Amendment

(a) the name of each CSD which was subject to a decision under Articles 52, 54 and 55 **or which filed a notification under Article 52a (3)**;

Or. en

Amendment 607
Burkhard Balz

Proposal for a regulation
Article 56 – paragraph 2 – point c

Text proposed by the Commission

(c) the list of banking type of ancillary services that a designated credit institution is authorised to provide for CSD's **participants**.

Amendment

(c) the list of banking type of ancillary services that a designated credit institution is authorised to provide for CSD's **clients or that a CSD with a banking licence provides for its clients**.

Or. en

Amendment 608
Burkhard Balz

Proposal for a regulation
Article 56 – paragraph 3

Text proposed by the Commission

3. The competent authorities shall notify to ESMA those institutions that provide banking type of ancillary services according to requirements of national law 90 days from the entry into force of this Regulation.

Amendment

3. The competent authorities shall notify to ESMA those **CSDs that provide banking type of ancillary services with a banking licence and those credit** institutions that provide banking type of ancillary services according to **the** requirements of national law 90 days from the entry into force of this Regulation.

Amendment 609
Burkhard Balz

Proposal for a regulation
Article 57 – title

Text proposed by the Commission

Prudential requirements applicable to credit institutions designated to provide banking type of ancillary services

Amendment

Prudential requirements applicable to credit institutions designated to provide banking type of ancillary services **and CSDs providing banking type of ancillary services.**

Or. en

Amendment 610
Kay Swinburne

Proposal for a regulation
Article 57 – paragraph 1

Text proposed by the Commission

1. A credit institution designated to provide banking type of ancillary services shall provide the services set out in Section C of the Annex that are covered by the authorisation.

Amendment

1. A credit institution designated to provide banking type of ancillary services shall provide **only** the services set out in Section C of the Annex that are covered by the authorisation **and shall not be authorised to carry out other activities.**

Or. en

Justification

To provide a level playing field for settlement banks operated by banks and those operated by a CSD.

Amendment 611
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Article 57 – paragraph 1

Text proposed by the Commission

1. A credit institution designated to provide banking type of ancillary services shall **provide the services set out in Section C of the Annex that are covered by the authorisation.**

Amendment

1. **A CSD authorised as a credit institution or** a credit institution designated to provide banking type of ancillary services shall **be limited in its banking functions in accordance with Article 52.**

Or. en

Justification

This amendment brings Article 57 paragraph 1 in line with the proposed amendments to Article 52 which allows a CSD to be authorised as a limited purpose credit institution.

Amendment 612

Jean-Paul Besset

on behalf of the Verts/ALE Group

Proposal for a regulation
Article 57 – paragraph 1

Text proposed by the Commission

1. A credit institution designated to provide banking type of ancillary services shall provide the services set out in Section C of the Annex that are covered by the authorisation.

Amendment

1. A credit institution designated to provide banking type of ancillary services **shall be a limited-purpose settlement bank, as defined in Article 2(1)(31a) (new) and** provide the services set out in Section C of the Annex that are covered by the authorisation.

Or. fr

Justification

CSDs are infrastructures of systemic importance. The amendment seeks to ensure that the separation advocated by the Commission does not result in CSD exposure to credit institutions which are, in turn, exposed to market and credit risks.

Amendment 613
Sharon Bowles

Proposal for a regulation
Article 57 – paragraph 1

Text proposed by the Commission

1. A credit institution designated to provide banking type of ancillary services shall **provide** the services set out in Section C of the Annex that are covered by the authorisation.

Amendment

1. A credit institution designated to provide banking type of ancillary services shall **be limited to providing** the services set out in Section C of the Annex that are covered by the authorisation.

A credit institution providing banking services for a CSD shall be limited to only performing the activities listed in points 1, 2, 4, 6 and 7(b) and (e) of Annex 1 of Directive 2006/48/EC where they are necessary to provide the activities listed under Section C of the Annex of this Regulation.

Or. en

Amendment 614
Olle Schmidt

Proposal for a regulation
Article 57 – paragraph 1

Text proposed by the Commission

1. A credit institution designated to provide banking type of ancillary services shall **provide the services set out in Section C of the Annex that are covered by the authorisation.**

Amendment

1. ***A credit institution authorised as a credit institution or*** a credit institution designated to provide banking type of ancillary services shall **be limited in its banking functions in accordance with Article 52.**

Or. en

Amendment 615
Kay Swinburne

Proposal for a regulation
Article 57 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The banking type of ancillary services set out in Section C of the Annex shall only be provided by a credit institution designated by a CSD in accordance with Article 56.

Or. en

Justification

To provide a level playing field for settlement banks operated by banks and those operated by a CSD.

Amendment 616
Olle Schmidt

Proposal for a regulation
Article 57 – paragraph 2

Text proposed by the Commission

Amendment

2. A credit institution designated to provide banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions.

2. A ***CSD authorised as a credit institution*** or a credit institution designated to provide banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions.

Or. en

Amendment 617
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Article 57 – paragraph 2

Text proposed by the Commission

Amendment

2. A credit institution designated to provide

2. A ***CSD authorised as a credit institution***

banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions.

or a credit institution designated to provide banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions.

Or. en

Justification

This amendment brings Article 57 paragraph 2 in line with the proposed amendments to Article 52 which allows a CSD to be authorised as a limited purpose credit institution.

Amendment 618
Burkhard Balz

Proposal for a regulation
Article 57 – paragraph 2

Text proposed by the Commission

2. A ***credit institution designated*** to provide banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions.

Amendment

2. A ***CSD authorised*** to provide banking type of ancillary services ***in accordance with Article 52a and other credit institutions authorised in accordance with Article 52*** shall comply with any present or future legislation applicable to credit institutions.

Or. en

Amendment 619
Pervenche Berès

Proposal for a regulation
Article 57 – paragraph 2

Text proposed by the Commission

2. A credit institution designated to provide banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions.

Amendment

2. A credit institution designated to provide banking type of ancillary services shall comply with any present or future legislation applicable to credit institutions ***including CRD IV and any other banking***

*legislation for its legally separated
banking services entity.*

Or. en

Amendment 620

Olle Schmidt

Proposal for a regulation

Article 57 – paragraph 3 – introductory part

Text proposed by the Commission

3. A credit institution designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the credit risks related to these services in respect of each securities settlement system:

Amendment

3. A ***CSD authorised as a credit institution or a credit institution*** designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the credit risks related to these services in respect of each securities settlement system:

Or. en

Amendment 621

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Article 57 – paragraph 3 – introductory part

Text proposed by the Commission

3. A credit institution designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the credit risks related to these services in respect of each securities settlement system:

Amendment

3. A ***CSD authorised as a credit institution or a credit institution*** designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the credit risks related to these services in respect of each securities settlement system:

Or. en

Amendment 622
Burkhard Balz

Proposal for a regulation
Article 57 – paragraph 3 – introductory part

Text proposed by the Commission

3. A credit institution designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the credit risks related to these services in respect of each securities settlement system:

Amendment

3. A credit institution designated to provide banking type of ancillary services **and a CSD authorised as a credit institution that has notified its competent authority according to Article 52a (3)** shall comply with the following specific prudential requirements for the credit risks related to these services in respect of each securities settlement system:

Or. en

Amendment 623
Kay Swinburne

Proposal for a regulation
Article 57 – paragraph 3 – point d

Text proposed by the Commission

(d) if collateral is required to manage its corresponding credit risk, it shall accept only collateral **with low credit, liquidity and market risk;**

Amendment

(d) if collateral is required to manage its corresponding credit risk, it shall accept only **highly liquid collateral as defined in Article 46 of 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 and the corresponding regulatory technical standards;**

Or. en

Amendment 624
Olle Schmidt

Proposal for a regulation
Article 57 – paragraph 3 – point j

Text proposed by the Commission

(j) it shall ***provide for an automatic reimbursement procedure of intraday credit and*** discourage overnight credit through deterrent ***sanctioning*** rates.

Amendment

(j) it shall discourage overnight credit through deterrent ***debit interest*** rates.

Or. en

Justification

This requirement is impossible to implement since the CSD can not force the CSD to repay its intraday credit.

Amendment 625
Burkhard Balz

Proposal for a regulation
Article 57 – paragraph 4 – introductory part

Text proposed by the Commission

4. A credit institution designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the liquidity risks related to these services in respect of each securities settlement system:

Amendment

4. A credit institution designated to provide banking type of ancillary services ***and a CSD authorised as a credit institution that has notified its competent authority according to Article 52a (3)*** shall comply with the following specific prudential requirements for the liquidity risks related to these services in respect of each securities settlement system:

Or. en

Amendment 626
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Article 57 – paragraph 4 – introductory part

Text proposed by the Commission

4. A credit institution designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the liquidity risks related to these services in respect of each securities settlement system:

Amendment

4. ***A CSD authorised as a credit institution or*** a credit institution designated to provide banking type of ancillary services shall comply with the following specific prudential requirements for the liquidity risks related to these services in respect of each securities settlement system:

Or. en

Amendment 627
Herbert Dorfmann

Proposal for a regulation
Article 57 – paragraph 4 – point j

Text proposed by the Commission

(j) it shall ensure that it can re-use, ***with the informed*** consent of the customer, ***the collateral provided to it by a defaulting*** customer.

Amendment

(j) it shall ensure that it can re-use ***and re-hypothecate collateral only following written*** consent of the customer, ***except where the*** customer ***defaults***.

Or. en

Amendment 628
Burkhard Balz

Proposal for a regulation
Article 57 – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission

5. EBA, in ***consultation*** with ESMA and the members of the ESCB, shall develop draft regulatory technical standards to specify the following:

Amendment

5. EBA, in ***close cooperation*** with ESMA and the members of the ESCB, shall develop draft regulatory technical standards to specify the following:

Or. en

Amendment 629
Burkhard Balz

Proposal for a regulation
Article 58 – title

Text proposed by the Commission

Supervision of credit institutions designated to provide banking type of ancillary services

Amendment

Supervision of credit institutions designated to provide banking type of ancillary services **and CSDs authorised as a credit institution that have notified their competent authority according to Article 52a (3)**

Or. en

Amendment 630
Kay Swinburne

Proposal for a regulation
Article 58 – paragraph 1

Text proposed by the Commission

1. The competent authority referred to in Directive 2006/48/EC is responsible for the authorisation and supervision under the conditions provided in that directive of the credit institutions designated to provide banking type of ancillary services and as regards their compliance with Article 57(3) and (4) of this Regulation.

Amendment

1. The competent authority referred to in Directive 2006/48/EC is responsible for the authorisation and supervision under the conditions provided in that directive of the credit institutions designated to provide banking type of ancillary services and as regards their compliance with Article 57(3) and (4) of this Regulation **and for ensuring that such credit institutions comply with Article 57 1a.**

Or. en

Justification

To provide a level playing field for settlement banks operated by banks and those operated by a CSD.

Amendment 631
Burkhard Balz, Corien Wortmann-Kool

Proposal for a regulation
Article 58 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. If a CSD authorised as a credit institution that has notified its competent authority according to Article 52a (3) is not in compliance with Article 57 (3) and (4) of this Regulation, the competent authority may notwithstanding any measures under the Directive 2006/48/EC withdraw the authorisation of the CSD in accordance with Article 18 of this Regulation.

Or. en

Amendment 632
Kay Swinburne

Proposal for a regulation
Article 58 – paragraph 3

Text proposed by the Commission

Amendment

3. In view of the protection of the participants to the securities settlement systems it operates, a CSD shall ensure that it has access from ***the*** credit institution it designates to all necessary information for the purpose of this Regulation and it shall report any breaches thereof to the competent authorities referred to in paragraph 1 and in Article 9.

3. In view of the protection of the participants to the securities settlement systems it operates, a CSD shall ensure that it has access from ***any*** credit institution it designates to all necessary information for the purpose of this Regulation and it shall report any breaches thereof to the competent authorities referred to in paragraph 1 and in Article 9.

Or. en

Justification

To provide a level playing field for settlement banks operated by banks and those operated by a CSD.

Amendment 633
Burkhard Balz

Proposal for a regulation
Article 58 – paragraph 4

Text proposed by the Commission

4. In order to ensure consistent, efficient and effective supervision within the Union of credit institutions designated to provide banking type of ancillary services, EBA, in **consultation** with ESMA and the members of the ESCB, may issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010.

Amendment

4. In order to ensure consistent, efficient and effective supervision within the Union of credit institutions designated to provide banking type of ancillary services, EBA, in **close cooperation** with ESMA and the members of the ESCB, may issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010.

Or. en

Amendment 634
Olle Schmidt

Proposal for a regulation
Article 59 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall lay down rules on the administrative sanctions and measures applicable in the circumstances defined in Article 60 to the persons responsible for breaches of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. Those sanctions and measures shall be effective, proportionate and dissuasive.

Amendment

Without prejudice to the right of Member States to provide for and impose criminal sanctions, Member States shall lay down rules on the administrative sanctions and measures applicable in the circumstances defined in Article 60 to the persons responsible for breaches of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. Those sanctions and measures shall be effective, proportionate and dissuasive.

Or. en

Justification

In order to avoid parallel sanctioning regimes on EU and national level respectively, the provision should exempt MS' possibility to introduce criminal legislation and impose criminal sanctions in a specific case.

Amendment 635

Olle Schmidt

Proposal for a regulation

Article 59 – paragraph 2

Text proposed by the Commission

2. The competent authorities shall be able to apply administrative sanctions and measures **to** CSDs, designated credit institutions, the members of their management bodies **and any other persons who effectively control their business** as well as to any other legal or natural person who is held responsible for a breach.

Amendment

2. The competent authorities shall be able to apply administrative sanctions and measures, **subject to the conditions laid down in national law, to** CSDs, designated credit institutions, the members of their management bodies as well as to any other legal or natural person who is held responsible for a breach **under this Regulation or under national law.**

Or. en

Justification

In order to clarify which natural persons who are responsible for a breach, a reference should be made to specifications in national law.

Amendment 636

Kay Swinburne

Proposal for a regulation

Article 59 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. A CSD shall be liable for the loss of a financial instrument caused by the CSD. Criteria for liability and restitution requirements for losses or damages attributable to CSDs, negligence or

failure shall be transparent, risk-based, and consistent with applicable laws and subject to oversight by the competent authority.

ESMA shall, after consulting the members of the ESCB, develop draft regulatory technical standards to specify such liability.

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

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

Or. en

Amendment 637
Olle Schmidt

Proposal for a regulation
Article 60 – paragraph 2 – point a

Text proposed by the Commission

(a) a public **statement** which indicates the person responsible for the breach and the nature of the breach;

Amendment

(a) a public **warning** which indicates the person responsible for the breach and the nature of the breach;

Or. en

Amendment 638
Olle Schmidt

Proposal for a regulation
Article 60 – paragraph 2 – point g

Text proposed by the Commission

(g) in respect of a legal person, administrative pecuniary sanctions of up to **10** % of the total annual turnover of that person in the preceding business year; where the undertaking is a subsidiary of a parent undertaking, the relevant total annual turnover shall be the total annual turnover resulting from the consolidated account of the ultimate parent undertaking of the group in the preceding business year.

Amendment

(g) in respect of a legal person, administrative pecuniary sanctions of up to **0,01** % of the total annual turnover of that person in the preceding business year; where the undertaking is a subsidiary of a parent undertaking, the relevant total annual turnover shall be the total annual turnover resulting from the consolidated account of the ultimate parent undertaking of the group in the preceding business year.

Or. en

Justification

Maximum amount, even when taking the principle of proportionality into account, is not reasonable when compared to situations when such sanctions might be applied

Amendment 639

Olle Schmidt

Proposal for a regulation

Article 61 – paragraph 1 – introductory part

Text proposed by the Commission

1. When determining the type and level of administrative sanctions or measures, the competent authorities shall take into account the following criteria:

Amendment

1. **Member States shall ensure that**, when determining the type and level of administrative sanctions or measures, the competent authorities shall take into account the following criteria, **including when appropriate**:

Or. en

Justification

As imposing sanctions relates to criminal and procedural law, the circumstances to be taken into account should be left to the MS to decide.

Amendment 640
Olle Schmidt

Proposal for a regulation
Article 61 – paragraph 2

Text proposed by the Commission

Amendment

2. Additional factors may be taken into account by competent authorities, if such factors are specified in national law. **deleted**

Or. en

Justification

A competent authority may consider other factors than such specified in national law. See also the justification under point 61.1: As imposing sanctions relates to criminal and procedural law, the circumstances to be taken into account should be left to the MS to decide.

Amendment 641
Antolín Sánchez Presedo

Proposal for a regulation
Article 67 – paragraph 1

Text proposed by the Commission

Amendment

1. Institutions that have been notified to ESMA as CSDs under the conditions set out under Article 19(4) shall *seek* all authorisations that are necessary for the purposes of this Regulation ***within two years from the date of entry into force of this Regulation.***

1. Institutions that have been ***providing services listed in the Annex before the entry into force of this Regulation and have*** notified to ESMA as CSDs under the conditions set out under Article 19(4) shall ***obtain*** all authorisations that are necessary for the purposes of this Regulation ***before 1 January 2015.***

Or. en

Amendment 642
Antolín Sánchez Presedo

Proposal for a regulation
Article 67 – paragraph 2

Text proposed by the Commission

2. **Within two years from the date of entry into force of this Regulation, a CSD** established in a third country shall **seek** either **authorisation** from the competent authority of the Member State in which **the CSD** provides its services where it intends to provide its services on the basis of Article 14, or recognition from ESMA where it intends to provide its services on the basis of Article 23.

Amendment

2. **By 1 January 2015, an institution providing CSD services as listed in Annex I** established in a third country shall **obtain** either **all authorisations** from the competent authority of the Member State in which provides its services where it intends to **establish and** provide its services on the basis of Article 14, or recognition from ESMA where it intends to provide its services on the basis of Article 23.

Or. en

Amendment 643
Jean-Paul Besset
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 67 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a By way of derogation from Article 52(1), when a national competent authority referred to in Article 53(1) of this Regulation is satisfied that a CSD has all the necessary safeguards in place to allow it to exercise ancillary services, the competent authority may submit a request to the Commission to allow this CSD also to carry out the ancillary services set out in Section C of the Annex up to two years at the most from the entry into force of this Regulation. This request shall include:

a) evidence justifying the request, explaining in detail the arrangements the CSD has put in place to deal with all associated risks;

b) a reasoned assessment that this solution is the most effective means to ensure systemic resilience;

c) an analysis of the expected impact on the relevant financial market and financial stability.

Following a detailed impact assessment and consultation of the undertakings concerned and after taking into account the opinions of the EBA, the ESMA and the ECB, the Commission shall adopt an implementing decision in accordance with the procedure referred to in Article 66. The Commission shall give reasons for its implementing decision. A CSD which benefits from a derogation shall be authorised as a credit institution as provided for in Title II of Directive 2006/48/EC. This authorisation shall be limited exclusively to the provision of the banking type of ancillary services that it is authorised to provide in accordance with paragraph 4 and shall imply the fulfilment of the prudential and supervision requirements provided in Article 57 and 58.

Or. fr

Justification

The derogation authorising CSDs to provide settlement-related banking services (as opposed to making them a separate legal entity with a banking licence) should be a transitional rather than a permanent measure and designed to enable CSDs providing these services to reorganise.

Amendment 644
Sharon Bowles, Olle Schmidt

Proposal for a regulation
Article 68 a (new)
Regulation (EU) No 236/2012
Article 15

Article 68a

*Amendment to Regulation (EU) No
236/2012*

Article 15 is amended as follows:

(1) in paragraph 1, point (a) is replaced by the following:

"(a) where a natural or legal person who sells shares is not able to deliver the shares for settlement within *seven* business days after the day on which settlement is due, procedures are automatically triggered for the buy-in of the shares to ensure delivery for settlement;"

(2) in paragraph 2, the first subparagraph is replaced by the following:

"A central counterparty in a Member state that provides clearing services for shares shall ensure that procedures are in place which ensure that where a natural or legal person who sells shares fails to deliver the shares for settlement by *seven days after* the date on which settlement is due, such person must make daily payments for each day that the failure continues.

Where the regulated market, MTF, OTF or SME growth market on which the transaction has been executed or to which the transaction has been reported notifies market participants accordingly, a shorter settlement period shall apply to that market."

(3) the following paragraph is added:

"3. Paragraphs 1 and 2 shall apply in accordance with Article 7(7) of Regulation (EU) No .../... [CSDR] and the regulatory technical standards adopted under Article 7(8) thereof.

Justification

It is essential, both to reflect the importance of not undermining the confidence in less liquid and SME growth markets, and to ensure a consistent approach across different legislation, that the requirements for settlement discipline in Short Selling are amended to reflect those provided in, and calibrated by, CSDR. This can be achieved by amendments to Recital 26 and Article 15 of the Short Selling Regulation.

Amendment 645
Olle Schmidt

Proposal for a regulation
Article 68 – paragraph 1 a (new)
Directive 98/26/EC
Article 2

Text proposed by the Commission

Amendment

1a. In Article 2, point (p) is replaced by the following:

"(p) system operator' shall mean the entity or entities legally responsible for the operation of a system. A system operator may also act as a settlement agent, central counterparty or clearing house. Only CSDs authorised in accordance with Regulation (EU) No xxx/xxx [CSDR] and central banks shall be permitted to be system operators."

Or. en

Justification

It should be clarified even in the Settlement Finality Directive, SFD, that only CSDs and central banks may operate SSS.

Amendment 646
Kay Swinburne

Proposal for a regulation
Article 70 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Article 3(1) shall apply from 1 January 2020.

Amendment

Article 3(1) shall apply from 1 January 2020 *to transferable securities issued after that date and from 1 January 2025 to all transferable securities.*

Or. en

Amendment 647
Antolín Sánchez Presedo

Proposal for a regulation
Article 70 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Article 3(1) shall apply from 1 January 2020.

Amendment

Article 3(1) shall apply from 1 January 2015.

Or. en

Amendment 648
Antolín Sánchez Presedo

Proposal for a regulation
Annex 1 – heading 1

Text proposed by the Commission

List of Services

Amendment

Part I. List of **CSD** Services

Or. en

Amendment 649
Olle Schmidt

Proposal for a regulation
Annex 1 – section A – point 3

Text proposed by the Commission

Amendment

3. Operating a securities settlement system ('settlement service').

3. Operating a securities settlement system **as designated under Directive 98/26/EC** ('settlement service')

Or. en

Justification

The definition creates an inconsistency with the definition in the settlement finality directive by redefining the securities settlement system. This amendment ensures consistency between the two pieces of legislation.

Amendment 650

Kay Swinburne

Proposal for a regulation

Annex 1 – section B – title

Text proposed by the Commission

Amendment

Non-banking type of ancillary services of central securities depositories

Non-banking type of ancillary services of central securities depositories **not involving credit or liquidity risk**

Or. en

Amendment 651

Kay Swinburne

Proposal for a regulation

Annex 1 – section B – paragraph 1 – point 1 – point c

Text proposed by the Commission

Amendment

(c) Settlement matching, **order** routing, trade confirmation, trade verification.

(c) Settlement matching, **instruction** routing, trade confirmation, trade verification.

Or. en

Amendment 652
Kay Swinburne

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 2 – point b

Text proposed by the Commission

Amendment

(b) **Initiating the** processing of corporate actions, including tax, general meetings and information services;

(b) Processing of corporate actions, including tax, general meetings and information services;

Or. en

Amendment 653
Kay Swinburne

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 2 – point c

Text proposed by the Commission

Amendment

(c) New issue services, including allocation and management of ISIN codes and similar codes;

(c) New issue services, including **issuance and admittance of securities into the securities settlement system**, allocation and management of ISIN codes and similar codes;

Or. en

Amendment 654
Sari Essayah

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 2 – point d

Text proposed by the Commission

Amendment

(d) **Order** routing and processing, fee collection and processing and related reporting;

(d) **Instruction** routing and processing, **distribution of payment orders**, fee collection and processing and related reporting;

Amendment 655
Kay Swinburne

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 2 – point d

Text proposed by the Commission

(d) **Order** routing and processing, fee collection and processing and related reporting;

Amendment

(d) **Instruction** routing and processing, fee collection and processing and related reporting;

Amendment 656
Sari Essayah

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 3

Text proposed by the Commission

3. Maintaining securities accounts *in relation to the settlement service, collateral management and other ancillary services.*

Amendment

3. **Safekeeping and administration of financial instruments, by providing, maintaining and/ or operating securities accounts and offering related asset servicing services, including processing market claims, and collecting taxes related to financial instruments or transactions.**

Amendment 657
Herbert Dorfmann

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 3

Text proposed by the Commission

Amendment

3. **Maintaining** securities accounts in relation to the settlement service, collateral management and other ancillary services.

3. **Providing, maintaining and/or operating** securities accounts in relation to the settlement service, collateral management and other ancillary **services; and related asset servicing** services.

Or. en

Justification

There are different CSD models in the EU, and in fact many CSDs do not “maintain” securities accounts but act as securities account providers. In addition, some CSDs act as account operators (e.g. in Finland, Sweden)

Amendment 658
Sari Essayah

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

3 a. Operational services related to netting and clearing services

Or. en

Amendment 659
Herbert Dorfmann

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

3 a. Operational services related to netting and clearing services

Or. en

Justification

Some CSDs perform some services related to netting and clearing (e.g. Euroclear UK & Ireland), such as the distribution of data, initiating of processing and others.

Amendment 660
Herbert Dorfmann

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 4 – point c

Text proposed by the Commission

Amendment

(c) Providing data and statistics to market/census bureaus;

(c) Providing **information**, data and statistics to market/census bureaus **or other entities**;

Or. en

Amendment 661
Kay Swinburne

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 4 – point c

Text proposed by the Commission

Amendment

(c) Providing data and statistics to market/census bureaus;

(c) Providing **information**, data and statistics to market/census bureaus **or other governmental or inter-governmental entities**;

Or. en

Amendment 662
Herbert Dorfmann

Proposal for a regulation
Annex 1 – section B – paragraph 1 – point 4 – point d

Text proposed by the Commission

Amendment

(d) Providing IT services.

(d) Providing IT **and operational** services.

Or. en

Amendment 663

Sari Essayah

**Proposal for a regulation
Annex 1 – section C – title**

Text proposed by the Commission

Amendment

Banking type of ancillary services

**Ancillary services involving credit and
liquidity risk**

Or. en

Amendment 664

Marianne Thyssen, Philippe De Backer

**Proposal for a regulation
Annex 1 – section C – title**

Text proposed by the Commission

Amendment

Banking type of ancillary services

**Ancillary services involving credit and
liquidity risk**

Or. en

Amendment 665

Antolín Sánchez Presedo

**Proposal for a regulation
Annex 1 – section C – title**

Text proposed by the Commission

Amendment

Banking type of ancillary services

Part II. List of banking type of ancillary

Amendment 666

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Annex 1 – section C – point 1

Text proposed by the Commission

Amendment

1. Banking type of services for the participants to a securities settlement system related to the settlement service, such as

deleted

(a) Providing cash accounts;

(b) Accepting cash deposits;

(c) Providing cash credit;

(d) Lending securities.

Amendment 667

Marianne Thyssen, Philippe De Backer

Proposal for a regulation

Annex 1 – section C – point 1

Text proposed by the Commission

Amendment

1. Banking type of services for the participants to a securities settlement system related to the settlement service, such as

1. The services involving credit and liquidity risk shall contribute to the CSDs' role of enhancing safety, efficiency and transparency of securities markets.

These services shall be provided only to support the provision of core and ancillary services as included under Sections A and B of this Annex, such as:

(a) Providing cash accounts;

(a) As defined in point 1 of the Annex I of the Directive replacing Directives 2006/48

and 2006/49, Acceptance of deposits and other repayable funds,

- Acceptance of cash deposits from participants;

(b) Accepting cash deposits;

(b) As defined in point 2 of the Annex I of the Directive replacing Directives 2006/48 and 2006/49, lending including, inter alia: consumer credit, credit agreements relating to immovable property, factoring, with or without recourse, financing of commercial transactions (including forfeiting),

- Cash lending for intended reimbursement no later than the following business day;

- Lending of securities;

(c) Providing cash credit;

(c) As defined in point 4 of the Annex I of the Directive replacing Directives 2006/48 and 2006/49, payment services as defined in Article 4 (3) of Directive 2007/64/EC,

- Processing of cash transactions, including the cash leg of DVP settlements;

- Processing of foreign exchange instructions from participants;

(d) Lending securities.

(d) As defined in point 6 of the Annex I of the Directive replacing Directives 2006/48 and 2006/49, guarantees and commitments,

- In particular related to the securities lending and borrowing services provided by the CSD (as per Section B paragraph 1 point (a) of this Annex);

(e) As defined in point 7 of the Annex I of the Directive replacing Directives 2006/48 and 2006/49, trading for own account or for account of customers,

- Treasury activities basically related to the management of the participants' long balances.

Or. en

Justification

This Section has to be looked at in light of Title IV of this Regulation, and particularly Article 52. For reasons of coherence and transparency, the list of services to be performed under Title IV should refer to the list of activities subject to mutual recognition in Annex I of the Capital Requirements Directive. As the activities performed to support core and ancillary CSD services are less broad, such cross reference to the CRD should be detailed and provide for the exact definitions.

Amendment 668

Astrid Lulling

Proposal for a regulation

Annex 1 – section C – point 1

Text proposed by the Commission

Amendment

1. Banking type of services for the participants to a securities settlement system related to the settlement service, such as

(a) Providing cash accounts;

(b) Accepting cash deposits;

(c) Providing cash credit;

(d) Lending securities.

2. Banking type of services related to the other core or ancillary services listed in Sections A and B, such as:

(a) Providing cash accounts for settlement and accepting cash deposits from the holders of securities accounts;

(b) Lending securities to the holders of securities accounts;

1. The CSD credit institution shall only provide the services listed in Annex 1 of Directive 20XX/XX/CE (CRD IV), points 1, 2, 4, 6, 7b and 7e, such as:

Banking type of services for the participants to a securities settlement system related to the settlement service, such as

(a) accepting deposits (in accordance with Annex 1 (CRD IV) section 1);

(b) lending securities and cash (in accordance with Annex 1 (CRD IV) section 2)

2. Banking type of services related to the other core or ancillary services listed in Sections A and B, such as:

(a) Providing cash accounts for settlement and accepting cash deposits from the holders of securities accounts (in accordance with Annex 1 (CRD IV) section 4 and section 7b);

(b) Lending securities to the holders of securities accounts (in accordance with Annex 1 (CRD IV) section 6 and section

(c) Banking type of services facilitating the processing of corporate actions, such as:

i) Pre-financing income and redemption proceeds;

ii) Pre-financing tax reclaims.

7e);

(c) Banking type of services facilitating the processing of corporate actions, such as:

i) Pre-financing income and redemption proceeds (*in accordance with Annex 1 (CRD IV) section 2*).

Or. fr

Amendment 669
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 1 – introductory part

Text proposed by the Commission

1. Banking type of services *for the participants to a securities settlement system related to the settlement service*, such as

Amendment

1. Banking type of services *shall contribute to the CSDs' role of enhancing safety, efficiency and transparency of the securities markets. The credit institution of the CSD shall be limited to provide only the services listed in Annex 1 of Directive 20XX/XX/EU (CRD), sections 1, 2, 4, 6, 7b, and 7e*, such as:

Or. en

Justification

The proposal of the European Commission will have the unwanted side-effect to inject new risks to the market infrastructure. Therefore the credit institution license should be limited to perform only those activities listed in Annex 1 of the amended CRD, sections 1, 2, 4, 6, 7b, and 7e.

Amendment 670
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 1 – point a

Text proposed by the Commission

Amendment

(a) Providing cash accounts;

deleted

Or. en

Amendment 671

Burkhard Balz

Proposal for a regulation

Annex 1 – section C – point 1 – point a

Text proposed by the Commission

Amendment

(a) Providing cash accounts;

(a) Acceptance of deposits and other repayable funds;

Or. en

Amendment 672

Burkhard Balz

Proposal for a regulation

Annex 1 – section C – point 1 – point b

Text proposed by the Commission

Amendment

(b) Accepting cash deposits;

deleted

Or. en

Amendment 673

Olle Schmidt

Proposal for a regulation

Annex 1 – section C – point 1 – point b

Text proposed by the Commission

Amendment

(b) Accepting cash deposits;

deleted

Or. en

Amendment 674
Burkhard Balz

Proposal for a regulation
Annex 1 – section C – point 1 – point c

Text proposed by the Commission

Amendment

(c) Providing cash credit;

deleted

Or. en

Amendment 675
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 1 – point c

Text proposed by the Commission

Amendment

(c) Providing cash credit;

deleted

Or. en

Amendment 676
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 1 – point d

Text proposed by the Commission

Amendment

(d) Lending securities.

(d) Lending securities *and cash (in line with CRD, Annex 1, section 2).*

Or. en

Amendment 677
Burkhard Balz

Proposal for a regulation
Annex 1 – section C – point 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) Lending cash for intended reimbursement no later than the following business day;

Or. en

Amendment 678
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) Acceptance of deposits (in line with CRD, Annex 1, section 1);

Or. en

Amendment 679
Marianne Thyssen, Philippe De Backer

Proposal for a regulation
Annex 1 – section C – point 2

Text proposed by the Commission

Amendment

2. Banking type of services related to the other core or ancillary services listed in Sections A and B, such as:

deleted

(a) Providing cash accounts for settlement and accepting cash deposits from the holders of securities accounts;

(b) Lending securities to the holders of securities accounts;

(c) Banking type of services facilitating the processing of corporate actions, such as:

(i) Pre-financing income and redemption proceeds;

(ii) Pre-financing tax reclaims.

Or. en

Amendment 680
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 2 – point a

Text proposed by the Commission

(a) Providing cash accounts for settlement and accepting cash deposits from the holders of securities accounts;

Amendment

(a) Providing cash accounts for settlement and accepting cash deposits from the holders of securities accounts *(in line with CRD, Annex 1, section 4 and section 7b)*;

Or. en

Amendment 681
Burkhard Balz

Proposal for a regulation
Annex 1 – section C – point 2 – point a a (new)

Text proposed by the Commission

(a a) Processing of cash transactions, including the cash leg of DVP transactions and transactions related to foreign exchange instructions from participants;

Or. en

Amendment 682
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 2 – point b

Text proposed by the Commission

(b) Lending securities to the holders of securities accounts;

Amendment

(b) Lending securities to the holders of securities accounts **(in line with CRD, Annex 1, section 6 and section 7e)**;

Or. en

Amendment 683
Burkhard Balz

Proposal for a regulation
Annex 1 – section C – point 2 – point c a (new)

Text proposed by the Commission

(c a) Trading for own account or for account of participants, in particular treasury activities related to the management of the participants' long balances;

Amendment

Or. en

Amendment 684
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 2 – point c – point i

Text proposed by the Commission

(i) Pre-financing income and redemption proceeds;

Amendment

(i) Pre-financing income and redemption proceeds **(in line with CRD, Annex 1, section 2)**;

Or. en

Amendment 685
Olle Schmidt

Proposal for a regulation
Annex 1 – section C – point 2 – point c – point ii

Text proposed by the Commission

Amendment

(ii) Pre-financing tax reclaims.

deleted

Or. en

Amendment 686
Olle Schmidt

Proposal for a regulation
Annex 1 – Section C – point 2 – point c – point ii a (new)

Text proposed by the Commission

Amendment

(ii a) Perform its own asset, liability and capital management related to sections 1, 2, 4, 6, 7b and 7e of Annex 1 of Directive 20XX/XX/EU (CRD) .

Or. en

Justification

The proposal of the European Commission will have the unwanted side-effect to inject new risks to the market infrastructure. Therefore the credit institution license should be limited to perform only those activities listed in Annex 1 of the amended CRD, sections 1, 2, 4, 6, 7b, and 7e.