



2022/0074(COD)

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AMENDMENTS

94 - 199

Draft report

Johan Van Overtveldt

(PE736.678v01-00)

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third-country central securities depositories

Proposal for a regulation

(COM(2022)0120 – C9-0118/2022 – 2022/0074(COD))

AM_Com_LegReport

Amendment 94
Georgios Kyrtos

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) Regulation (EU) No 909/2014 has introduced rules on settlement discipline to prevent and address failures in the settlement of securities transactions and therefore ensure the safety of transaction settlement. Such rules include in particular reporting requirements, a cash penalties regime and mandatory buy-ins. Despite the absence of experience in applying those rules, the development and specification of the framework in Commission Delegated Regulation (EU) 2018/1229⁴⁰ has allowed all interested parties to better understand the regime and the challenges its application could give rise to. In this regard, the scope of cash penalties **and mandatory buy-ins** set out in Article 7 of Regulation (EU) No 909/2014 should be clarified, in particular by specifying which categories of transactions are excluded. Such exclusions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties, for which the application of cash penalties **or mandatory buy-ins** would not be practicable or could lead to detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and redemption of fund units **and** realignments. The Commission should be empowered to supplement Regulation (EU) No 909/2014 by further specifying the details of such exclusions by means of a delegated act.

⁴⁰ Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing

Amendment

(5) Regulation (EU) No 909/2014 has introduced rules on settlement discipline to prevent and address failures in the settlement of securities transactions and therefore ensure the safety of transaction settlement. Such rules include in particular reporting requirements, a cash penalties regime and mandatory buy-ins. Despite the absence of experience in applying those rules, the development and specification of the framework in Commission Delegated Regulation (EU) 2018/1229⁴⁰ has allowed all interested parties to better understand the regime and the challenges its application could give rise to. In this regard, the scope of cash penalties set out in Article 7 of Regulation (EU) No 909/2014 should be clarified, in particular by specifying which categories of transactions are excluded. Such exclusions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties, for which the application of cash penalties would not be practicable or could lead to detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and redemption of fund units, realignments **and free-of-payment securities transfers made in the context of the (de)mobilisation of collateral**. The Commission should be empowered to supplement Regulation (EU) No 909/2014 by further specifying the details of such exclusions by means of a delegated act.

⁴⁰ Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing

Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (OJ L 230, 13.9.2018, p. 1).–

Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (OJ L 230, 13.9.2018, p. 1).–

Or. en

Amendment 95
Stéphanie Yon-Courtin

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The application of those rules should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a **long-term, continuous** reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a negative

Amendment

(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The application of those rules should therefore be subject to an assessment by the Commission as to its **necessity, proportionality and** appropriateness in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only **as a last resort measure when all other available measures fail to address insufficient level of settlement efficiency in the Union, provided that the cost-benefit analysis by ESMA proves the tool to be appropriate and only** where certain conditions are met, namely where the application of cash penalties has not resulted in a **sustainable** reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the

effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier.

situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate, ***necessary and adequate*** to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier.

Or. en

Justification

Cost-benefit analysis provided by ESMA is an additional guarantee, complementary to the conditions proposed by the Commission, that the mandatory buy-in tool will only be used as a last resort measure.

Amendment 96

Markus Ferber

Proposal for a regulation

Recital 6

Text proposed by the Commission

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Amendment

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negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The application of those rules should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, ***where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets***, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the ***end of the buy-in process or the actual settlement day, whichever is the earlier***.

negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The application of those rules should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the settlement ***transaction is either settled or bilaterally cancelled***.

Or. en

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The ***application of those*** rules ***should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency*** in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to

Amendment

(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The ***existence of such*** rules ***is a disproportionate interference in the execution of securities transactions and the functioning of securities markets, poses significant risks for market liquidity and financial stability in the Union, and could jeopardise the global competitiveness of the Union. Because of the implications that the deployment of mandatory buy-ins might have, the possibility of their application should be discarded.*** Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is

apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier.

proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier.

Or. en

Amendment 98 Georgios Kyrtos

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The ***application of those rules should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency*** in the Union. Cash penalties and reporting requirements should however continue to apply in order to ***assess their impact on improving*** settlement efficiency in the Union. ***Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous***

Amendment

(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. The ***existence of such rules is a disproportionate interference in the execution of securities transactions and the functioning of securities markets, poses significant risks for market liquidity and financial stability in the Union, and could jeopardise the global competitiveness of the Union. Because of the implications that the deployment of mandatory buy-ins might have, the possibility of their application should be discarded.*** Cash penalties and reporting requirements should however continue to apply in order to ***improve*** settlement efficiency in the Union. ***ESMA, in close***

*reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the **end of the buy-in process or the** actual settlement day, **whichever is the earlier.***

*cooperation with the ESCB, should be given the possibility of developing draft regulatory technical standards to specify the target levels of settlement efficiency, taking into account factors such as the liquidity of financial instruments, the cross-border or domestic nature of transactions, and the currencies in which transactions are settled. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the actual settlement day **or until the transaction has been cancelled bilaterally.** In order to support the provision of accurate, timely and complete information on penalties, all information necessary for the calculation of cash penalties should be centralised in the European Single Access Point.*

Or. en

Amendment 99

Georgios Kyrtos, Stéphanie Yon-Courtin

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6 a) The removal of the central counterparty buy-in provisions from Regulation (EU) No 236/2012 by Regulation (EU) No 909/2014 was justified at the time because those provisions would be covered by the mandatory buy-in provisions of the latter Regulation. The buy-in provisions for

cleared share trades should now be reintroduced in Regulation (EU) No 236/2012 in parallel with the removal of the mandatory buy-in provisions from Regulation (EU) No 909/2014.

Or. en

Amendment 100
Georgios Kyrtos

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) *Mandatory buy-ins and cash compensation processes allow for the payment of the difference between the buy-in price and the original trade price to be made from the seller to the purchaser only where that buy-in or cash compensation reference price is higher than the original trade price. This asymmetry for the payment of the differential could create an unequitable remedy that would unduly benefit the purchaser in the event that the buy-in or reference price is lower than the original trade price. The payment of the differential between the buy-in price and the original trade price should therefore apply in both directions to ensure that the trading parties are restored to the economic terms, had the original transaction taken place.*

deleted

Or. en

Amendment 101
Georgios Kyrtos

Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) Where the mandatory buy-ins apply, it should be possible for the Commission to temporarily suspend their application in certain exceptional situations. Such a suspension should be possible for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such a suspension should be proportionate to those aims.

deleted

Or. en

Amendment 102
Markus Ferber

Proposal for a regulation
Recital 19

Text proposed by the Commission

Amendment

(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation (, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by

(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation (, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by

competent authorities, the requirement to set up mandatory colleges should apply *in two cases. Firstly, for CSDs that offer notary and central maintenance services in relation to financial instruments issued under the law of more than one Member States (the passporting colleges) and secondly for CSDs that belong to the same group (the “group-level colleges”). To reduce the administrative burden on the authorities participating to colleges, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the college should be able to decide that only one college is established for that CSD. Where the other CSDs in the group also offer services cross-border, the chair of the college should be able to make that decision only where the competent authorities of those other CSDs consent. In that case, there would be only one college for all CSDs within the group that would exercise the tasks assigned to passporting and group-level colleges. Such colleges should ensure the sharing of information pertaining to the CSDs concerned.*

competent authorities, the requirement to set up mandatory colleges should apply for CSDs that belong to the same group (the “group-level colleges”).

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 103
Fulvio Martusciello

Proposal for a regulation
Recital 19

Text proposed by the Commission

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Amendment

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than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation (, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the requirement to set up mandatory colleges should ***apply in two cases. Firstly, for CSDs that offer notary and central maintenance services in relation to financial instruments issued under the law of more than one Member States (the passporting colleges) and secondly for CSDs that belong to the same group (the “group-level colleges”). To reduce the administrative burden on the authorities participating to colleges, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the college should be able to decide that only one college is established for that CSD. Where the other CSDs in the group also offer services cross-border, the chair of the college should be able to make that decision only where the competent authorities of those other CSDs consent. In that case, there would be only one college for all CSDs within the group that would exercise the tasks assigned to passporting and group-level colleges.*** Such colleges should ensure the sharing of information pertaining to the CSDs concerned.

than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the requirement to set up mandatory colleges should ***be based on a single existing and reliable criterion, namely, the substantial importance of a CSD for a jurisdiction other than the one where it is established. The threshold for the mandatory establishment by competent authorities of a college of supervisory authorities should be met where a CSD is of substantial importance in at least two host Member States.*** Such colleges should ensure the sharing of information pertaining to the CSDs concerned. ***Members of a college should have the possibility of requesting the adoption by the college of a binding opinion concerning issues identified during the review and evaluation process of CSDs, or during the review and evaluation of providers of banking-type ancillary services, or that relate to the extension or outsourcing of activities and services provided by the CSD, or concerning any potential breach of the requirements of Regulation (EU) No 909/2014 arising from the provision of services in a host Member State. The process for the adoption of such an opinion should rely on a simple majority vote.***

Or. en

Amendment 104
Georgios Kyrtos

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation (, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the requirement to set up mandatory colleges should ***apply in two cases. Firstly, for CSDs that offer notary and central maintenance services in relation to financial instruments issued under the law of more than one Member States (the passporting colleges) and secondly for CSDs that belong to the same group (the “group-level colleges”). To reduce the administrative burden on the authorities participating to colleges, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the college should be able to decide that only one college is established for that CSD. Where the other CSDs in the group also offer services cross-border, the chair of the college should be able to make that***

Amendment

(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the requirement to set up mandatory colleges should ***be based on a single existing and reliable criterion, namely, the substantial importance of a CSD for a jurisdiction other than the one where it is established. The threshold for the mandatory establishment by competent authorities of a college of supervisory authorities should be met where a CSD is of substantial importance in at least two host Member States.*** Such colleges should ensure the sharing of information pertaining to the CSDs concerned. ***Members of a college should have the possibility of requesting the adoption by the college of a binding opinion concerning issues identified during the review and evaluation process***

decision only where the competent authorities of those other CSDs consent. In that case, there would be only one college for all CSDs within the group that would exercise the tasks assigned to passporting and group-level colleges. Such colleges should ensure the sharing of information pertaining to the CSDs concerned.

of CSDs, or during the review and evaluation of providers of banking-type ancillary services, or that relate to the extension or outsourcing of activities and services provided by the CSD, or concerning any potential breach of the requirements of Regulation (EU) No 909/2014 arising from the provision of services in a host Member State. The process for the adoption of such an opinion should rely on a simple majority vote.

Or. en

Amendment 105

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) In order to address the existing fragmentation along national lines in the post-trade landscape and to develop a robust, competitive and well supervised capital markets infrastructure, the provision of cross-border services should be subject to the authorisation and supervision of ESMA, where the CSDs operations become of substantial importance for the functioning of the securities markets and the protection of the investors in the Union.

Or. en

Amendment 106

René Repasi

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) ESMA should be granted further supervisory powers in relation to International Central Securities Depositories based in the Union that are active in the cross-border settlement of internationally traded securities. In performing those tasks, ESMA should cooperate closely with other relevant authorities involved in the authorisation and supervision of such CSDs.

Or. en

Amendment 107

René Repasi

Proposal for a regulation

Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) Some CSDs established in the Union operate securities settlement systems that apply netting arrangements. Such CSDs should adequately monitor and manage the risks stemming from the application of the netting arrangements put in place for settlement on a net basis.

Or. en

Amendment 108

René Repasi

Proposal for a regulation

Recital 26

Text proposed by the Commission

Amendment

(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever

(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever

practical and available, the cash leg of the securities transaction through accounts opened with a central bank. Where that option is not practical and available, including where a CSD does not meet the conditions to access a central bank other than that of its home Member State, that CSD should be able to settle the cash leg of transactions in foreign currencies through accounts opened with institutions authorised to provide banking services under the conditions provided in Regulation (EU) No 909/2014. The efficiency of the settlement market would be better served by enhancing the possibilities for CSDs to provide settlement in foreign currencies through the use of accounts opened with institutions authorised to provide banking services, within appropriate risk limits, with a view to deepen capital markets and enhance cross-border settlement. For that purpose, CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014 and for which the relevant risks are already monitored, should be able to offer such services to other CSDs that do not hold such license irrespective if the latter are part of the same group of companies.

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Designated credit institutions and CSDs authorised to provide banking-type ancillary services should only be authorised to provide such services for the purposes of settlement of the cash leg of the transactions in the securities settlement system of the CSD seeking to use the banking-type ancillary services in a currency or currencies other than that of the country where the settlement takes place, and not to carry out any other activities.

Or. en

Amendment 109

Georgios Kyrtosos, Stéphanie Yon-Courtin

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever practical and available, the cash leg of the securities transaction through accounts opened with a central bank. Where that option is not practical and available, including where a CSD does not meet the conditions to access a central bank other than that of its home Member State, that CSD should be able to settle the cash leg of transactions in *foreign* currencies through accounts opened with institutions authorised to provide banking services under the conditions provided in Regulation (EU) No 909/2014. ***The efficiency of the settlement market would be better served by enhancing the possibilities for CSDs to provide settlement in foreign currencies through the use of accounts opened with institutions authorised to provide banking services, within appropriate risk limits, with a view to deepen capital markets and enhance cross-border settlement. For that purpose,*** CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014 and for which the relevant risks are already monitored, should be able to offer *such* services to other CSDs that do not hold such license irrespective if the latter are part of the same group of companies.

Amendment

(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever practical and available, the cash leg of the securities transaction ***in central bank money*** through accounts opened with a central bank. Where that option is not practical and available, including where a CSD does not meet the conditions to access ***a payment system operated by a*** central bank other than that of its home Member State, that CSD should be able to settle the cash leg of transactions in ***third-country*** currencies ***in commercial bank money*** through accounts opened with institutions authorised to provide banking services under the conditions provided in Regulation (EU) No 909/2014. CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014, and for which the relevant risks are already monitored, should be able to offer services ***pertaining to the settlement of the cash leg of securities transactions, where that cash is a third-country currency*** to other CSDs that do not hold such license irrespective if the latter are part of the same group of companies

Or. en

Amendment 110
Georgios Kyrtos

Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) Within **an** appropriately set risk **limit**, CSDs that are not authorised to provide banking-type ancillary services should be able to **offer a sufficient amount of foreign** currency **settlement** through accounts opened with credit institutions **or** through **its own account**. **The threshold below which a CSD may designate a credit institution to provide any** banking-type ancillary services **from within** a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. As a body with specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to **provide** banking-type ancillary services.

Amendment

(27) Within appropriately set risk **limits**, CSDs that are not authorised to provide banking-type ancillary services should be able to **arrange payments in third-country** currency through accounts opened with credit institutions **and** through **accounts opened with CSDs authorised to provide** banking-type ancillary services. **The thresholds below which a CSD should be able to designate either a credit institution as a separate legal entity or a CSD authorised to provide banking-type ancillary services** without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 **should consist of a maximum amount for those arranged payments. That threshold** should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. **It is possible that different thresholds are set with regard to different third-country currencies especially for the most liquid ones like G4, while setting appropriate limit that would be applicable to the institution as whole.** As a body with specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements

for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to ***provided*** banking-type ancillary services.

Or. en

Amendment 111
Stéphanie Yon-Courtin

Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) Within ***an*** appropriately set risk ***limit***, CSDs that are not authorised to provide banking-type ancillary services should be able to ***offer a sufficient amount of foreign*** currency ***settlement*** through accounts opened with credit institutions ***or*** through ***its own account***. ***The threshold below which a CSD may designate a credit institution to provide any*** banking-type ancillary services ***from within*** a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. As a body with specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed

Amendment

(27) Within appropriately set risk ***limits***, CSDs that are not authorised to provide banking-type ancillary services should be able to ***arrange payments in third-country*** currency through accounts opened with credit institutions ***and*** through ***accounts opened with CSDs authorised to provide*** banking-type ancillary services. ***The thresholds below which a CSD should be able to designate either a credit institution as a separate legal entity or a CSD authorised to provide banking-type ancillary services*** without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 ***should consist of a maximum amount for those arranged payments***. ***That threshold*** should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. As a body with specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory

elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services.

technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services.

Or. en

Justification

CSDs should be allowed to provide banking-type ancillary services to non-banking CSDs under several conditions: (i) if it is solely for cash settlement in non EU currency , (ii) with a cap on the amount of settlements they could offer.

Amendment 112

Markus Ferber

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Within an appropriately set risk limit, CSDs that are not authorised to provide banking-type ancillary services should be able to offer a sufficient amount of foreign currency settlement through accounts opened with credit institutions or through its own account. The threshold below which a CSD may designate a credit institution to provide any banking-type ancillary services from within a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. As a body with

Amendment

(27) Within an appropriately set risk limit, CSDs that are not authorised to provide banking-type ancillary services should be able to offer a sufficient amount of foreign currency settlement through accounts opened with credit institutions or through its own account. The threshold below which a CSD may designate a credit institution to provide any banking-type ancillary services from within a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. As a body with

specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services.

specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services *while ensuring a level playing field following the principle of "same activity, same risks, same rules"*.

Or. en

Amendment 113

Georgios Kyrtos

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) In order to provide CSDs established in the Union or in third countries with sufficient time to apply for authorisation and recognition of their activities, the date of application of the authorisation and recognition requirements of Regulation (EU) No 909/2014 was initially deferred until an authorisation or recognition decision was made pursuant to that Regulation. Sufficient time has elapsed since the entry into force of that

Amendment

(30) In order to provide CSDs established in the Union or in third countries with sufficient time to apply for authorisation and recognition of their activities, the date of application of the authorisation and recognition requirements of Regulation (EU) No 909/2014 was initially deferred until an authorisation or recognition decision was made pursuant to that Regulation. Sufficient time has elapsed since the entry into force of that

Regulation. , Therefore, those requirements should now start to apply to ensure, on the one hand, a level-playing field amongst all CSDs offering services in relation to financial instruments constituted under the law of a Member State, and, on the other hand, that authorities at national and Union level have the necessary information to ensure investor protection and monitor financial stability.

Regulation. , Therefore, those requirements should now start to apply to ensure, on the one hand, a level-playing field amongst all CSDs offering services in relation to financial instruments constituted under the law of a Member State, and, on the other hand, that authorities at national and Union level have the necessary information to ensure investor protection and monitor financial stability. ***The third-country CSDs providing core services referred to in Section A, points (1) and (2), of the Annex of Regulation (EU) No 909/2014 should be subject to the procedure as set out in that Regulation. However, the third-country CSDs already providing core services in Section A, points (1) and (2), of the Annex of Regulation (EU) No 909/2014 should benefit from a simplified notification procedure as set out in this Regulation.***

Or. en

Amendment 114
Georgios Kyrtos

Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) To ensure uniform conditions for the implementation of this Regulation, ***and in particular with regard to the application and the suspension of mandatory buy-in requirements where those apply***, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁴³.

⁴³ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules

Amendment

(34) To ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁴³

⁴³ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules

and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 115

René Repasi

Proposal for a regulation

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

Regulation (EU) No 909/2014

Article 2 – paragraph 1 – point 26

Present Text

(26) ‘default, in relation to a participant, means a situation where insolvency proceedings, as defined in point (j) of Article 2 of Directive 98/26/EC, are opened against a participant;

Amendment

(1 a) In Article 2(1), point (26) is replaced by the following:

(26) ‘default’, in relation to a participant, means a situation where insolvency proceedings, as defined in point (j) of Article 2 of Directive 98/26/EC, are opened against a participant ***or an event stipulated in the CSD’s internal rules as constituting a default, including an event that leads to a failure to complete a transfer of funds or securities in accordance with those rules;***

Or. en

Justification

It would be beneficial to broaden the scope of the definition of default in the CSDR, which is currently confined to the opening of insolvency proceedings. The definition should be aligned with international standards set out in the PFMI to ensure CSDs can take timely action to contain losses and limit liquidity pressures.

Amendment 116

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EU) No 909/2014

Article 7 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails (‘failing participants’) except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the *end of the buy-in process referred to in paragraphs 3 to 8 that is to be applied pursuant to paragraph 2a, or the actual settlement day, whichever is the earlier.*

The cash penalties shall not be configured as a revenue source for the CSD.;

Amendment

The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails (‘failing participants’) except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the *transaction is either settled or bilaterally cancelled.* The cash penalties shall not be configured as a revenue source for the CSD.;

Or. en

Amendment 117

Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EU) No 909/2014

Article 7 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails (‘failing participants’) except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated

Amendment

The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails (‘failing participants’)except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated

on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the *end of the buy-in process referred to in paragraphs 3 to 8 that is to be applied pursuant to paragraph 2a, or the actual settlement day, whichever is the earlier*. The cash penalties shall not be configured as a revenue source for the CSD.;

on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the actual settlement day *or until the transaction has been cancelled bilaterally*. The cash penalties shall not be configured as a revenue source for the CSD.;

Or. en

Justification

The existence of regulation-driven mandatory buy-ins is a significant interference in the execution of securities transactions and the functioning of securities markets. Because of the implications that the deployment by the European Commission of mandatory buy-ins may have, including with respect to the potential non-availability of a buy-in agent, it is suggested to discard the possibility of mandatory buy-ins altogether. Discarding the entire application of mandatory buy-ins is also the preferred approach of the ECB as expressed in its opinion of 28 July 2022 (see point 1.4).

Amendment 118 **Jessica Polfjärd**

Proposal for a regulation
Article 1 – paragraph 1 – point 2 – point b
Regulation (EU) No 909/2014
Article 7 – paragraph 2a

Text proposed by the Commission

Amendment

2a. Without prejudice to the penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally cancel the transaction, the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the Commission considers that those measures constitute a proportionate means to address the level of settlement fails in the Union and that,

deleted

based on the number and volume of settlement fails, any of the following conditions is met:

- (a) the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction of settlement fails in the Union;*
- (b) settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets;*
- (c) the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union.*

The implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2).;

Or. en

Justification

Due to potential practical problems as well as the fact that in certain markets a consequence of this obligation could be that retail investors will be subject to this regime, the mandatory buy-in regime should be deleted altogether. Furthermore this is in line with the ECB opinion. The deletion of mandatory buy-ins should apply throughout the text.

Amendment 119

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 909/2014

Article 7 – paragraph 2a – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Without prejudice to the penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally

By ... [12 months after the date of entry into force of this Regulation] the Commission shall, after consulting

cancel the transaction, the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the **Commission considers** that those measures constitute a proportionate means to address the level of settlement fails in the Union and that, based on the number and volume of settlement fails, any of the following conditions is met:

ESMA, assess the impact of cash penalties and reporting requirements on achieving appropriate levels of settlement efficiency in the Union and on the reduction of settlement fails in the Union as well as the appropriateness and proportionality of mandatory buy-in measures to address the level of settlement fails in the Union, and report to the European Parliament and to the Council. Within 6 months of that assessment, the Commission *shall adopt delegated acts in accordance with Article 67 to supplement this Regulation by determining for* which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied, where the *assessment referred to in the first subparagraph concludes* that those measures constitute a proportionate means to address the level of settlement fails in the Union and that, based on the number and volume of settlement fails, any of the following conditions is met:

Or. en

Amendment 120

Stéphanie Yon-Courtin

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 909/2014

Article 7 – paragraph 2a – subparagraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally cancel the transaction, the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial

Amendment

The Commission may, *upon consultation with ESRB and ESMA*, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be

instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the Commission considers that those measures constitute a proportionate means to address the level of settlement fails in the Union and **that**, based on the number and volume of settlement fails, **any** of the following conditions is met:

applied where the Commission considers that those measures constitute a **necessary, appropriate and** proportionate means to address the level of settlement fails in the Union.

Based on the cost-benefit analysis provided by ESMA in accordance with Article 74(1), point (a), proving mandatory buy-ins as appropriate tool and based on the number and volume of settlement fails, the Commission may adopt the implementing act on mandatory buy-in if one of the following conditions is met:

Or. en

Justification

Cost-benefit analysis provided by ESMA is an additional guarantee, complementary to the conditions proposed by the Commission, that the mandatory buy-in tool will only be used a last resort measure.

Amendment 121

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 909/2014

Article 7 – paragraph 2a – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets;

deleted

Or. en

Justification

Developments in third countries should not be a relevant factor to consider.

Amendment 122

Fulvio Martusciello

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 909/2014

Article 7 – paragraph 2a – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) settlement efficiency in the Union **deleted**
has not reached appropriate levels
considering the situation in third-country
capital markets that are comparable in
terms of size, liquidity as well as
instruments traded and types of
transactions executed on such markets;

Or. en

Amendment 123

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EU) No 909/2014

Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Where the Commission has adopted an implementing act pursuant to paragraph 2a and where a failing participant has not delivered financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date ('extension period') equal to 4 business days, a buy-in process shall be initiated whereby those instruments shall be available for

Without prejudice to the penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally cancel the transaction, where the Commission has adopted an implementing act pursuant to paragraph 2a and where a failing participant has not delivered financial instruments covered by that implementing act to the receiving participant within a period after the

settlement and delivered to the receiving participant within an appropriate timeframe.

intended settlement date ('extension period') equal to 4 business days, a buy-in process shall be initiated whereby those instruments shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.

Or. en

Amendment 124 **Georgios Kyrtos**

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EU) No 909/2014

Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Where the Commission has adopted an implementing act pursuant to paragraph 2a and where a failing participant has not delivered financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date ('extension period') equal to 4 business days, a buy-in process shall be initiated *whereby those instruments shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.*

Amendment

Where the Commission has adopted an implementing act pursuant to paragraph 2a and where a failing participant has not delivered financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date ('extension period') equal to 4 business days, a buy-in process shall be initiated.

Or. en

Amendment 125 **Georgios Kyrtos**

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EU) No 909/2014

Article 7 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 **calendar** days unless the SME growth market decides to apply a shorter period.

Amendment

Where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 **business** days unless the SME growth market decides to apply a shorter period. ***Those instruments shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.***

Or. en

Amendment 126

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point e

Regulation (EU) No 909/2014

Article 7 – paragraph 4 – point d a (new)

Text proposed by the Commission

Amendment

(da) for securities financing transactions the buy-in process referred to in paragraph 3 shall not apply.

Or. en

Amendment 127

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point j

Regulation (EU) No 909/2014

Article 7 – paragraph 14a

Text proposed by the Commission

Amendment

14a. The Commission **may** adopt delegated acts in accordance with Article

14a. ***After consulting ESMA***, the Commission **shall** adopt delegated acts in

67 to supplement this Regulation specifying the reasons for settlement fails that are to be considered as not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties under paragraph 2 and paragraph 4, points (c) and (d), of this Article.;

accordance with Article 67 to supplement this Regulation specifying the reasons for settlement fails that are to be considered as not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties under paragraph 2 and paragraph 4, points (c) and (d), of this Article.;

Or. en

Amendment 128

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

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

Regulation (EU) No 909/2014

Article 10

Present text

Article 10

Competent authority

Without prejudice to the oversight by the members of the ESCB referred to in Article 12(1), a CSD shall be authorised and supervised by the competent authority of its home Member State.

Amendment

(2 a) Article 10 is replaced by the following:

"Article 10

Competent authority

Without prejudice to the oversight by the members of the ESCB referred to in Article 12(1), a CSD shall be authorised and supervised by the competent authority of its home Member State.

By way of derogation from the first subparagraph, and without prejudice to the oversight by the members of the ESCB referred to in Article 12(1), where the cross-border provision of core services referred to in Section A of the Annex by a CSD have become of substantial importance for the functioning of the securities markets and the protection of the investors in the Union or at least in five host Member State, the operations of the CSD shall be carried out under the direct supervision of ESMA.

The Commission shall, by means of delegated acts, update the criteria under which the cross-border operations of a CSD could be considered to be or likely to become of substantial importance for the functioning of the securities markets and the protection of the investors in the Union as a whole, taking into account the criteria established by Commission Delegated Regulation (EU) 2017/389^{1a} and relevant ESMA guidelines.

^{1a} Commission Delegated Regulation (EU) 2017/389 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host Member States (OJ L 65, 10.3.2017, p. 1)."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0909-20220622&from=EN>)

Justification

If adopted, this amendment will require additional articles to provide ESMA with adequate supervisory and enforcement powers and funding, in line with those granted for trade repositories or credit rating agencies.

Amendment 129

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

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

Regulation (EU) No 909/2014

Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(2b) In Article 11, the following paragraph is added:

3a. ESMA shall be responsible for carrying out the duties under this Regulation for the authorisation and supervision of CSDs of substantial importance for the functioning of the securities markets and the protection of the investors in the Union or in at least five Member States.

ESMA shall have the supervisory and investigatory powers necessary for the exercise of its functions.

Or. en

Justification

If adopted, this amendment will require additional articles to provide ESMA with adequate supervisory and enforcement powers and funding, in line with those granted for trade repositories or credit rating agencies.

Amendment 130

René Repasi

Proposal for a regulation

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

Regulation (EU) No 909/2014

Article 12 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(3 a) In Article 12(1), the following point is added:

(ca) ESMA for central securities depositories that are active in the cross-border settlement of internationally traded securities'

Or. en

Amendment 131

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point -a

Regulation (EU) No 909/2014

Article 17 – paragraph 1a

Text proposed by the Commission

Amendment

(-a) the following paragraph is inserted:

1a. A CSD shall submit an application for authorisation to ESMA, where the CSD is or is likely to become of substantial importance in at least five Member States or where the CSD is part of a group that comprises two or more CSDs authorised in at least five Member States.

Or. en

Justification

If adopted, this amendment will require further adjustments to the authorisation procedure.

Amendment 132

Fulvio Martusciello

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 909/2014

Article 23 – paragraph 2

Text proposed by the Commission

Amendment

2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex in relation to **financial instruments** constituted under the laws of another Member State referred to in Article 49(1), second subparagraph, or to set up a

2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex in relation to **shares** constituted under the laws of another Member State referred to in Article 49(1), second subparagraph, or to set up a branch

branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6.

in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6.

Or. en

Amendment 133

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 909/2014

Article 23 – paragraph 2

Text proposed by the Commission

2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex in relation to ***financial instruments*** constituted under the laws of another Member State referred to in Article 49(1), second subparagraph, or to set up a branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6.

Amendment

2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex in relation to ***shares*** constituted under the laws of another Member State referred to in Article 49(1), second subparagraph, or to set up a branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6.

Or. en

Justification

Facilitates the passporting regime.

Amendment 134

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 909/2014

Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where a CSD has been authorised by ESMA, that authorisation shall be effective and valid for the entire territory of the Union and shall allow the CSD to provide the services for which it has been authorised, throughout the Union.”

Or. en

Amendment 135

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 909/2014

Article 23 – paragraph 3a (new)

Text proposed by the Commission

Amendment

3a. A CSD intending to set up a branch in another Member State for the first time, or to change the range of services provided through a branch, shall communicate the following information to the competent authority of the home Member State:

(a) the host Member State;

(b) the type of shares constituted under the law of the host Member State in respect of which the CSD intends to provide services and the services which the CSD intends to provide;

(c) the currency or currencies that the CSD intends to process;

(d) the organisational structure of the branch and the names of the persons

responsible for the management of the branch.

Or. en

Amendment 136
Fulvio Martusciello

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EU) No 909/2014
Article 23 – paragraph 3a (new)

Text proposed by the Commission

Amendment

3a. A CSD intending to set up a branch in another Member State for the first time, or to change the range of services provided through a branch, shall communicate the following information to the competent authority of the home Member State:

(a) the host Member State;

(b) the type of shares constituted under the law of the host Member State in respect of which the CSD intends to provide services and the services which the CSD intends to provide;

(c) the currency or currencies that the CSD intends to process;

(d) the organisational structure of the branch and the names of the persons responsible for the management of the branch.

Or. en

Amendment 137
Markus Ferber

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

Text proposed by the Commission

Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State. ***Where the CSD already provides services to other host Member States, the competent authority of the home Member State shall also inform the passporting college referred to in Article 24a.***

Amendment

Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State.

Or. en

Amendment 138
Fulvio Martusciello

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EU) No 909/2014
Article 23 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State. ***Where the CSD already provides services to other host Member States, the***

Amendment

Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State.

competent authority of the home Member State shall also inform the passporting college referred to in Article 24a.

Or. en

Amendment 139
Georgios Kyrtos

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EU) No 909/2014
Article 23 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State. ***Where the CSD already provides services to other host Member States, the competent authority of the home Member State shall also inform the passporting college referred to in Article 24a.***

Amendment

Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State.

Or. en

Justification

It is unclear why authorities from one host Member State would need to be informed about the intention of a CSD to open a branch in or service securities under the laws of another host Member State. It is therefore suggested to remove this requirement to share business information about a CSD in this manner.

Amendment 140
Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 909/2014

Article 23 – paragraph 5

Text proposed by the Commission

5. Where the competent authority of the home Member State decides in accordance with paragraph 4 not to communicate all the information referred to in paragraph 3 to the competent authority of the host Member State, it shall give reasons for its refusal to the CSD concerned within 3 months of receiving all the information and inform the competent authority of the host Member State **and the passporting college referred to in Article 24a** of its decision.

Amendment

5. Where the competent authority of the home Member State decides in accordance with paragraph 4 not to communicate all the information referred to in paragraph 3 to the competent authority of the host Member State, it shall give reasons for its refusal to the CSD concerned within 3 months of receiving all the information and inform the competent authority of the host Member State of its decision.

Or. en

Justification

It is unclear why authorities from one host Member State would need to be informed about the intention of a CSD to open a branch in or service securities under the laws of another host Member State. It is therefore suggested to remove this requirement to share business information about a CSD in this manner.

Amendment 141

Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) No 909/2014

Article 23 – paragraph 7

Text proposed by the Commission

7. In the event of a change of the information **set out in the documents submitted** in accordance with paragraph 3 of this Article, a CSD shall give written notice of that change to the competent authority of the home Member State at least 1 month before implementing the change. The competent authority of the

Amendment

7. In the event of a **substantive** change of the information **communicated** in accordance with paragraph 3 **or paragraph 3a** of this Article, a CSD shall give written notice of that change to the competent authority of the home Member State at least 1 month before implementing the change. The competent authority of the

host Member State ***and the passporting college referred to in Article 24a*** shall also be informed of that change without delay by the competent authority of the home Member State.;

host Member State shall also be informed of that change without delay by the competent authority of the home Member State.

Or. en

Justification

The word “substantive” is added to better reflect the principle of proportionality and mirror the wording from Art 16(4). Furthermore, it is suggested to delete the proposed information duty to the Article 24a college as a change in a document submitted for one passport does not seem relevant per se for another passport.

Amendment 142 **Georgios Kyrtos**

Proposal for a regulation
Article 1 – paragraph 1 – point 8 – point a
Regulation (EU) No 909/2014
Article 24 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Upon the request of any member of the passporting college referred to in Article 24a, the competent authority of the home Member State may invite staff from ***competent authorities of the host Member States*** and ESMA to participate in on-site inspections.

Amendment

The competent authority of the home Member State may invite staff from ESMA to participate in on-site inspections.

Or. en

Justification

It is suggested to delete the parts of this sentence, which create the wrong impression that supervision of a CSD is a collective exercise by EU Member States. As authorities of the host Member State of the branch are already covered by the first subparagraph, invitations for participation in on-site inspections should in this subparagraph be limited to ESMA.

Amendment 143 **Ernest Urtasun** on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point a

Regulation (EU) No 909/2014

Article 24 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The competent authority of the home Member State **may** transmit to ESMA any information received from the CSDs during or in relation to on-site inspections.;

Amendment

The competent authority of the home Member State **shall** transmit to ESMA any **relevant** information received from the CSDs during or in relation to on-site inspections.;

Or. en

Amendment 144

Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point c

Regulation (EU) No 909/2014

Article 24 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within its territory in accordance with Article 23 is in breach of the obligations arising from the provisions of this Regulation, it shall inform the competent authority of the home Member State, **ESMA and the passporting** college referred to in Article 24a of those findings.

Amendment

Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within its territory in accordance with Article 23 is in breach of the obligations arising from the provisions of this Regulation, it shall inform the competent authority of the home Member State **and ESMA. ESMA may inform the** college referred to in Article 24a of those findings.

Or. en

Justification

This amendment aims at avoiding the wrong impression that supervision of a CSD is a collective exercise by EU Member States. Not all CSD activities are relevant for all host Member States authorities. This is for example the case for operational processes specifically designed to act as issuer CSD for only one market, or when a CSD has an organisational issue in a branch in only one host Member State.

Amendment 145
Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point c

Regulation (EU) No 909/2014

Article 24 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Where, despite measures taken by the competent authority of the home Member State, the CSD persists in acting in infringement of the obligations arising from the provisions of this Regulation, the competent authority of the host Member State shall, after informing the competent authority of the home Member State, take all the appropriate measures needed in order to ensure compliance with the provisions of this Regulation within the territory of the host Member State. ESMA **and the passporting college referred to in Article 24a** shall be informed of such measures without delay.

Amendment

Where, despite measures taken by the competent authority of the home Member State, the CSD persists in acting in infringement of the obligations arising from the provisions of this Regulation, the competent authority of the host Member State shall, after informing the competent authority of the home Member State, take all the appropriate measures needed in order to ensure compliance with the provisions of this Regulation within the territory of the host Member State. ESMA shall be informed of such measures without delay. **ESMA may inform the college referred to in Article 24a of those measures.**

Or. en

Justification

This amendment aims at avoiding the wrong impression that supervision of a CSD is a collective exercise by EU Member States. Not all CSD activities are relevant for all host Member States authorities. This is for example the case for operational processes specifically designed to act as issuer CSD for only one market, or when a CSD has an organisational issue in a branch in only one host Member State.

Amendment 146
Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – title

Text proposed by the Commission

Colleges of Supervisors ***for CSDs providing services in another Member State and*** for CSDs that are part of a group with two or more CSDs

Amendment

Colleges of Supervisors for CSDs that are part of a group with two or more CSDs

Or. en

Amendment 147
Fulvio Martusciello

Proposal for a regulation
Article 1 – paragraph 1 – point 9
Regulation (EU) No 909/2014
Article 24a – title

Text proposed by the Commission

Colleges of Supervisors ***for CSDs providing services in another Member State and*** for CSDs that are part of a group with two or more CSDs

Amendment

Colleges of Supervisors for CSDs that are part of a group with two or more CSDs

Or. en

Amendment 148
Ernest Urtasun
on behalf of the Verts/ALE Group
René Repasi

Proposal for a regulation
Article 1 – paragraph 1 – point 9
Regulation (EU) No 909/2014
Article 24a – paragraph 1 – subparagraph 1

Text proposed by the Commission

Colleges of supervisors shall be established to carry out the tasks referred to in paragraph 6 in the following cases:

Amendment

Where a CSD is of substantial importance in more than one host Member State or where a CSD is part of a group that comprises two or more CSDs authorised in at least two Member States ESMA shall establish, manage and chair a college of

supervisors.

(a) where a CSD is subject to the procedure referred to in Article 23(3) to (7) ('passporting college');

(b) where a CSD is part of a group that comprises two or more CSDs authorised in at least two Member States ('group-level college').

Or. en

Amendment 149
Georgios Kyrtsos

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) where a CSD is subject to the procedure referred to in Article 23(3) to (7) ('passporting college'); **deleted**

Or. en

Justification

As cooperation between home and host Member States is currently insufficient and supervisory arrangements inefficient, the creation of mandatory colleges to promote supervisory convergence in the application of CSDR requirements is supported. Creating two types of supervisory colleges seems however disproportionate from an operational point of view. It is therefore suggested to simplify and streamline the Commission proposal by requiring the creation of colleges based on one existing reliable criterion, i.e. the substantial importance of a CSD in other Member States.

Amendment 150
Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) where a CSD is subject to the procedure referred to in Article 23(3) to (7) ('passporting college'); **deleted**

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 151

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

In the case referred to in the first subparagraph, point (a), the CSD's home competent authority shall establish, manage and chair the passporting college. That college shall be established within 1 month from the date referred to in Article 23(6). Where the CSD submits subsequent notifications pursuant to Article 23(3), the competent authority of the home Member State shall invite the competent authorities of the relevant host Member States to the passporting college within 1 month from the date referred to in Article 23(6). **deleted**

Or. en

Amendment 152

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

In the case referred to in the first subparagraph, point (a), the CSD's home competent authority shall establish, manage and chair the passporting college. That college shall be established within 1 month from the date referred to in Article 23(6). Where the CSD submits subsequent notifications pursuant to Article 23(3), the competent authority of the home Member State shall invite the competent authorities of the relevant host Member States to the passporting college within 1 month from the date referred to in Article 23(6).

deleted

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 153

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

In the case referred to in the first subparagraph, point (b), where the parent undertaking is a CSD authorised in the Union, the competent authority of the home Member State of that CSD shall establish, manage and chair the group-level college. Where the parent undertaking is not a CSD authorised in

deleted

the Union, the competent authority of the home Member State of the CSD with the largest balance sheet total shall establish, manage and chair the group-level college.

Or. en

Amendment 154
Georgios Kyrtos

Proposal for a regulation
Article 1 – paragraph 1 – point 9
Regulation (EU) No 909/2014
Article 24a – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

In the case referred to in the first subparagraph, point (b), where the parent undertaking is a CSD authorised in the Union, the competent authority of the home Member State of that CSD shall establish, manage and chair the group-level college. Where the parent undertaking is not a CSD authorised in the Union, the competent authority of the home Member State of the CSD with the largest balance sheet total shall establish, manage and chair the group-level college.

deleted

Or. en

Justification

As cooperation between home and host Member States is currently insufficient and supervisory arrangements inefficient, the creation of mandatory colleges to promote supervisory convergence in the application of CSDR requirements is supported. Creating two types of supervisory colleges seems however disproportionate from an operational point of view. It is therefore suggested to simplify and streamline the Commission proposal by requiring the creation of colleges based on one existing reliable criterion, i.e. the substantial importance of a CSD in other Member States.

Amendment 155
Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

In the case referred to in the first subparagraph, point (b), where the parent undertaking is a CSD authorised in the Union, the competent authority of the home Member State of that CSD shall establish, manage and chair the group-level college. Where the parent undertaking is not a CSD authorised in the Union, the competent authority of the home Member State of the CSD with the largest balance sheet total shall establish, manage and chair the group-level college.

deleted

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 156

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 4

Text proposed by the Commission

Amendment

By way of derogation from the third subparagraph, where the application of the criteria referred to in that subparagraph would be inappropriate, the competent authorities may waive by common agreement those criteria and appoint a different CSD's competent authority to manage and chair the college, taking into account the CSDs concerned and the relative importance of their activities in the relevant Member States.

deleted

In such cases, the parent CSD or the CSD with the largest balance sheet total, as applicable, shall have the right to be heard before the competent authorities take the decision.

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 157

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 4

Text proposed by the Commission

Amendment

By way of derogation from the third subparagraph, where the application of the criteria referred to in that subparagraph would be inappropriate, the competent authorities may waive by common agreement those criteria and appoint a different CSD's competent authority to manage and chair the college, taking into account the CSDs concerned and the relative importance of their activities in the relevant Member States. In such cases, the parent CSD or the CSD with the largest balance sheet total, as applicable, shall have the right to be heard before the competent authorities take the decision.

deleted

Or. en

Amendment 158

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 1 – subparagraph 5

Text proposed by the Commission

Amendment

The competent authorities shall notify the Commission and ESMA without delay of any agreement made pursuant to the fourth subparagraph.

deleted

Or. en

Amendment 159

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) ESMA;

(a) ESMA, ***as the chair of the college;***

Or. en

Amendment 160

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) in the case of a passporting college, the competent authority of the host Member States;

deleted

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 161

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 2 – point d

Text proposed by the Commission

(d) *in the case of a passporting college*, the competent authority of the host Member States;

Amendment

(d) the competent authority of the host Member States *where the CSD is of substantial importance*;

Or. en

Amendment 162

Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 2 – point d

Text proposed by the Commission

(d) *in the case of a passporting college*, the competent authority of the host Member States;

Amendment

(d) the competent authority of the host Member States;

Or. en

Justification

As cooperation between home and host Member States is currently insufficient and supervisory arrangements inefficient, the creation of mandatory colleges to promote supervisory convergence in the application of CSDR requirements is supported. Creating two

types of supervisory colleges seems however disproportionate from an operational point of view. It is therefore suggested to simplify and streamline the Commission proposal by requiring the creation of colleges based on one existing reliable criterion, i.e. the substantial importance of a CSD in other Member States.

Amendment 163

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 2 – point e

Text proposed by the Commission

(e) in the case of a **group-level college**, the competent authority and the relevant authorities of each CSD in the group;

Amendment

(e) in the case of a **group of CSDs**, the competent authority and the relevant authorities of each CSD in the group;

Or. en

Amendment 164

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 3

Text proposed by the Commission

3. Where a CSD subject to the procedure referred to in Article 23(3) to (7) is also part of a group that comprises two or more CSDs and its competent authority is the chair of the group-level college, that competent authority may decide that only one college shall be established for the purposes of paragraph 1, points (a) and (b), of this Article for that CSD. Where any of the other CSDs within the group are also subject to the procedure referred to in Article 23(3) to

Amendment

deleted

(7), the chair of the college may make that decision only with the agreement of the competent authorities of those CSDs.

Where a college established pursuant to the first subparagraph:

(a) convenes for the exercise of the tasks referred to in paragraph 6, points (a) to (d), of this Article, the authorities referred to in paragraph 2, points (a) to (f) of this Article in relation to each CSD within the group shall participate to that meeting of the college;

(b) convenes for the exercise of the tasks referred to in paragraph 6, point (e), of this Article only the authorities referred to, in paragraph 2, points (a), (b), (c), (e) and, where applicable, (f) of this Article shall participate to that meeting of the college.

Or. en

Amendment 165

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the coordination of the supervisory review and evaluation processes pursuant to Article 22 and Article 60 or that relate to the outsourcing of activities and services under Article 19;

Or. en

Amendment 166

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) ***in the case of a passporting college, the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article 23(4), point (e) and on any issues encountered in the provision of services in other Member States;*** ***deleted***

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 167

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) ***in the case of a passporting college, the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article 23(4), point (e) and on any issues encountered in the provision of services in other Member States;***

(d) the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article 23(4), point (e) ***or any breach of the requirements laid down in this Regulation arising from the provision of services in a host Member State referred to in Article 24(5) and on any issues encountered in the provision of services in other Member States;***

Or. en

Amendment 168
Georgios Kyrtos

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 – subparagraph 1 – point d

Text proposed by the Commission

(d) ***in the case of a passporting college***, the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article 23(4), point (e) and on any issues encountered in the provision of services in other Member States;

Amendment

(d) the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article 23(4), point (e) and on any issues encountered in the provision of services in other Member States;

Or. en

Justification

As cooperation between home and host Member States is currently insufficient and supervisory arrangements inefficient, the creation of mandatory colleges to promote supervisory convergence in the application of CSDR requirements is supported. Creating two types of supervisory colleges seems however disproportionate from an operational point of view. It is therefore suggested to simplify and streamline the Commission proposal by requiring the creation of colleges based one existing reliable criterion, i.e. the substantial importance of a CSD in other Member States.

Amendment 169
Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 – subparagraph 1 – point e

Text proposed by the Commission

(e) ***in the case of a group-level college***, the exchange of information on resources shared and outsourcing arrangements in place within a group of CSDs pursuant to Article 19, on significant changes to the structure and ownership of the group, and on changes in the

Amendment

(e) the exchange of information on resources shared and outsourcing arrangements in place within a group of CSDs pursuant to Article 19, on significant changes to the structure and ownership of the group, and on changes in the organisation, senior management,

organisation, senior management, processes or arrangements where those changes have a significant impact on governance or risk management for the CSDs belonging to the group.

processes or arrangements where those changes have a significant impact on governance or risk management for the CSDs belonging to the group.

Or. en

Justification

Two different sets of colleges could create an additional and unnecessary layer of complexity.

Amendment 170

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. At the request of any of its members, and upon adoption by a majority of the college in accordance with paragraph 6b, the college may adopt binding opinions with regard to issues identified during the review and evaluation processes pursuant to Article 22 or Article 60, or that relate to any extension or outsourcing of activities and services under Article 19, or concerning any potential breach of the requirements laid down in this Regulation arising from the provision of services in a host Member State as referred to in Article 24(5).

Or. en

Amendment 171

Georgios Kyrtosos, Nicola Beer

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. At the request of any of its members, and upon adoption by a majority of the college in accordance with paragraph 6b, the college may adopt reasoned opinions with regard to issues identified during the review and evaluation processes pursuant to Article 22 or Article 60, or that relate to any extension or outsourcing of activities and services under Article 19, or concerning any potential breach of the requirements laid down in this Regulation arising from the provision of services in a host Member State as referred to in Article 24(5).

Or. en

Justification

Members of a college should be able to request the adoption of reasoned opinions on application issues identified during the review and evaluation process of CSDs and of providers of banking-type ancillary services, the extension or outsourcing of activities and services provided by the CSD, and the potential breach of CSDR requirements arising from the provision of services in a host Member State. Colleges should thus effectively be tools for the promotion of supervisory convergence. The process for the adoption of opinions should rely on a simple majority vote process.

Amendment 172

Georgios Kyrtsos, Nicola Beer

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. A reasoned opinion of the college shall be adopted on the basis of a simple majority of its members. Each member of

the college shall have one vote. Members of the college that act in more than one capacity, including as competent authority and as relevant authority, shall have one vote for each capacity in which it acts. Where EBA is a member of the college pursuant to paragraph 2 of this Article, its voting member shall have voting rights only on those opinions that relate to issues identified during the review and evaluation process pursuant to Article 60.

Or. en

Justification

This amendment suggests that the adoption by the college of an opinion pursuant to Article 24a (new) paragraph 6a (new) would require a simple majority of the members of the college. It notably also gives ESMA voting rights as a full member of the college, thus enabling ESMA to identify and address supervisory convergence issues. Voting rights of EBA are restricted to issues relating to banking-type ancillary services.

Amendment 173

Markus Ferber

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 909/2014

Article 24a – paragraph 7 – subparagraph 2

Text proposed by the Commission

That agreement shall determine the practical arrangements for the functioning of the college, including the modalities of communication amongst college members, and may determine tasks to be entrusted to the CSD's competent authority or another member of the college.

Amendment

That agreement shall determine the practical arrangements for the functioning of the college, including the modalities of communication amongst college members, and may determine tasks to be entrusted to the CSD's competent authority or another member of the college, ***as well as the modalities for inviting other relevant authorities on an ad hoc basis and for specific topics.***

Or. en

Amendment 174

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point -a (new)

Regulation (EU) No 909/2014

Article 25 – paragraph 2

Present text

2. Notwithstanding paragraph 1, a third-country CSD that intends to provide the core services referred to ***in points (1) and (2) of*** Section A of the Annex in relation to financial instruments constituted under the law of a Member State referred to in the second subparagraph of Article 49(1) or to set up a branch in a Member State shall be subject to the procedure referred to in paragraphs 4 to 11 of this Article.

Amendment

(-a) paragraph 2 is replaced by the following:

"2. Notwithstanding paragraph 1, a third-country CSD that intends to provide the core services referred to Section A of the Annex in relation to financial instruments constituted under the law of a Member State referred to in the second subparagraph of Article 49(1) or to set up a branch in a Member State shall be subject to the procedure referred to in paragraphs 4 to 11 of this Article."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0909-20220622&from=EN>)

Justification

This AM expands the scope of the recognition regime to all CSDR core services, which today applies only to notary and central maintenance services, but not to the provision of settlement services.

Amendment 175

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point a a (new)

Regulation (EU) No 909/2014

Article 25 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(a a) in paragraph 4, the following point is inserted:

(ca) the CSD is established or authorised in a third country that is not considered as having strategic deficiencies in its national anti-money laundering and counter financing of terrorism regime that poses significant threats to the financial system of the Union, in accordance with Article 9 of Directive (EU) 2015/849 of the European Parliament and of the Council^{1a};

^{1a} **Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).**

Or. en

Amendment 176

Ernest Urtasun

on behalf of the Verts/ALE Group

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b a (new)

Regulation (EU) No 909/2014

Article 25 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is inserted:

6a. ESMA shall be responsible for carrying out the duties resulting from this Regulation for the supervision on an ongoing basis of the compliance of recognised CSDs with the requirements referred to in this Article.

ESMA shall have all the necessary supervisory and investigatory powers for the exercise of its duties.

Or. en

Justification

If adopted, this amendment will require further adjustments to provide ESMA with adequate supervisory powers of recognised third-country CSDs, in line with the framework for recognition and supervision of Tier 2 third-country CCPs.

Amendment 177

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new)

Regulation (EU) No 909/2014

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(12 a) in Article 29, the following paragraph is inserted:

‘(2a) Prior to using the services of a CSD, an issuer shall ensure that it is identified with a valid legal entity identifier (LEI). A CSD shall not provide services under this Regulation to an issuer prior to obtaining the LEI from that issuer.’;

Or. en

Amendment 178

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new)

Regulation (EU) No 909/2014

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(12 a) in Article 29, the following paragraph is inserted:

'2a. Prior to using the services of a CSD, issuers shall be required to obtain and transmit to the CSD a valid legal entity identifier (LEI). CSDs shall be prohibited from providing services under this Regulation to an issuer prior to obtaining the LEI from that issuer.'

Or. en

Justification

Legal Entity Identifiers enable clear and unique identification of legal entities participating in financial transactions, and are useful for regulatory purposes and ensuring market transparency.

Amendment 179

Stéphanie Yon-Courtin

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EU) No 909/2014

Article 40 – paragraph 2

Text proposed by the Commission

Amendment

2. Where it is not practical and available to settle in central bank accounts as provided in paragraph 1, 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, through a CSD that is authorised to provide the services listed in Section C of the Annex whether within the same group of undertakings ultimately controlled by the same parent undertaking or not, or through its own accounts. If a

2. Where it is not practical and available to settle in central bank accounts as provided in paragraph 1, a CSD may offer to settle ***the cash leg of transactions in third country currencies in commercial bank money*** through accounts opened with a credit institution, through a CSD that is authorised to provide the services listed in Section C of the Annex whether within the same group of undertakings ultimately controlled by the same parent undertaking or not, or through its own accounts. If a

CSD offers to settle in accounts opened with a credit institution, through its own accounts or the accounts of another CSD, it shall do so in accordance with the provisions of Title IV.;

CSD offers to settle in accounts opened with a credit institution, through its own accounts or the accounts of another CSD, it shall do so in accordance with the provisions of Title IV.;

Or. en

Amendment 180

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 14 a (new)

Regulation (EU) No 909/2014

Article 47 a (new)

Text proposed by the Commission

Amendment

(14 a) the following Article is inserted:

'Article 47a

Netting

1. CSDs shall expressly indicate in their internal rules whether they apply netting arrangements.

2. CSDs applying netting arrangements shall measure, monitor, and manage the credit and liquidity risks arising from netting arrangements.

3. ESMA shall, in close cooperation with the EBA and the members of the ESCB, develop draft regulatory technical standards to further specify details of the frameworks for the monitoring, measuring, management, reporting and public disclosure of the risks stemming from netting arrangements.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [one year after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards

referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’.

Or. en

Justification

Based on ECB recommendation in its opinion of 28 July 2022, in line with CPSS-IOSCO principles.

Amendment 181

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 14 a (new)

Regulation (EU) No 909/2014

Article 47a (new)

Text proposed by the Commission

Amendment

(14a) the following Article is inserted :

'Article 47a

Netting

CSDs shall expressly indicate in their internal rules whether they apply netting arrangements.

CSDs applying netting arrangements shall measure, monitor, and manage the credit and liquidity risks arising from netting arrangements.

ESMA shall, in close cooperation with the EBA and the members of the ESCB, develop draft regulatory technical standards to further specify details of the frameworks for the monitoring, measuring, management, reporting and public disclosure of the risks stemming from netting arrangements. ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by ... [one year after the date of entry into force of this amending Regulation]. Power is delegated to the Commission to adopt the

regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.'

Or. en

Justification

The European Commission's proposal to require credit institutions and banking CSDs to manage any risks stemming from netting arrangements should apply to all CSDs that use netting arrangements. ESMA should develop RTS in close cooperation with EBA and ESCB.

Amendment 182
Markus Ferber

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EU) No 909/2014
Article 49 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

(a) the ***corporate or similar*** law of the Member State where the issuer is established; and

Amendment

(a) ***for shares***, the law of the Member State where the issuer is established; and

Or. en

Amendment 183
Markus Ferber

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EU) No 909/2014
Article 49 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) the ***governing corporate or similar*** law under which the securities are issued.

Amendment

(b) ***for securities other than shares***, the law ***of the Member State*** under which the securities are issued.

Or. en

Amendment 184
Markus Ferber

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EU) No 909/2014
Article 49 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Member States shall compile a list of key relevant provisions of their law, as referred to in the second subparagraph. Competent authorities shall communicate that list to ESMA by 18 December 2014. ESMA shall publish the list by 18 January 2015. Member States shall update that list ***regularly and at least*** every 2 years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.;

Amendment

Member States shall compile a list of key relevant provisions of their law, as referred to in the second subparagraph. Competent authorities shall communicate that list to ESMA by 18 December 2014. ESMA shall publish the list by 18 January 2015. Member States shall update that list every 2 years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.;

Or. en

Amendment 185
Stéphanie Yon-Courtin

Proposal for a regulation
Article 1 – paragraph 1 – point 17 – point a a
Regulation (EU) No 909/2014
Article 54 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(a a) in paragraph 2, the following subparagraph is added:

"A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 40(2) in a third-country currency, shall also be entitled to designate a CSD authorised to provide banking-type ancillary services pursuant to paragraph 3 of this Article."

Amendment 186
René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point b – point i

Regulation (EU) No 909/2014

Article 54 – paragraph 4 – subparagraphs 1a and 1 b (new)

Text proposed by the Commission

Amendment

Where a CSD seeks to designate a credit institution which does not itself carry out any of the core services referred to in Section A of the Annex, the authorisation referred to in point (a) of the first subparagraph is used only to provide the banking-type ancillary services referred to in Section C of the Annex for settlement of the cash leg of the transactions in the securities settlement system of the CSD seeking to use the banking-type ancillary services in a currency or currencies other than that of the country where the settlement takes place, and not to carry out any other activities.

Where a CSD seeks to use a CSD that is authorised pursuant to paragraph 3, the authorisation referred to in point (a) of the first subparagraph is used only to provide the banking-type ancillary services in Section C of the Annex for the settlement of the cash leg of the transactions in the securities settlement system of the CSD seeking to use the banking-type ancillary services in a currency or currencies other than that of the country where the settlement takes place, and not to carry out any other activities.

Amendment 187

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point b – point ii a (new)

Regulation (EU) No 909/2014

Article 54 – paragraph 4 – point d

Present text

(d) the authorisation referred to in point (a) is used only to provide the banking-type ancillary services referred to in Section C of the Annex and not to carry out any other activities

Amendment

(ii a) in paragraph 4, point (d) is replaced by the following:

"(d) where a CSD seeks to designate a credit institution that does not itself carry out any of the core services referred to in Section A of the Annex, the authorisation referred to in point (a) is used only to provide the banking-type ancillary services referred to in Section C of the Annex for settlement of the cash leg corresponding to the transactions in the securities settlement system of the CSD seeking to use the banking-type ancillary services in a currency other than that of the country where the settlement takes place, and not to carry out any other activities.

Where a CSD seeks to use a CSD that is authorised pursuant to paragraph 3, the authorisation referred to in point (a) is used only to provide the banking-type ancillary services in Section C of the Annex for the settlement of the cash leg of the transactions in the securities settlement system of the CSD seeking to use the banking-type ancillary services in a currency other than that of the country where the settlement takes place, and not to carry out any other activities;"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0909-20220622&from=EN>)

Justification

Based on ECB recommendation to restrict the provision of banking-type ancillary services to

settlement in foreign currency, where settlement in central bank money is not available.

Amendment 188
Markus Ferber

Proposal for a regulation
Article 1 – paragraph 1 – point 17 – point c
Regulation (EU) No 909/2014
Article 54 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Paragraph 4 shall not apply to credit institutions referred to in paragraph 2, point (b), that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions does not exceed a maximum amount calculated over a one-year period. That threshold shall be determined in accordance with paragraph 9.

Amendment

Paragraph 4 shall not apply to credit institutions referred to in paragraph 2, point (b), that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions does not exceed a maximum amount calculated over a one-year period. That threshold shall be determined in accordance with paragraph 9 ***and be reviewed on an annual basis.***

Or. en

Amendment 189
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – point 17 – point c
Regulation (EU) No 909/2014
Article 54 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The competent authority shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to ***ESMA, ESCB and EBA.*** ***Where*** the competent authority determines that the threshold has been exceeded, ***it*** shall require the CSD concerned to seek authorisation in

Amendment

ESMA shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to the competent authority, ***ESCB and EBA.*** ***Where ESMA*** determines that the threshold has been exceeded, ***the competent authority*** shall require the CSD concerned to seek authorisation in

accordance with paragraph 4. The CSD concerned shall submit its application for authorisation within 6 months.;

accordance with paragraph 4. The CSD concerned shall submit its application for authorisation within 6 months.;

Or. en

Amendment 190
Markus Ferber

Proposal for a regulation
Article 1 – paragraph 1 – point 17 – point d
Regulation (EU) No 909/2014
Article 54 – paragraph 9 – subparagraph 1

Text proposed by the Commission

EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount referred to in paragraph 5, taking into account ***the need to balance*** the credit and liquidity risks for CSDs that result from the settlement of cash payments through accounts opened with credit institutions ***and*** the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions. When developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements.

Amendment

EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount referred to in paragraph 5, taking into account ***at least the following criteria:***

(a) the implications for the market stability that could derive from a change of risk profile of CSDs and their participants, taking into account the systemic importance of CSDs for the functioning of securities markets;

(b) the implications for the credit and liquidity risks for CSDs, for the designated credit institution(s) involved and for the CSD participants that that result from the settlement of cash payments through accounts opened with credit institutions

exempted from the application of paragraph 4;

(c) the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions;

(d) that it should not undermine the use of central bank money where practical and available; and

(e) the existing global guidance and principles related to this activity.

When developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements.

Or. en

Justification

Article provides guidance for factors for EBA to take into account when setting the relevant thresholds.

Amendment 191

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point d

Regulation (EU) No 909/2014

Article 54 – paragraph 9 – subparagraph 1

Text proposed by the Commission

EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount referred to in paragraph 5, taking into account the need to balance the credit and liquidity risks for CSDs that result from the settlement of cash payments through accounts opened with credit institutions and the need to allow CSDs to settle in foreign currencies through

Amendment

EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount referred to in paragraph 5, taking into account:

accounts opened with such credit institutions. *When developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements.*

(a) the need to balance the credit and liquidity risks for CSDs that result from the settlement of cash payments through accounts opened with credit institutions and the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions.

(b) that it can not undermine the use of central bank money where practical and available;

(c) the existing global guidance and principles related to this activity;

(d) the implications for the market stability that could derive from a change of risk profile of CSDs, taking into account their systemic importance for the functioning of securities markets.

Or. en

Amendment 192

René Repasi

Proposal for a regulation

Article 1 – paragraph 1 – point 19 – point a – point iii

Regulation (EU) No 909/2014

Article 59 – paragraph 4 – point k

Text proposed by the Commission

Amendment

(iii) the following point (k) is added:

deleted

(k) it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.;

Justification

Introduction of requirements for all CSDs without exceptions to manage risks associating with netting arrangements

Amendment 193

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 23 – point b

Regulation (EU) No 909/2014

Article 69 – paragraph 4a – subparagraph 1 – point b

Text proposed by the Commission

(b) ... [PO please insert the date = **3 years** after the date of entry into force of this Regulation].

Amendment

(b) ... [PO please insert the date = **1 year** after the date of entry into force of this Regulation].

Amendment 194

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 23 – point b

Regulation (EU) No 909/2014

Article 69 – paragraph 4a – subparagraph 2

Text proposed by the Commission

A third-country CSD that provides the core services referred to in Section A, points (1) and (2), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph pursuant to the applicable national rules on the recognition of third-country CSDs shall submit a notification to ESMA within **2 years** from [PO please insert the date of

Amendment

A third-country CSD that provides the core services referred to in Section A, points (1) and (2), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph pursuant to the applicable national rules on the recognition of third-country CSDs shall submit a notification to ESMA within **one year** from ... [PO please insert the date of

entry into force of this Regulation].

entry into force of this Regulation].

Or. en

Amendment 195

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 23 – point b

Regulation (EU) No 909/2014

Article 69 – paragraph 4b

Text proposed by the Commission

4b. A third-country CSD that provided the core service referred to in Section A, point (3), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), before ... [PO please enter the date of entry into force of this Regulation] shall submit the notification referred to in Article 25(2a) within **2 years** from ...[PO please insert the date of entry into force of this Regulation].

Amendment

4b. A third-country CSD that provided the core service referred to in Section A, point (3), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), before ... [PO please enter the date of entry into force of this Regulation] shall submit the notification referred to in Article 25(2a) within **one year** from ...[PO please insert the date of entry into force of this Regulation].

Or. en

Amendment 196

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – point 23 a (new)

Regulation (EU) No 909/2014

Article 72

Present text

Article 72

Amendment to Regulation (EU) No

Amendment

(23 a) Article 72 is replaced by the following:

"Article 72

Amendment to Regulation (EU) No

Article 15 of Regulation (EU) No 236/2012 is deleted.

The following Article is inserted:

‘Article 15

Buy-in procedures

Without prejudice to additional measures adopted under the CSDR, a central counterparty in a Member State that provides clearing services for shares shall ensure that procedures are in place that comply with all of the following requirements:

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

(b) where the buy-in of the shares for delivery is not possible, an amount is paid to the buyer based on the value of the shares to be delivered at the delivery date plus an amount for losses incurred by the buyer as a result of the settlement failure;

(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).

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

The daily payments referred to in the third subparagraph shall be sufficiently high to act as a deterrent to natural or legal persons failing to settle."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0909->

Justification

This AM reintroduces the mandatory buy-in provisions applying to central counterparties clearing transactions in shares under the Short Selling Regulation, with a view to ensuring continuity of those provisions. It also clarifies that such regime should apply without prejudice to potential broader buy-in requirements to be applied under this Regulation.

Amendment 197

Stéphanie Yon-Courtin

Proposal for a regulation

Article 1 – paragraph 1 – point 24 – point a a (new)

Regulation (EU) No 909/2014

Article 74 – paragraph 1 –a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph 1-a is inserted:

1-a. Upon the request of the Commission, the ESMA shall provide a cost-benefit analysis as referred to in Article 7(1) of a potential mandatory buy-in procedure. The analysis shall consist of the following:

(a) the average duration of settlement fails to which such a mandatory buy-in procedure could apply;

(b) the impact of the mandatory buy-in procedure on the EU market, including the analysis of the implication of subjecting specific financial instruments and categories of transactions to the mandatory buy-in procedure;

(c) the application of a similar buy-in procedure in comparable third-country markets and the impact on the competitiveness of the Union market;

(d) any clear impacts on financial stability stemming from the settlement fails.

Or. en

Justification

Cost-benefit analysis provided by ESMA is an additional guarantee, complementary to the conditions proposed by the Commission, that the mandatory buy-in tool will only be used a last resort measure. Therefore, it also needs to be specified what information should the analysis include.

Amendment 198

Johan Van Overtveldt

Proposal for a regulation

Article 1 – paragraph 1 – point 24 a (new)

Regulation (EU) No 909/2014

Article 74 a (new)

Text proposed by the Commission

Amendment

(24 a) The following Article is inserted:

"Article 74a

***Accessibility of information on the
European Single Access Point (ESAP)***

1. In order to support the provision of accurate, timely and complete information on penalties under Article 7 of Regulation (EU) 909/2014, information necessary for the calculation of cash penalty amounts shall be centralised in the European Single Access Point [ESAP] established under the Regulation of the European Parliament and of the Council establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability [ESAP Regulation].

2. From 1 January 2027, when making public any information pursuant to Article 7(14) of this Regulation, the reporting entities shall submit that information to the relevant collection body referred to in paragraph 3 of this Article at the same time for accessibility on the ESAP.

3. From 1 January 2026, for the purposes

of making accessible on ESAP the information referred to in Article 12(2) and Article 62, the collection body as defined in Article 2, point (2), of the ESAP Regulation shall be ESMA.

4. For the purposes of ensuring an efficient collection and administration of data submitted in accordance with paragraph 1, ESMA shall develop draft implementing technical standards to specify the list of financial instruments that fall within the scope of this Regulation and category of each such instrument.

Before developing the draft implementing technical standards, ESMA shall carry out a cost-benefit analysis. For the purposes of point (c), ESMA shall assess the advantages and disadvantages of different machine-readable formats and conduct appropriate field tests for that purpose.

ESMA shall submit those draft implementing technical standards to the Commission. Power is conferred on the Commission to adopt the implementing technical standards in accordance with Article 15 of Regulation (EU) No 1095/2010. "

Or. en

Justification

This amendments aims at making operational amendment 25 from the draft report. Currently, reference data are sourced from multiple locations, requiring significant efforts by market participants and limiting their ability to effectively monitor their exposure to penalties. Consolidating information into a single source such as European Single Access Point (ESAP) would be a significant improvement. Your Rapporteur tabled similar amendments to the ESAP Omnibus Regulation.

Amendment 199

René Repasi, Ernest Urtasun

Proposal for a regulation

Article 1 – paragraph 1 – point 25

Regulation (EU) No 909/2014
Article 75 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

***(ba) further regulate the practice of
internalised settlement;***

Or. en

Justification

Internalised settlement is the practice where securities transactions are settled outside the formal settlement systems provided by CSDs. Considering the high values and volumes of internalised settlement in the EU, the European Commission should review whether this activity should be regulated in future.