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2009 - 2014

Committee on Legal Affairs

2009/0161(COD)

30.4.2010

OPINION

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council amending Directives 1998/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC, and 2009/65/EC in respect of the powers of the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (COM(2009)0576 – C7-0251/2009 – 2009/0161(COD))

Rapporteur: Sajjad Karim

PA_Legam

SHORT JUSTIFICATION

Background

The European Commission has proposed the establishment of a new architecture for EU financial regulation to improve the quality and consistency of supervision, ensure more effective rulemaking and enforcement and better identify risks in the financial system. It is proposed to establish a European System of Financial Supervisors (ESFS), comprising of a network of national financial supervisors working with three European Supervisory Authorities (ESAs): a European Banking Authority (EBA); a European Insurance and Occupational Pensions Authority (EIOPA); and a European Securities and Markets Authority (ESMA). A European Systemic Risk Board (ESRB) will also be established to monitor and assess potential threats to financial stability.

The Committee on Legal Affairs adopted its opinion, in which it broadly supports the Commission's objectives outlined above and the structure proposed, believing, however, that it is important for the principle of subsidiarity to be respected and for Member States and national financial supervisors to retain competence where this would be appropriate.

Key concerns

Your rapporteur's key concerns with regards to the scope of the rulemaking powers of the ESAs and the Commission, the delegation of binding decision-making powers to the ESAs, the role of the ESAs in mediating between possible disagreements between national financial supervisors were considered in the final opinion.

As the directive concerned refers to 11 other directives, some of which have not yet been enacted and may be substantially amended, it would have been desirable to have more time for in-depth legal analysis to take place. However, the opinion of the Committee on Legal Affairs is intended to constructively feed into the work of the lead committee.

Technical standards

Under the proposals, the ESAs will be able to develop draft technical standards, to be endorsed by the Commission.. Whilst it is provided in the recital that "*technical standards should not...involve policy choices*", the scope of the current provisions appears unnecessarily broad with *flexibility* being identified as one of the overlying principles in the explanatory memorandum. Whilst the rapporteur accepts that a level of flexibility is necessary in order for the ESAs to operate effectively in producing technical standards, he nonetheless believes that amendments are necessary in specific instances where the creation of technical standards would involve policy choices.

As the proposal was presented by the Commission before the Lisbon Treaty came into force, alignment of the proposed procedure for the adoption of technical standards to the Treaty of the Functioning of the European Union was necessary. In line with the rapporteur's approach that the adoption of technical standards should be a power to be conferred on the Commission under Article 290 TFEU as delegated acts, a package of amendments was adopted by the committee. These amendments are intended to amend the 11 directives, which are being amended by the Commission's proposal, only in so far as technical standards and the new

Authorities are concerned. All other comitology provisions of the amended directives are not yet touched by these amendments, as set out in the proposed new recital 14a (new), but have to be amended, from the committee's point of view, as quickly as possible in accordance with the principles set out in the Szajer report¹ (see in particular point 18), preferring as far as possible delegated acts.

The package of the adopted amendments intends to follow closely the proposals of the Szajer report, by proposing the delegation of powers to the Commission in accordance with Article 290 TFEU for a limited period of time (here 5 years), which can be extended on the request of the Commission for periods of five years, revocation by the Parliament or the Council at any time, and objection by the Parliament or the Council within a period of 3 months.

As regards the drafting of the standards by the Authorities and the adoption of the standards by the Commission, reference is made to the procedure in Article 7 of the three ESA regulations.

Settlement of disagreements between national supervisory authorities

In the individual directives concerning the ESAs, mechanisms are proposed by which: an ESA is able to decide when a national financial supervisor has not complied with one of its recommendations; and for dispute resolution by an ESA between national financial supervisors. The rapporteur's concerns that the delegation of discretion to these new agencies could contravene ECJ case-law² which established that an agency of the Community cannot exceed clearly defined executive powers and must not exercise discretionary power, and that an institution may not delegate powers that it does not possess, are reflected in specific amendments with regard to the ESAs resolving difficulties in the drafting. These relate specifically to the settlement of disagreements.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive – amending act Recital 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(1) The financial crisis in 2007/2008 exposed important shortcomings in financial supervision, both in particular	(1) The financial crisis in 2007/2008 exposed important shortcomings in financial supervision, both in particular

¹ Report of the Committee on Legal Affairs of 29.3.2010, rapporteur Jozsef Szajer, PE439.171v03-00.

² Judgments of the Court of Justice of 13 June 1958, *Meroni v High Authority*, C-9/56 and 10/56, 1958 E.C.R. 133 and 157.

cases and in relation to the financial system as a whole. **National** supervisory models have lagged behind the integrated and interconnected reality of European financial markets, in which many financial firms operate across borders **and offer financial services to businesses and consumers**. The crisis exposed shortcomings in the area of cooperation, coordination, consistent application of **Community** law and trust between national supervisors.

Amendment 2

Proposal for a directive – amending act Recital 6

Text proposed by the Commission

(6) In order for the European System of Financial Supervisors to work effectively, changes to **Community** legislation in the field of operation of the three Authorities are necessary. These changes concern the definition of the scope of certain powers of the European Supervisory Authorities, the integration of certain powers **in existing processes** established in **relevant Community** legislation and amendments to ensure a smooth and effective functioning in the context of the European System of Financial Supervisors.

Amendment 3

Proposal for a directive – amending act Recital 7

Text proposed by the Commission

(7) The establishment of the three European Supervisory Authorities (**ESA**) should be accompanied by the development of a single set of harmonised rules so as to ensure uniform application

cases and in relation to the financial system as a whole. **Nationally-based** supervisory models have lagged behind the integrated and interconnected reality of European financial markets, in which many financial firms operate across borders. The crisis exposed shortcomings in the area of cooperation, coordination, consistent application of **Union** law and trust between national supervisors.

Amendment

(6) In order for the European System of Financial Supervisors to work effectively, changes to **Union** legislation in the field of operation of the three Authorities are necessary. These changes concern the definition of the scope of certain powers of the European Supervisory Authorities, the integration of certain powers established in **Union** legislation and amendments to ensure a smooth and effective functioning in the context of the European System of Financial Supervisors.

Amendment

(7) The establishment of the three European Supervisory Authorities (**ESAs**) should be accompanied by the development of a single set of harmonised rules so as to ensure uniform application

and thus contribute to a more effective functioning of the Internal Market. The Regulations establishing the ESFS provide that the *European Supervisory Authorities* may develop draft technical standards in the areas specifically set out in the relevant legislation, to be submitted to the Commission for adoption by means of **Regulations or Decisions**. The relevant legislation should define those areas where the *European Supervisory Authorities are* empowered to **develop draft** technical standards.

and thus contribute to a more effective functioning of the Internal Market. The Regulations establishing the ESFS provide that the *ESAs* may develop draft technical standards in the areas specifically set out in the relevant legislation, **not including policy decisions**, to be submitted to the Commission for adoption by means of **delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union**. The relevant legislation should define those areas where the **Commission is** empowered to **adopt** technical standards **by means of delegated acts**.

Justification

It must be made clear in legal terms that draft technical standards should not include policy decisions as laid out in the establishing Directives of the EBA, ESMA and EIOPA.

Amendment 4

Proposal for a directive – amending act Recital 8

Text proposed by the Commission

(8) The identification of areas for technical standards should strike an appropriate balance between building a single set of harmonised rules, without unduly complicating regulation. Only those areas should be selected where consistent technical rules will contribute significantly to financial stability, depositor, policy holder and investor protection, market efficiency and integrity, and eliminate distortions of competition and risks of regulatory arbitrage.

Amendment

(8) The identification of areas for technical standards should strike an appropriate balance between building a single set of harmonised rules, without unduly complicating regulation. Only those areas should be selected where consistent technical rules will contribute significantly to financial stability, depositor, policy holder and investor protection, market efficiency and integrity, and eliminate distortions of competition and risks of regulatory arbitrage, **while ensuring that policy decisions are taken, in accordance with the usual procedures, by the European Parliament, the Council and the Commission**.

Justification

Technical standards should not involve policy choices. The rapporteur emphasises that policy

decisions need to have legislative oversight.

Amendment 5

Proposal for a directive – amending act Recital 9

Text proposed by the Commission

(9) Matters subject to technical standards should be genuinely technical, where their development requires the expertise of supervisory experts. The technical standards ***should determine the conditions of application of the rules included in basic instruments adopted by the European Parliament and the Council and, where applicable, in Commission implementing measures without amending non-essential elements of those acts, inter alia by deleting some of those elements or by supplementing the act by the addition of new non-essential elements.*** Technical standards should not therefore involve policy choices. ***In cases where the technical standards are designed to determine the conditions of application of a Commission implementing measure, they should only be developed once the Commission implementing measure has been adopted. In certain cases where at present the Commission is empowered to adopt implementing measures in accordance with committee procedures pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, and the content of those implementing measures is limited to determining the conditions of application of rules included in the basic instruments, which do not require further supplementing,*** it is appropriate ***for the sake of consistency*** to introduce the procedure for adoption of technical standards provided for in Article 7 of Regulations (EC) No. .../...[EBA], No.

Amendment

(9) Matters subject to technical standards should be genuinely technical, where their development requires the expertise of supervisory experts. The technical standards ***of general application should be limited to supplementing or amending certain non-essential elements of the basic legislative act.*** Technical standards should not therefore involve policy choices. ***In accordance with Article 290 of the Treaty on the Functioning of the European Union, the Commission should be empowered to adopt those technical standards by means of delegated acts. The Commission should be able to use the expertise of the ESAs as set out in the Regulations establishing the ESFS. For the sake of consistency,*** it is ***therefore*** appropriate to introduce the procedure for the adoption of technical standards provided for in Article 7 of Regulations (EC) No. .../...[EBA], No. .../... [ESMA], and No. .../... [EIOPA].

.../... [ESMA], and No. .../... [EIOPA].

Justification

Where legislation is currently under review proper co-legislative procedures should be used to assure absolute certainty in what the content of draft technical standards should be so necessary adjustments can be made via the proper procedures.

Amendment 6

Proposal for a directive – amending act Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) This Directive should therefore identify situations where a procedural or a substantive issue of compliance with Union law may need to be resolved and the supervisors may not be able to resolve the matter on their own. In such a situation, one of the supervisors involved should be able to refer the issue to the competent ESA. The ESA should act in accordance with the procedure set out in this Directive. It should be able to require the competent authorities concerned to take specific action or to refrain from action in order to settle the matter and to ensure compliance with Union law, with binding effects on the competent authorities concerned.

In cases where the relevant EU legislation confers discretion on Member States, decisions taken by the ESA should not replace the national supervisors' exercise of discretion in compliance with Union law.

Justification

In order for there to be compliance with ECJ case-law (C -9/56 and 10/56, Meroni v High Authority, [1958] E.C.R. 133 and 157), it is important that decisions taken by ESAs do not replace the lawful exercise of judgement by national supervisors. Under Meroni, an institution may not delegate powers that it does not itself possess.

Amendment 7

Proposal for a directive – amending act Recital 13

Text proposed by the Commission

(13) Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions provides for mediation or joint decisions as regards the determination of significant branches for the purposes of supervisory college membership, model validation and group risk assessment. In all of these areas, an amendment should clearly state that in the event of disagreement during the specified time period, the European Banking Authority may resolve the disagreement using the process outlined in Regulation .../... [EBA]. This approach makes it clear that disagreements can be resolved and cooperation strengthened before a final decision is made or issued to an institution.

Amendment

(13) Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions provides for mediation or joint decisions as regards the determination of significant branches for the purposes of supervisory college membership, model validation and group risk assessment. In all of these areas, an amendment should clearly state that, in the event of disagreement during the specified time period, the European Banking Authority may resolve the disagreement using the process outlined in Regulation .../... [EBA]. This approach makes it clear that, ***while the European Banking Authority cannot replace national supervisors' discretionary judgments***, disagreements can be resolved and cooperation strengthened before a final decision is made or issued to an institution.

Justification

In areas of disagreement between national financial supervisors, the ability of the ESAs to assist in reaching an agreement should not extend to being able to replace national supervisors' discretionary judgements, to ensure compliance with ECJ case-law.

Amendment 8

Proposal for a directive – amending act Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The alignment of comitology procedures to, respectively, Articles 290 (delegated acts) and 291 (implementing acts) of the Treaty on the Functioning of the European Union (TFEU) should be done step by step. This Directive should

adapt to Articles 290 and 291 TFEU the relevant provisions of the amended Directives referred to in recital 20 only in so far as the new ESAs are concerned and only to the extent that they relate to technical standards. This alignment, as well as further alignments of other comitology provisions contained in the amended Directives, should not be limited to measures previously dealt with under the regulatory procedure with scrutiny but should cover all appropriate measures of general scope independently of the decision-making procedure or the comitology procedure applicable to them prior to the entry into force of the Treaty of Lisbon. In order to ensure consistency, further alignment with Articles 290 and 291 TFEU of other comitology procedures contained in the amended Directives referred to in recital 20 should be done in accordance with the provisions of this Directive.

Amendment 9

Proposal for a directive – amending act Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Confidential information transmitted to or exchanged between competent authorities and the European Securities and Markets Authority or the European Systemic Risk Board should be covered by the obligation of professional secrecy, to which the persons employed or formerly employed by the competent authorities receiving the information are subject.

Amendment 10

Proposal for a directive – amending act Recital 18

Text proposed by the Commission

Amendment

(18) In those areas where the Authorities are under an obligation to develop draft technical standards, those draft technical standards should be submitted to the Commission within three years of the creation of the Authorities.

deleted

Amendment 11

Proposal for a directive – amending act Article 2 – point 3 Directive 2002/87/EC Chapter III – title

Text proposed by the Commission

Amendment

***CONFERRED POWERS AND
COMMITTEE PROCEDURES***

DELEGATED POWERS

Amendment 12

Proposal for a directive – amending act Article 2 – point 6 Directive 2002/87/EC Article 21a – title and paragraph 1

Text proposed by the Commission

Amendment

Technical Standards

Technical standards – *delegated acts*

1. In order to ensure uniform application of this Directive, the European Supervisory Authorities, in accordance with Articles 42 of Regulation .../... [EBA], Regulation .../... [EIOPA], and Regulation .../... [ESMA] may develop draft technical standards, with regard to:

1. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards with regard to Article 6(2) in order to clarify the calculation methods listed in Part II of Annex I, but without prejudice to Article

6(4).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

(a) Article 2(11) in order to determine the conditions of application of Article 17 of Council Directive 78/660/EEC in the context of this Directive;*

(b) Article 2(17) in order to determine the conditions of application relating to the procedures for the determination of 'relevant competent authorities';

(c) Article 3(5) in order to determine the conditions of application of the alternative parameters for the identification of a financial conglomerate

(d) Article 6(2) in order to determine the conditions of application of the calculation methods listed in Annex I part II, but without prejudice to article 6(4);

(e) Article 7(2) in order to determine the modalities for including the items within the scope of the definition of 'risk concentrations' in the supervisory overview referred to in the second sub paragraph;

(f) Article 8(2) in order to determine the modalities for including the items within the scope of the definition of 'intra group

transactions' in the supervisory overview referred to in the third sub paragraph.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 7 of Regulation .../... [EBA], Regulation .../... [EIOPA], and Regulation .../... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 7 of Regulation .../... [EBA], Regulation .../... [EIOPA], and Regulation .../... [ESMA].

Justification

As Council Directive 78/660/EEC is currently under review the rapporteur believes that technical standards should not be drafted prior to the full results of this review.

The existing legislation already provides a way of defining "relevant competent authorities" without reference to implementing measures or a requirement for further definition; therefore this should only be amended following full review of the Directive including an impact assessment.

Determining conditions of application of these parameters would like constitute a policy decision and should be outside the scope of technical standards.

Drafting is confusing; "clarify" should replace "determine the conditions of application of". Your rapporteur thinks this makes it far clearer and avoids the incorrect perception that level 3 is supplementing level 1 or 2.

Determining what comes within the scope of "risk concentrations" is not a strictly technical calculation and would most likely require some degree of policy decisions; as such it is not suitable content for a technical standard.

The scope of the definition of "intra group transactions" is already included in the initial directive and the reformation of this definition would most likely constitute a policy decisions. If it is deemed necessary, this change should be made by proper review of the Directive.

Amendment 13

Proposal for a directive – amending act

Article 3 – point 3

Directive 2003/6/EC

Article 16 – paragraph 5

Text proposed by the Commission

Amendment

In order to ensure uniform application of paragraphs 2 and 4, the European

5. The Commission is empowered to adopt, by means of delegated acts in

Securities and Markets Authority may develop draft technical standards to determine the conditions of application regarding the conduct of requests for exchange of information and cross border inspections.

accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the conduct of requests for exchange of information and cross-border inspections.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 14

Proposal for a directive – amending act

Article 4 – point 1 – point b

Directive 2003/41/EC

Article 13 – paragraph 2

Text proposed by the Commission

2. In order to ensure uniform application of the directive, the European Insurance and Occupational Pension Authority established by Regulation.../...of the European Parliament and of the Council

Amendment

2. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards concerning

shall develop draft technical standards concerning information provided to the competent authorities. ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

information provided to the competent authorities.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EIOPA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EIOPA].

Amendment 15

Proposal for a directive – amending act

Article 4 – point 2

Directive 2003/41/EC

Article 20 – paragraph 11 – subparagraphs 1 and 2

Text proposed by the Commission

11. In order to ensure uniform application of this Directive, the European Insurance and Occupational Pension Authority shall develop draft technical standards listing for each Member State provisions of prudential nature relevant to the field of

Amendment

11. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards listing for each Member State provisions of a prudential

occupational pension schemes which are not covered by the reference to national social and labour law in paragraph 1. ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

nature relevant to the field of occupational pension schemes which are not covered by the reference to national social and labour law in paragraph 1.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EIOPA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EIOPA].

Amendment 16

Proposal for a directive – amending act

Article 5 – point 1

Directive 2003/71/EC

Article 8 – paragraph 5

Text proposed by the Commission

Amendment

1. In Article 8, the following paragraph 5 is added:

deleted

"5. In order to ensure uniform

application of paragraph 2 and to take account of technical developments on financial markets, the European Securities and Markets Authority established by Regulation.../...of the European Parliament and of the Council shall develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission according to paragraph 4. The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

The Commission may adopt the draft technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA]."

Amendment 17

Proposal for a directive – amending act

Article 5 – point 4

Directive 2003/71/EC

Article 16 – paragraph 3

Text proposed by the Commission

3. In order to ***ensure uniform application of this Article and to take*** account of technical developments on financial markets, ***the European Securities and Markets Authority shall develop draft*** technical standards to determine the conditions of application of the obligation to provide a supplement to the prospectus in *case* of a significant new factor, material mistake or inaccuracy relating to the information included in the prospectus. ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

Amendment

3. In order to take account of technical developments on financial markets, ***the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,*** technical standards to determine the conditions of application of the obligation to provide a supplement to the prospectus in *the event* of a significant new factor, material mistake or inaccuracy relating to the information included in the prospectus.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a

request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 18

Proposal for a directive – amending act

Article 5 – point 6

Directive 2003/71/EC

Article 18 – paragraph 4

Text proposed by the Commission

4. In order *to ensure uniform application of this Directive and* to take account of technical developments on financial markets, *the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application* relating to the procedures for the notification of the certificate of approval, the copy of the prospectus, the translation of the summary and any supplement to the prospectus.

Amendment

4. In order to take account of technical developments on financial markets, *the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,* technical standards relating to the procedures for the notification of the certificate of approval, the copy of the prospectus, the translation of the summary and any supplement to the prospectus.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 19

Proposal for a directive – amending act

Article 5 – point 8 – point b

Directive 2003/71/EC

Article 22 – paragraph 4

Text proposed by the Commission

4. In order *to ensure uniform application of paragraph 2 and* to take account of technical developments on financial markets, *the European Securities and Markets Authority may develop draft* technical standards *to specify* the conditions of cooperation and exchange of information between competent authorities, including the development of standard

Amendment

4. In order to take account of technical developments on financial markets, *the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,* technical standards *specifying* the conditions of cooperation and exchange of information between competent authorities,

forms or templates for such cooperation and exchange of information.

including the development of standard forms or templates for such cooperation and exchange of information.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 20

Proposal for a directive – amending act

Article 6 – point 2

Directive 2004/39/EC

Article 7 – paragraph 4

Text proposed by the Commission

4. In order to ensure uniform application of this Article and of Articles 7, 9(2)-(4), 10(1)-(2), and 12, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the requirements and procedures for such

Amendment

4. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the requirements and procedures for such authorisation laid down in this Article and

authorisation *as* laid down in this Article and in Articles 7, 9(2)-(4), 10(1)-(2) and 12.

in Articles 7, 9(2) to (4), 10(1) and (2) and 12.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 21

Proposal for a directive – amending act

Article 6 – point 3

Directive 2004/39/EC

Article 10 a – paragraph 8

Text proposed by the Commission

Amendment

8. In order to ensure uniform application of this Article, the European Securities and Markets Authority shall develop draft technical standards to determine the conditions of application relating to the list of information required for the assessment of an acquisition as referred to in paragraph 1 and the modalities of the *consultation process* between the relevant

8. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the list of information required for the assessment of an acquisition as referred to in paragraph 1 and the modalities of the *process of consultation* between the

competent authorities as referred to in Article 10(4). ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

relevant competent authorities as referred to in Article 10(4).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 22

Proposal for a directive – amending act

Article 6 – point 4

Directive 2004/39/EC

Article 31 – paragraph 7

Text proposed by the Commission

7. In order to ***ensure uniform application of this Article and*** establish a uniform notification procedure, ***the European Securities and Markets Authority may develop draft*** technical standards ***to determine the conditions of application***

Amendment

7. In order to establish a uniform notification procedure, ***the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,*** technical standards

regarding the obligation to notify information *according to* paragraphs 2 and 4 and the process of transmitting this information *according to* paragraphs 3 and 6, including the development of standard forms and templates.

regarding the obligation to notify information *in accordance with* paragraphs 2 and 4 and the process of transmitting this information *in accordance with* paragraphs 3 and 6, including the development of standard forms and templates.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 23

Proposal for a directive – amending act

Article 6 – point 5

Directive 2004/39/EC

Article 32 – paragraph 10

Text proposed by the Commission

10. In order to ***ensure uniform application of this Article and*** establish a uniform notification procedure, ***the European***

Amendment

10. In order to establish a uniform notification procedure, ***the Commission is empowered to adopt, by means of***

Securities and Markets Authority may develop draft technical standards to determine the conditions of application regarding the obligation to notify information *according to* paragraphs 2 and 4 and the process of transmitting this information *according to* paragraph 3, including the development of standard forms and templates.

delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the obligation to notify information *in accordance with* paragraphs 2 and 4 and the process of transmitting this information *in accordance with* paragraph 3, including the development of standard forms and templates.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 24

Proposal for a directive – amending act

Article 6 – point 9

Directive 2004/39/EC

Article 56 – paragraph 6

6. In order to ensure uniform application of paragraphs 1 and 2, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application relating to the obligation for competent authorities to cooperate *according to* paragraph 1 and to the content of the cooperation agreements *according to* paragraph 2, including the development of standard forms and templates.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

6. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the obligation for competent authorities to cooperate *in accordance with* paragraph 1 and to the content of the cooperation agreements *in accordance with* paragraph 2, including the development of standard forms and templates.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 25

Proposal for a directive – amending act

Article 6 – point 10 – point b

Directive 2004/39/EC

Article 57– paragraph 2

Text proposed by the Commission

2. In order to ensure uniform application of paragraph 1, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the obligation for competent authorities to cooperate in supervisory activities, on-the-spot-verifications, and investigations.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment

2. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the obligation for competent authorities to cooperate in supervisory activities, on-the-spot-verifications, and investigations.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 26

Proposal for a directive – amending act

Article 6 – point 11 – point a

Directive 2004/39/EC

Article 58 – paragraph 4

Text proposed by the Commission

4. In order to ensure uniform application of paragraphs 1 and 2, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the obligation to exchange information, including the development of standard forms or templates.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment

4. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the obligation to exchange information, including the development of standard forms or templates.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 27

Proposal for a directive – amending act

Article 6 – point 12

Directive 2004/39/EC

Article 60 – paragraph 4

Text proposed by the Commission

4. ***In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the obligation to consult other competent authorities prior to granting an authorisation, including the development of standard forms or templates.***

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment

4. ***The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the obligation to consult other competent authorities prior to granting an authorisation, including the development of standard forms or templates.***

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 28

Proposal for a directive – amending act

Article 7 – point 1 – point b

Directive 2004/109/EC

Article 12 – paragraph 9

Text proposed by the Commission

9. In order *to ensure the uniform application of paragraph 1 of this Article and* to take account of technical developments in financial markets, *the European Securities and Markets Authority established by Regulation.../...of the European Parliament and of the Council shall develop draft* technical standards to establish a harmonised standard form to be used when notifying the required information to the issuer under paragraph 1 of this Article or when filing information under Article 19(3).

The Authority shall submit the draft technical standards referred to in the first subparagraph to the Commission by 1 January 2014. The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance

Amendment

9. In order to take account of technical developments in financial markets, *the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,* technical standards to establish a harmonised standard form to be used when notifying the required information to the issuer under paragraph 1 of this Article or when filing information under Article 19(3).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 29

Proposal for a directive – amending act

Article 7 – point 2 – point b

Directive 2004/109/EC

Article 13– paragraph 3

Text proposed by the Commission

3. In order ***to ensure the uniform application of paragraph 1 and*** to take account of technical developments on financial markets, ***the European Securities and Markets Authority shall develop draft*** technical standards to establish a harmonised standard form ***to when notifying*** the required information to the issuer under paragraph 1 or ***when*** filing information under Article 19(3).

The Authority shall submit the draft technical standards referred to in the first subparagraph to the Commission by 1

Amendment

3. In order to take account of technical developments on financial markets, ***the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,*** technical standards to establish a harmonised standard form ***relating to the notification of*** the required information to the issuer under paragraph 1 or ***the filing of*** information under Article 19(3).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt ***the*** technical standards ***referred to in the first subparagraph*** in accordance with the

January 2014. The Commission may adopt *those draft* technical standards in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 30

Proposal for a directive – amending act

Article 8 – point 1

Directive 2005/60/EC

Article 31 – paragraph 4

Text proposed by the Commission

4. In order ***to ensure the uniform application of this Article and*** to take account of technical developments in the fight against money laundering or terrorist financing, ***the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority may develop draft*** technical standards in accordance with Articles 42 of Regulation .../..., Regulation .../... and Regulation .../... of the European Parliament and of the Council to determine the type of additional measures referred to in Article 31(3) and the minimum action to be taken by credit and financial institutions where the legislation of the third country does not permit application of the measures required under the first subparagraph of paragraph 1.

Amendment

4. In order to take account of technical developments in the fight against money laundering or terrorist financing, ***the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,*** technical standards in accordance with Articles 42 of Regulation .../..., Regulation .../... and Regulation .../... of the European Parliament and of the Council to determine the type of additional measures referred to in Article 31(3) and the minimum action to be taken by credit and financial institutions where the legislation of the third country does not permit application of the measures required under the first subparagraph of paragraph 1.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may

revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 7 of Regulation .../... [EBA], .../..., Regulation .../... [ESMA] and .../..., Regulation .../...[EIOPA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 7 of Regulation .../... [EBA], .../..., Regulation .../... [ESMA] and .../..., Regulation .../...[EIOPA].

Amendment 31

Proposal for a directive – amending act

Article 8 – point 2

Directive 2005/60/EC

Article 34– paragraph 4

Text proposed by the Commission

Amendment

4. In order **to ensure the uniform application of this Article and** to take account of technical developments in the fight against money laundering or terrorist financing, **the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority may develop draft** technical standards in accordance with Articles 42 of Regulation .../..., Regulation .../... and Regulation .../... of the European Parliament and of the Council **to determine the conditions of application** relating to the minimum content of the communication referred to in paragraph 2.

4. In order to take account of technical developments in the fight against money laundering or terrorist financing, **the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,** technical standards in accordance with Articles 42 of Regulation .../..., Regulation .../... and Regulation .../... of the European Parliament and of the Council relating to the minimum content of the communication referred to in paragraph 2.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the

latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 7 of Regulation .../.... [EBA]], .../...., Regulation .../... [ESMA] and .../...., Regulation .../....[EIOPA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 7 of Regulation .../.... [EBA]], .../...., Regulation .../... [ESMA] and .../...., Regulation .../....[EIOPA].

Amendment 32

Proposal for a directive – amending act

Article 9 – point 1

Directive 2006/48/EC

Article 6– paragraphs 2 and 3

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority established by Regulation .../... of the European Parliament and of the Council may develop draft technical standards to determine the conditions of application of the requirements and procedures for such authorisation as laid down in Articles 7, 8, 10, 11 and 12, with the exception of the conditions established in the second sentence of Article 11(1).

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the requirements and procedures for the authorisation as laid down in Articles 7, 8, 10, 11 and 12, with the exception of the conditions established in the second sentence of Article 11(1).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall

be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the *first subparagraph* in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

The Commission may adopt the technical standards referred to in the *second paragraph* in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 33

Proposal for a directive – amending act

Article 9 – point 3

Directive 2006/48/EC

Article 19 – paragraph 9

Text proposed by the Commission

9. In order to ensure uniform application of this Article, the European Banking Authority shall develop draft technical standards regarding the list of information required for the assessment of an acquisition as referred to in paragraph 1 and on the consultation process between the relevant competent authorities as referred to in Article 19b(1). The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

Amendment

9. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the list of information required for the assessment of an acquisition as referred to in paragraph 1 and on the consultation process between the relevant competent authorities as referred to in Article 19b(1).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 34

Proposal for a directive – amending act

Article 9 – point 4

Directive 2006/48/EC

Article 26 – paragraph 5

Text proposed by the Commission

5. In order to *ensure uniform application of Article 25 and this Article, and* establish a uniform notification procedure by electronic means, *the European Banking Authority shall develop draft technical standards to determine the conditions of application of* the information referred to in Article 25 and in this Article and the process for transmitting this information. *The Authority shall submit those draft technical standards to*

Amendment

5. In order to establish a uniform notification procedure by electronic means, *the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,* technical standards *relating to* the information referred to in Article 25 and in this Article and the process for transmitting this information.

the Commission by 1 January 2014.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 35

Proposal for a directive – amending act

Article 9 – point 5

Directive 2006/48/EC

Article 28– paragraph 4

Text proposed by the Commission

4. In order to *ensure uniform application of this Article and* establish a uniform notification procedure by electronic means, *the European Banking Authority shall develop draft* technical standards *to determine the conditions of application of* the information referred to in this Article and the process for transmitting this

Amendment

4. In order to establish a uniform notification procedure by electronic means, *the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,* technical standards *relating to* the information referred to in this Article and

information. ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

the process for transmitting this information.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 36

Proposal for a directive – amending act

Article 9 – point 7

Directive 2006/48/EC

Article 42 – paragraphs 2 and 3

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority shall develop draft technical standards to determine the procedures, methods and conditions of application of the information sharing requirements for

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the procedures, methods and conditions of the

the information which is likely to facilitate the monitoring of credit institutions. ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

information-sharing requirements for the information which is likely to facilitate the monitoring of credit institutions.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the ***first subparagraph*** in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the ***second paragraph*** in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 37

Proposal for a directive – amending act

Article 9 – point 8

Directive 2006/48/EC

Article 42 a – paragraph 1 – subparagraph 4 a

Text proposed by the Commission

If, at the end of the *two month* period, ***a*** competent ***authority*** has referred the matter to the European Banking Authority in accordance with Article 11 of Regulation .../... [EBA], the ***consolidating supervisor*** shall await ***any*** decision that the European

Amendment

If, at the end of the ***initial two-month*** period, ***any of the*** competent ***authorities concerned*** has referred the matter to the European Banking Authority in accordance with Article 11 of Regulation .../... [EBA], the ***competent authorities of the host***

Banking Authority may take in accordance with Article 11(3) of that Regulation, and shall **act** in conformity with **that** decision. The *two month* period shall be deemed the conciliation period within the meaning of that Regulation. The European Banking Authority shall take its decision within one month. The matter shall not be referred to the Authority after the end of the *two month* period or after a joint decision has been reached.

Member State shall **defer their decision** and await **the** decision that the European Banking Authority may take in accordance with Article 11(3) of that Regulation, and shall **take their decision** in conformity with **the Authority's** decision. The *two-month* period shall be deemed *to be* the conciliation period within the meaning of that Regulation. The European Banking Authority shall take its decision within one month. The matter shall not be referred to the Authority after the end of the **initial two-month** period or after a joint decision has been reached. **Decisions taken by the European Banking Authority shall not replace the lawful exercise of judgment by the competent authorities of the host Member State pursuant to this Directive.**

Justification

In order for there to be compliance with ECJ case-law (C -9/56 and 10/56, Meroni v High Authority, [1958] E.C.R. 133 and 157), it is important that decisions taken by ESAs do not replace the lawful exercise of judgement by national supervisors. Under Meroni, an institution may not delegate powers that it does not itself possess.

Amendment 38

Proposal for a directive – amending act

Article 9 – point 13 – point b

Directive 2006/48/EC

Article 63a – paragraph 6 – subparagraphs 1 and 2

Text proposed by the Commission

6. In order to ensure **uniform application of paragraph 1 of this Article** and the convergence of supervisory practices, **the European Banking Authority shall develop draft** technical standards **to determine the conditions of application of** the provisions governing the instruments referred to in paragraph 1 of this Article **The Authority shall submit those draft technical standards to the Commission by 1 January 2014.**

Amendment

6. In order to ensure the convergence of supervisory practices, **the Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union,** technical standards **relating to** the provisions governing the instruments referred to in paragraph 1 of this Article.

The delegation of powers shall last for

five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 39

Proposal for a directive – amending act

Article 9 – point 14

Directive 2006/48/EC

Article 74 – paragraph 2 – subparagraphs 2 and 3

Text proposed by the Commission

For the communication of these calculations by credit institutions, competent authorities shall apply, from 31 December 2012, uniform formats, frequencies, language and dates of reporting. *In order to ensure uniform application of the directive, the European Banking Authority shall develop draft technical standards to introduce, within the **Community**, uniform formats, frequencies, languages and dates of reporting before 1 January 2012. The reporting formats shall*

Amendment

For the communication of these calculations by credit institutions, competent authorities shall apply, from 31 December 2012, uniform formats, frequencies, language and dates of reporting. *The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to introduce, within the **European Union**, uniform formats, frequencies, languages and dates*

be proportionate to the nature, scale and complexity of the credit institutions' activities.

of reporting before 1 January 2012. The reporting formats shall be proportionate to the nature, scale and complexity of the credit institutions' activities.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the *first* subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

The Commission may adopt the technical standards referred to in the *second* subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 40

Proposal for a directive – amending act

Article 9 – point 15

Directive 2006/48/EC

Article 81 – paragraph 2 – subparagraphs 2 and 3

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority, in consultation with the European Securities and Market Authority, shall develop draft technical

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards concerning the

standards *to determine the conditions of application of* the assessment methodology relating to credit assessments. *The Authority shall submit those draft technical standards to the Commission by 1 January 2014.*

assessment methodology relating to credit assessments.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 41

Proposal for a directive – amending act

Article 9 – point 16

Directive 2006/48/EC

Article 84 – paragraph 2 – subparagraphs 3 and 4

Text proposed by the Commission

In order to ensure uniform application of this paragraph, the European Banking Authority may develop draft technical standards to determine the practical and procedural application of the conditions

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the practical

under which competent authorities permit credit institutions to use the IRB Approach.

and procedural application of the conditions under which competent authorities permit credit institutions to use the IRB Approach.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the **draft** technical standards referred to in the third subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

The Commission may adopt the technical standards referred to in the third subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 42

Proposal for a directive – amending act

Article 9 – point 17

Directive 2006/48/EC

Article 97 – paragraph 2 – subparagraphs 2 and 3

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority, in consultation with the European Securities and Market Authority, shall develop draft technical standards to determine the conditions of application of

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, after consulting the European Banking Authority and the European Securities and

the assessment methodology *relating to* credit assessments. ***The Authority shall submit those draft technical standards to the Commission by 1 January 2014.***

Markets Authority, technical standards *relating to* the assessment methodology ***for*** credit assessments.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 43

Proposal for a directive – amending act

Article 9 – point 18

Directive 2006/48/EC

Article 105 – paragraph 1 – subparagraphs 2 and 3

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority may develop draft technical standards ***to determine*** the practical and procedural application of the conditions under which competent authorities permit credit institutions to use the Advanced Measurement Approaches.

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards ***relating to*** the practical and procedural application of the conditions under which competent authorities permit credit institutions to use

the Advanced Measurement Approaches.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 44

Proposal for a directive – amending act

Article 9 – point 19

Directive 2006/48/EC

Article 106 – paragraph 2 – subparagraphs 2 and 3

Text proposed by the Commission

Amendment

In order to ensure uniform application of this Paragraph, the European Banking Authority shall develop draft technical standards in order to determine the conditions of application of the exemptions in point (c) and (d). The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the exemptions in point (c) and (d).

The delegation of powers shall last for five years from the date of entry into force

of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the **draft** technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 45

Proposal for a directive – amending act

Article 9 – point 20

Directive 2006/48/EC

Article 110 – paragraph 2

Text proposed by the Commission

2. Member States shall provide that reporting *shall* be carried out at least twice a year. The competent authorities shall apply, from 31 December 2012, uniform formats, frequencies, language and dates of reporting. ***In order to ensure uniform application of the directive, the European Banking Authority shall develop draft technical standards to introduce, within the Community, uniform formats, frequencies, language and dates of reporting before 1 January 2012. The reporting formats shall be proportionate to the nature, scale and complexity of the credit institutions'***

Amendment

2. Member States shall provide that reporting *is to* be carried out at least twice a year. The competent authorities shall apply, from 31 December 2012, uniform formats, frequencies, language and dates of reporting. ***The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to introduce, within the European Union, uniform formats, frequencies, language and dates of reporting before 1 January 2012. The reporting formats shall be proportionate to***

activities.

the nature, scale and complexity of the credit institutions' activities.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 46

Proposal for a directive – amending act

Article 9 – point 21

Directive 2006/48/EC

Article 122a – paragraph 10 – subparagraphs 2 and 3

Text proposed by the Commission

Amendment

In order to ensure uniform application of this Article, the European Banking Authority shall develop draft technical standards to determine the conditions of application of this Article, including the measures taken in case of breach of the due diligence and risk management obligations. The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards in relation to the measures to be taken in the event of breach of the due diligence and risk management obligations.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 47

Proposal for a directive – amending act

Article 9 – point 22

Directive 2006/48/EC

Article 124 – paragraph 6

Text proposed by the Commission

6. In order to ensure uniform application of this Article, the European Banking Authority shall develop draft technical standards to determine *the conditions of application of this Article and* a common risk assessment procedure. *The Authority shall submit those draft technical standards to the Commission by 1 January 2014.*

Amendment

6. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine a common risk assessment procedure.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall

be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 48

Proposal for a directive – amending act

Article 9 – point 23

Directive 2006/48/EC

Article 129 – paragraph 2 – subparagraph 6

Text proposed by the Commission

If, at the end of the *six month* period, *a* competent *authority* has referred the matter to the European Banking Authority in accordance with Article 11 of Regulation .../... [EBA], the consolidating supervisor shall await any decision that the European Banking Authority may take in accordance with Article 11(3) of that *regulation*, and shall *act* in conformity with *that* decision. The *six month* period shall be deemed the conciliation period within the meaning of the Regulation. The European Banking Authority shall take its decision within one month. The matter shall not be referred to the Authority after the end of the *six month*

Amendment

If, at the end of the *six-month* period, *any of the* competent *authorities concerned* has referred the matter to the European Banking Authority in accordance with Article 11 of Regulation .../... [EBA], the consolidating supervisor shall *defer its decision and* await any decision that the European Banking Authority may take in accordance with Article 11(3) of that *Regulation on its decision*, and shall *take its* decision in conformity with *the European Banking Authority's* decision. The *six-month* period shall be deemed *to be* the conciliation period within the meaning of the Regulation. The European Banking

period or after a joint decision has been reached

Authority shall take its decision within one month. The matter shall not be referred to the Authority after the end of the *six-month* period or after a joint decision has been reached. ***Decisions taken by the European Banking Authority shall not replace the lawful exercise of judgment by the competent authorities of the consolidating supervisor pursuant to this Directive.***

Justification

In order for there to be compliance with ECJ case-law (C -9/56 and 10/56, Meroni v High Authority, [1958] E.C.R. 133 and 157), it is important that decisions taken by ESAs do not replace the lawful exercise of judgement by national supervisors. Under Meroni, an institution may not delegate powers that it does not itself possess.

Amendment 49

Proposal for a directive – amending act

Article 9 – point 24 – point b

Directive 2006/48/EC

Article 129 – paragraph 3 – subparagraph 4

Text proposed by the Commission

In the absence of such a joint decision between the competent authorities within four months, a decision on the application of Articles 123 and 124 and Article 136(2) shall be taken on a consolidated basis by the consolidating supervisor after duly considering the risk assessment of subsidiaries performed by relevant competent authorities. If, at the end of the *four month* period, ***a competent authority*** has referred the matter to the European Banking Authority in accordance with Article 11 of Regulation .../... [EBA], the consolidating supervisor shall await any decision that the European Banking Authority may take in accordance with Article 11(3) of that Regulation, and shall ***act*** in conformity with ***that*** decision. The *four month* period shall be deemed the conciliation period within the meaning of the Regulation. The European Banking

Amendment

In the absence of such a joint decision between the competent authorities within four months, a decision on the application of Articles 123 and 124 and Article 136(2) shall be taken on a consolidated basis by the consolidating supervisor after duly considering the risk assessment of subsidiaries performed by relevant competent authorities. If, at the end of the *four-month* period, ***any of the competent authorities concerned*** has referred the matter to the European Banking Authority in accordance with Article 11 of Regulation .../... [EBA], the consolidating supervisor shall ***defer its decision and*** await any decision that the European Banking Authority may take in accordance with Article 11(3) of that Regulation ***on its decision, and shall take its decision*** in conformity with ***the European Banking Authority's*** decision. The *four-month*

Authority shall take its decision within one month. The matter shall not be referred to the Authority after the end of the *four month* period or after a joint decision has been reached.

period shall be deemed *to be* the conciliation period within the meaning of the Regulation. The European Banking Authority shall take its decision within one month. The matter shall not be referred to the Authority after the end of the *four-month* period or after a joint decision has been reached. ***Decisions taken by the European Banking Authority shall not replace the lawful exercise of judgment by the competent authorities of the consolidating supervisor pursuant to this Directive.***

Justification

In areas of disagreement between national financial supervisors, the ability of the ESAs to assist in reaching an agreement should not extend to being able to replace national supervisors' discretionary judgements. Where the ESA decides that a supervisory authority's proposed decision is not in compliance, the final decision made by the national supervisor should be made in conformity with the ESA's decision.

Amendment 50

Proposal for a directive – amending act

Article 9 – point 24 – point e

Directive 2006/48/EC

Article 129 – paragraph 3 – subparagraphs 10 and 11

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority shall develop draft technical standards to determine the conditions of application of the joint decision process referred to in this paragraph, with regard to the application of Articles 123, 124 and 132(2) and with a view to facilitating joint decisions. The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine the conditions of application of the joint decision process referred to in this paragraph, with regard to the application of Articles 123, 124 and 132(2) and with a view to facilitating joint decisions.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of

the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt *these draft* technical standards referred to in the tenth subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt *the* technical standards referred to in the tenth subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 51

Proposal for a directive – amending act

Article 9 – point 27 – point a

Directive 2006/48/EC

Article 131a – paragraph 2 – subparagraphs 2 and 3

Text proposed by the Commission

Amendment

In order to ensure uniform application of this Article and Article 42a(3), the European Banking Authority shall develop draft technical standards for the operational functioning of colleges, *including* in relation to Article 42a(3). *The Authority shall submit those draft technical standards to the Commission by 1 January 2014.*

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards for the operational functioning of colleges in relation to this Article and Article 42a(3).

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the

delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 52

Proposal for a directive – amending act

Article 9 – point 29

Directive 2006/48/EC

Article 144 – paragraphs 3 and 4

Text proposed by the Commission

In order to ensure uniform application of this Article, the European Banking Authority shall develop draft technical standards to determine the key aspects on which aggregate statistical data are to be disclosed and the format, structure, contents list and annual publication date of the disclosures provided for in this Article. The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine the key aspects on which aggregate statistical data are to be disclosed and the format, structure, contents list and annual publication date of the disclosures provided for in this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the third paragraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the third paragraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 53

Proposal for a directive – amending act
Article 9 – point 30 – point b
Directive 2006/48/EC
Article 150 – paragraph 3

Text proposed by the Commission

3. The European Banking Authority shall develop draft technical standards to determine:

- (a) the conditions of application of points 15 to 17 of Annex V;
- (b) the conditions of application of Part 2 of Annex VI in respect of the quantitative factors referred to in point 12, the qualitative factors referred to in point 13 and the benchmark referred to in point 14;

The Authority shall submit those draft technical standards to the Commission by 1 January 2014.

Amendment

3. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine:

- (a) the conditions of application of points 15 to 17 of Annex V;
- (b) the conditions of application of Part 2 of Annex VI in respect of the quantitative factors referred to in point 12, the qualitative factors referred to in point 13 and the benchmark referred to in point 14;

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European

Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 54

Proposal for a directive – amending act Article 10

Directive 2006/49/EC
Article 18 – paragraph 5

Text proposed by the Commission

5. In order to ensure uniform application of paragraph 1, the European Banking Authority established by Regulation.../...of the European Parliament and of the Council may develop draft technical standards for endorsement by the Commission to determine the practical and procedural application of the conditions under which competent authorities permit credit institutions to use internal models for the purposes of calculating capital requirements under this Directive.

Amendment

5. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine the practical and procedural application of the conditions under which competent authorities permit credit institutions to use internal models for the purposes of calculating capital requirements under this Directive.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of

the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [EBA].

Amendment 55

Proposal for a directive – amending act

Article 11 – point 1

Directive 2009/65/EC

Article 5 – paragraph 8

Text proposed by the Commission

8. In order to ensure uniform application of this Article, the European Securities and Markets Authority established by Regulation.../...of the European Parliament and of the Council may develop draft technical standards to determine the conditions of application relating to the information to be provided to the competent authorities in the application for authorisation of a UCITS.

Amendment

8. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the information to be provided to the competent authorities in the application for authorisation of a UCITS.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European

Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 56

Proposal for a directive – amending act

Article 11 – point 2

Directive 2009/65/EC

Article 7 – paragraph 6

Text proposed by the Commission

6. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to further determine the conditions of application of the requirements for the authorisation of the management company, with the exception of the conditions established in *paragraph 1(b)* of this Article.

Amendment

6. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to further determine the conditions of application of the requirements for the authorisation of the management company, with the exception of the conditions established in point (b) of paragraph 1 of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA]

delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 57

Proposal for a directive – amending act

Article 11 – point 3

Directive 2009/65/EC

Article 12 – paragraph 4

Text proposed by the Commission

4. In order to ensure uniform application of this Article, *the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission* regarding the procedures, arrangements, structures and organisational requirements referred to in paragraph 3 of this Article.

Amendment

4. *The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the procedures, arrangements, structures and organisational requirements referred to in paragraph 3 of this Article.*

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the

European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA]

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 58

Proposal for a directive – amending act

Article 11 – point 4

Directive 2009/65/EC

Article 14 – paragraph 3

Text proposed by the Commission

3. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission regarding the criteria, principles and steps referred to in points (a), (b), and (c) of *the first subparagraph* of this Article.

Amendment

3. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the criteria, principles and steps referred to in points (a), (b), and (c) of *paragraph 1* of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 59

Proposal for a directive – amending act

Article 11 – point 6

Directive 2009/65/EC

Article 29 – paragraph 5

Text proposed by the Commission

5. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the conditions for the authorisation of the self-managed investment company, with the exception of the conditions established in paragraph 1(b) of this Article.

time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment

5. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine the conditions for the authorisation of the self-managed investment company, with the exception of the conditions established in point (b) of paragraph 1 of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 60

Proposal for a directive – amending act

Article 11 – point 7

Directive 2009/65/EC

Article 43 – paragraph 6

Text proposed by the Commission

6. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission regarding the content, format and method by which the information referred to in paragraphs 1 and 3 of this Article should be provided.

Amendment

6. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the content, format and method by which the information referred to in paragraphs 1 and 3 of this Article should be provided.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers referred to in the first subparagraph at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 61

Proposal for a directive – amending act

Article 11 – point 8

Directive 2009/65/EC

Article 50 – paragraph 4

Text proposed by the Commission

Amendment

4. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the provisions concerning the categories of assets in which UCITS can invest in accordance to this Article.

4. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards concerning the categories of assets in which UCITS can invest in accordance to this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the

procedure laid down in Article 7 of Regulation .../.... [ESMA].

procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 62

Proposal for a directive – amending act

Article 11 – point 9

Directive 2009/65/EC

Article 51 – paragraph 5

Text proposed by the Commission

5. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission regarding the criteria and rules referred to in points (a), (b) and (c) of paragraph 4.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment

5. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the criteria and rules referred to in points (a), (b) and (c) of paragraph 4 **of this Article.**

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 63

Proposal for a directive – amending act

Article 11 – point 10

Directive 2009/65/EC

Article 60 – paragraph 7

Text proposed by the Commission

7. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission regarding the agreement, measures and procedures referred to in points (a), (b) and (c) of paragraph 6.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 64

Amendment

7. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the agreement, measures and procedures referred to in points (a), (b) and (c) of paragraph 6 **of this Article**.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers referred to in the first subparagraph at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Proposal for a directive – amending act

Article 11 – point 11

Directive 2009/65/EC

Article 61 – paragraph 4

Text proposed by the Commission

4. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission regarding the agreement and types of irregularities referred to in points (a) and (b) of paragraph 3.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 65

Amendment

4. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the agreement and types of irregularities referred to in points (a) and (b) of paragraph 3 of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Proposal for a directive – amending act

Article 11 – point 12

Directive 2009/65/EC

Article 64 – paragraph 5

Text proposed by the Commission

5. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the implementing measures adopted by the Commission regarding the information and procedure referred to in points (a) and (b) of paragraph 4.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 66

Amendment

5. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the information and procedure referred to in points (a) and (b) of paragraph 4 of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Proposal for a directive – amending act

Article 11 – point 13

Directive 2009/65/EC

Article 69 – paragraph 5

Text proposed by the Commission

5. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the provisions concerning the content of the prospectus, the annual report and the half-yearly report as laid down in Annex I, and the format of these documents.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 67

Amendment

5. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards concerning the content of the prospectus, the annual report and the half-yearly report as laid down in Annex I, and the format of these documents.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Proposal for a directive – amending act

Article 11 – point 14

Directive 2009/65/EC

Article 78 – paragraph 8

Text proposed by the Commission

8. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards for endorsement by the Commission to determine the conditions of application of the implementing measures adopted by the Commission regarding the information referred to in paragraph 3.

The Commission may adopt the **draft** technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 68

Amendment

8. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards regarding the information referred to in paragraph 3 of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Proposal for a directive – amending act

Article 11 – point 15

Directive 2009/65/EC

Article 84 – paragraph 4

Text proposed by the Commission

4. *In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application of the conditions applying to the temporary suspension of the re-purchase or redemption of the units of the UCITS as referred to in point (a) of paragraph 2, once the suspension has been decided.*

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 69

Amendment

4. *The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards relating to the conditions applying to the temporary suspension of the re-purchase or redemption of the units of the UCITS as referred to in point (a) of paragraph 2 of this Article, once the suspension has been decided.*

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Proposal for a directive – amending act

Article 11 – point 16

Directive 2009/65/EC

Article 95 – paragraph 2

Text proposed by the Commission

2. In order to ensure uniform application of Article 93, the European Securities and Markets Authority may develop draft

technical standards to determine the conditions of application with regard to:

- (a) the form and contents of a standard model notification letter to be used by a UCITS for the purpose of notification referred to in Article 93(1), including an indication as to which documents the translations refer to;
- (b) the form and contents of a standard model attestation to be used by competent authorities of Member States referred to in Article 93(3);
- (c) the procedure for the exchange of information and the use of electronic communication between competent authorities for the purpose of notification under the provisions of Article 93.

Amendment

2. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards to determine the conditions of application with regard to:

- (a) the form and contents of a standard model notification letter to be used by a UCITS for the purpose of notification referred to in Article 93(1), including an indication as to which documents the translations refer to;
- (b) the form and contents of a standard model attestation to be used by competent authorities of Member States referred to in Article 93(3);
- (c) the procedure for the exchange of information and the use of electronic communication between competent authorities for the purpose of notification under the provisions of Article 93.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the

The Commission may adopt the *draft* technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 70

Proposal for a directive – amending act

Article 11 – point 17

Directive 2009/65/EC

Article 101 – paragraph 9

Text proposed by the Commission

9. In order to ensure uniform application of this Article, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application with regard to the conduct of on-the-spot verifications and investigations as referred to in paragraphs 4 and 5.

Amendment

9. The Commission shall be empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards with regard to the conduct of on-the-spot verifications and investigations as referred to in paragraphs 4 and 5 of this Article.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the *draft* technical standards referred to in the first

The Commission may adopt the technical standards referred to in the first

subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

subparagraph in accordance with the procedure laid down in Article 7 of Regulation .../.... [ESMA].

Amendment 71

Proposal for a directive – amending act

Article 11 – point 19

Directive 2009/65/EC

Article 105

Text proposed by the Commission

In order to ensure uniform application of the provisions in this Directive concerning the exchange of information, the European Securities and Markets Authority may develop draft technical standards to determine the conditions of application with regard to the procedures for exchange of information between competent authorities and between the competent authorities and the European Securities and Markets Authority.

The Commission may adopt the ***draft*** technical standards referred to in the first subparagraph in accordance with the

Amendment

The Commission is empowered to adopt, by means of delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, technical standards with regard to the procedures for exchange of information between competent authorities and between the competent authorities and the European Securities and Markets Authority.

The delegation of powers shall last for five years from the date of entry into force of Directive 2010/.../EU on and shall be extended for periods of five years on a request from the Commission made at the latest three months before the expiry of the delegation, unless the European Parliament or the Council objects to such an extension before the expiry of the delegation.

Notwithstanding the foregoing, the European Parliament or the Council may revoke the delegation of powers at any time.

A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months.

The Commission may adopt the technical standards referred to in the first subparagraph in accordance with the

procedure laid down in Article 7 of
Regulation .../.... [ESMA].

procedure laid down in Article 7 of
Regulation .../.... [ESMA].

PROCEDURE

Title	Powers of the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (amendment of Directives 1998/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC, and 2009/65/EC)
References	COM(2009)0576 – C7-0251/2009 – 2009/0161(COD)
Committee responsible	ECON
Opinion by Date announced in plenary	JURI 12.11.2009
Rapporteur Date appointed	Sajjad Karim 14.12.2009
Discussed in committee	28.1.2010
Date adopted	28.4.2010
Result of final vote	+: 23 –: 0 0: 0
Members present for the final vote	Raffaele Baldassarre, Luigi Berlinguer, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Lidia Joanna Geringer de Oedenberg, Daniel Hannan, Klaus-Heiner Lehne, Antonio López-Istúriz White, Antonio Masip Hidalgo, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Alexandra Thein, Diana Wallis, Rainer Wieland, Cecilia Wikström, Tadeusz Zwiefka
Substitute(s) present for the final vote	Piotr Borys, Sergio Gaetano Cofferati, Kurt Lechner, Eva Lichtenberger, József Szájer
Substitute(s) under Rule 187(2) present for the final vote	Kay Swinburne