OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market
(COM(2012)0238 – C7-0133/2012 – 2012/0146(COD))

Rapporteur (*): Marielle Gallo

(*) Associated committee – Rule 50 of the Rules of Procedure
SHORT JUSTIFICATION

The proposal for a regulation concerns the mutual recognition of notified electronic identification schemes, on the one hand, and electronic trust services, on the other.

It aims to expand the existing legal framework and, above all, to provide for a comprehensive transnational and cross-sector framework for electronic transactions underpinned by legal certainty and a reliable level of security. The proposal is also consonant with the Single Market Act I as it constitutes one of the 12 key measures to boost growth and strengthen confidence in the single market.

The rapporteur would like to make the following comments:

The rapporteur supports the Commission proposal and the choice of a regulation rather than a directive; Directive 1999/93/EC, which covered only electronic signatures, has not lived up to expectations.

The rapporteur agrees with the general objectives of the proposal, which are to expand the European digital single market. The proposal therefore considerably reinforces the legal certainty of trust services, which is a prerequisite for increasing electronic transactions, in particular cross-border electronic transactions.

The regulation will bring added value not only to national authorities, owing to the expansion of e-government, but also to businesses, which will have more opportunities, for example, to access public procurement procedures online. There will also be added value for private individuals, who will no longer need to travel and incur the attendant costs, for example when registering at a university far from home.

Bearing in mind that trust services are a lucrative market which is set to expand further over the next decade, the rapporteur supports the approach taken in the proposal of attempting to ensure technological neutrality.

However, the rapporteur would also add that the issue of digital identity is a complex one. If an approach favouring interoperable national digital identities is an imperative, then it should not come at the expense of information system security requirements or of the fundamental principles of respect for and the protection of privacy, which is essential for boosting users’ confidence in the digital world.

The rapporteur therefore proposes introducing different security levels, a prerequisite for the principle of mutual recognition. This would also guarantee a minimum level of security, thereby boosting online security.

The rapporteur also takes the view that provisions on liability should concern only qualified trust service providers, just like in Directive 1999/93/EC.

The rapporteur welcomes the oversight provisions under Section 2 of Chapter III of the proposal. However, in order to facilitate the work of the supervisory bodies and to guarantee a minimum level of consistency as regards the legal effects of non-qualified service providers
offering trust services, the rapporteur wishes to make it an obligation for non-qualified trust services providers to notify their intention to launch a trust service.

Given that the proposal lays down numerous supervision and security requirements for qualified trust service providers, the rapporteur proposes a new article to establish a ‘European Union’ qualified trustmark. Qualified trust service providers that meet the requirements of the regulation could use this label when presenting and advertising their qualified trust service. It would also help eligible qualified service providers to distinguish themselves from their competitors.

Lastly, the rapporteur takes the view that there are too many delegated acts in the proposal and has therefore included a number of amendments in order to limit their number.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1
Proposal for a regulation
Recital 11

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>(11) One of the objectives of this Regulation is to remove existing barriers to the cross-border use of electronic identification means used in the Member States to access at least public services. This Regulation does not aim at intervening on electronic identity management systems and related infrastructures established in the Member States. The aim of this Regulation is to ensure that for the access to cross-border online services offered by the Member States, secure electronic identification and authentication is possible.</td>
<td>(11) One of the objectives of this Regulation is to remove existing barriers to the cross-border use of electronic identification means used in the Member States to access at least public services. This Regulation does not aim at intervening on electronic identity management systems and related infrastructures established in the Member States. <strong>Rather, it aims to introduce different security levels to guarantee a minimum common set of security requirements.</strong> The aim of this Regulation is to ensure that for the access to cross-border online services offered by the Member States, secure electronic identification and authentication is possible.</td>
</tr>
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</table>
possible, with full respect to technology neutrality.

Justification

Unlike trust services, which are covered by a common set of security requirements, the Commission has no such provisions for electronic identification. The rapporteur takes the view that the introduction of different security levels (and consequently of a minimum level of security) is a prerequisite for the principle of mutual recognition and will help increase security in the digital world.

Amendment 2
Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) Some conditions need to be set in the Regulation with regard to which electronic identification means have to be accepted and how the schemes should be notified. These should help Member States to build the necessary trust in each other's electronic identification schemes and to mutually recognise and accept electronic identification means falling under their notified schemes. The principle of mutual recognition and acceptance should apply if the notifying Member State meets the conditions of notification and the notification was published in the Official Journal of the European Union. However, the access to these online services and their final delivery to the applicant should be closely linked to the right to receive such services under the conditions set by national legislation.

Amendment

(13) Some conditions need to be set in the Regulation with regard to which electronic identification means have to be accepted and how the schemes should be notified. These should help Member States to build the necessary trust in each other's electronic identification schemes and to mutually recognise and accept electronic identification means falling under their notified schemes. The principle of mutual recognition and acceptance should apply if the notifying Member State meets the conditions of notification and the notification, including the description of the notified electronic identification scheme and the information on the different security levels, was published in the Official Journal of the European Union. However, the access to these online services and their final delivery to the applicant should be closely linked to the right to receive such services under the conditions set by national legislation.

Justification

Unlike trust services, which are covered by a common set of security requirements, the Commission has no such provisions for electronic identification. The rapporteur takes the view that the introduction of different security levels (and consequently of a minimum level of security) is a prerequisite for the principle of mutual recognition and will help increase
security in the digital world.

Amendment 3
Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) Cooperation of Member States should serve the technical interoperability of the notified electronic identification schemes with a view to foster a high level of trust and security appropriate to the degree of risk. The exchange of information and the sharing of best practices between Member States with a view to their mutual recognition should help such cooperation.

Amendment

(16) Cooperation of Member States should serve the technical interoperability of the notified electronic identification schemes with a view to foster a high level of trust and security appropriate to the degree of risk. The exchange of information and the sharing of best practices between Member States with a view to their mutual recognition should help such cooperation. To ensure efficiency, interoperability and security safeguards should be addressed prior to notification.

Amendment 4
Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) This Regulation should also establish a general legal framework for the use of electronic trust services. However, it should not create a general obligation to use them. In particular, it should not cover the provision of services based on voluntary agreements under private law. Neither should it cover aspects related to the conclusion and validity of contracts or other legal obligations where there are requirements as regards form prescribed by national or Union law.

Amendment

(17) This Regulation should also establish a general legal framework for the use of electronic trust services. However, it should not create a general obligation to use them. In particular, it should not cover the provision of services based on voluntary agreements under private law. It should also be without prejudice to provisions on the form, formation or effect of contracts or to the form, creation or validity of other private-law obligations irrespective of whether they are founded on national or Union law, for example Articles 10 and 11 of Regulation (EC) No 593/2008. Furthermore this Regulation
should be without prejudice to the rules and restrictions in national or Union law on the use of documents, and should not apply to register procedures, particularly those relating to land registers and trade registers.

Amendment 5
Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Because of the pace of technological change, this Regulation should adopt an approach which is open to innovations.

Amendment

(20) Because of the pace of technological change, this Regulation should adopt an approach which aims at stimulating innovations.

Amendment 6
Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) To enhance people's trust in the internal market and to promote the use of trust services and products, the notions of qualified trust services and qualified trust service provider should be introduced with a view to indicating requirements and obligations to ensure high-level security of whatever qualified trust services and products are used or provided.

Amendment

(22) To enhance trust of small and medium enterprises (SMEs) and consumers in the internal market and to promote the use of trust services and products, the notions of qualified trust services and qualified trust service provider should be introduced with a view to indicating requirements and obligations to ensure high-level security of whatever qualified trust services and products are used or provided. Both qualified and advanced electronic signatures may be legally equivalent to handwritten signatures. Nothing in this Regulation shall limit the ability of any natural or legal person to demonstrate with evidence the non-reliability of any form of electronic signature. However, in case of
qualified electronic signature the burden
of proof when questioning the identity of
the signatory shall rest with the contesting
party.

Justice

It should be made clear that even a non-qualified signature can have the same effect as a handwritten one. The only difference is the burden of proof.

Amendment 7
Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) In line with the obligations under the UN Convention on the Rights of Persons with Disabilities that has entered into force in the EU, persons with disabilities should be able to use trust services and end user products used in the provision of those services on equal bases with other consumers.

Amendment

(23) In line with the obligations under the UN Convention on the Rights of Persons with Disabilities that has entered into force in the EU, and with respect to and in full compliance with Union legislation on accessibility of public sector bodies' websites, persons with disabilities should be able to use trust services, electronic identification services and end user products used in the provision of those services on equal bases with other consumers.

Amendment 8
Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Notification of security breaches and security risk assessments is essential with a view to providing adequate information to concerned parties in the event of a breach of security or loss of integrity.

Amendment

(29) Notification to the competent supervisory body by trust services providers of security breaches and security risk assessments is essential with a view to providing adequate information to concerned parties in the event of a breach of security or loss of integrity.
Amendment 9
Proposal for a regulation
Recital 34

_Text proposed by the Commission_

(34) To facilitate the supervision of qualified trust services providers, for example when a provider is providing its services in the territory of another Member State and is not subject to supervision there, or when the computers of a provider are located in the territory of another Member State than the one where it is established, a mutual assistance system between supervisory bodies in the Member States _should_ be set up.

_Amendment_

(34) To facilitate the supervision of qualified trust services providers _and ensure that it is effective, as stipulated in this Regulation_, for example when a provider is providing its services in the territory of another Member State and is not subject to supervision there, or when the computers of a provider are located in the territory of another Member State than the one where it is established, a mutual assistance system between supervisory bodies in the Member States _should_ be set up. _The system should also aim to simplify and reduce the administrative burden on trust service providers by having a one-stop-shop supervisory body._

Amendment 10
Proposal for a regulation
Recital 39 a (new)

_Justification_

_Parliament called for the creation of a trustmark in its resolution of 11 December 2012 on completing the Digital Single Market. Its aim in doing so was to boost users’ confidence online by creating an easily recognisable European label. Bearing in mind the aim of making trust services more secure online, qualified trust service providers who meet the requirements, especially those laid down in Article 19, should be able to benefit from this_
Amendment 11
Proposal for a regulation
Recital 40 a (new)

Text proposed by the Commission

(40a) The creation of remote electronic signatures, where the electronic signature creation environment is managed by a trust services provider on behalf of the signatory, is set to increase in the light of its multiple economic benefits. However, in order to ensure that such electronic signatures receive the same legal recognition as electronic signatures created in an entirely user-managed environment, remote signature services providers should apply specific management and administrative security procedures, and use reliable systems and products, including secure electronic communication channels, in order to guarantee that the electronic signature creation environment is reliable and is used under the sole control of the signatory. Where a qualified electronic signature has been created using a remote electronic signature creation device, the requirements applicable to qualified trust services providers set out in this Regulation will apply.

Justification

Although the server signature service is exposed to greater risks than other services, it is of benefit to users and is set to expand. The rapporteur therefore takes the view that express reference should be made to this service in order to ensure that the supervisory audits focus on the weaknesses inherent to this type of signature.

Amendment 12
Proposal for a regulation
Recital 42
Text proposed by the Commission

(42) When a transaction requires a qualified electronic seal from a legal person, a qualified electronic signature from the authorised representative of the legal person should be equally acceptable.

Amendment

(42) When national or Union law requires a qualified electronic seal from a legal person, a qualified electronic signature from the authorised representative of the legal person should be equally acceptable.

Amendment 13
Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) Electronic seals should serve as evidence that an electronic document was issued by a legal person, ensuring certainty of the document’s origin and integrity.

Amendment

(43) Valid electronic seals should serve as prima facie evidence for the authenticity and integrity of an electronic document associated with them. This should be without prejudice to national provisions on power of attorney, representation and legal capacity.

Amendment 14
Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) In order to enhance the cross-border use of electronic documents this Regulation should provide for the legal effect of electronic documents which should be considered as equal to paper documents dependent on the risk assessment and provided the authenticity and integrity of the documents are ensured. It also important for further development of cross-border electronic transactions in the internal market that original electronic documents or certified copies issued by relevant competent bodies.

Amendment

deleted
in a Member State under their national law are accepted as such also in other Member States. This Regulation should not affect Member States’ right to determine what constitutes an original or a copy at a national level but ensures that these can be used as such also across borders.

Amendment 15
Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

Amendment

(46a) Member States should ensure that the possibilities and limitations of use of electronic identification are clearly communicated to the citizens.

Amendment 16
Proposal for a regulation
Recital 49

Text proposed by the Commission

Amendment

(49) In order to complement certain detailed technical aspects of this Regulation in a flexible and rapid manner, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of interoperability of electronic identification; security measures required of trust service providers; recognised independent bodies responsible for auditing the service providers; trusted lists; requirements related to the security levels of electronic signatures; requirements of qualified certificates for electronic signatures their validation and their
preservation; the bodies responsible for the certification of qualified electronic signature creation devices; and the requirements related to the security levels of electronic seals and to qualified certificates for electronic seals; the interoperability between delivery services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Justification

Recital 49 needs to be modified in line with the amendments introduced by the rapporteur on delegated acts.

Amendment 17

Proposal for a regulation

Recital 51 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(51a) The standardisation work carried out by international and European organisations enjoys international recognition. This work is undertaken in cooperation with the industries and stakeholders concerned, and is funded by the Union and national authorities, among others. With a view to ensuring a high level of security in electronic identification and in electronic trust services, particularly in the Commission’s drafting of delegated and implementing acts, due account should be paid to standards drawn up by organisations such as the European Committee for Standardisation (CEN), the European Telecommunications Standards Institute (ETSI), the European Committee for Electrotechnical Standardisation (CENELEC) or the International Organisation for Standardisation (ISO).</td>
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</table>
Amendment 18
Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission
1. This Regulation lays down rules for electronic identification and electronic trust services for electronic transactions with a view to ensuring the proper functioning of the internal market.

Amendment
1. This Regulation lays down rules for electronic identification and trust services for electronic transactions with a view to ensuring the proper functioning of the internal market, guaranteeing a high level of security for identification means and trust services and boosting public trust in the digital world.

Justification

Article 3(12) refers to trust services rather than electronic trust services.

Amendment 19
Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission
3. This Regulation establishes a legal framework for electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic delivery services and website authentication.

Amendment
3. This Regulation establishes a legal framework for electronic signatures, electronic seals, electronic validation and verification, electronic time stamps, electronic documents, electronic delivery services and website authentication.

Amendment 20
Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission
4. This Regulation ensures that trust services and products which comply with this Regulation are permitted to circulate freely in the internal market.

Amendment
4. This Regulation ensures that both qualified and non-qualified trust services and products which comply with this Regulation are permitted to circulate freely in the internal market.
Justification

Article 3 defines ‘trust services’ and ‘products’ (see also the wording of Article 4).

Amendment 21
Proposal for a regulation
Article 2 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>1. This Regulation applies to electronic identification provided by, on behalf or under the responsibility of Member States and to trust service providers established in the Union.</td>
<td>1. This Regulation applies to electronic identification mandated, recognised or issued by or on behalf of Member States.</td>
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</table>

Amendment 22
Proposal for a regulation
Article 2 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>2. This Regulation does not apply to the provision of electronic trust services based on voluntary agreements under private law.</td>
<td>2. This Regulation applies to both qualified and non qualified trust service providers established in the Union. This Regulation does not apply to trust services which are chosen by a closed group of parties and which are used exclusively within that group.</td>
</tr>
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</table>

Amendment 23
Proposal for a regulation
Article 2 – paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(3) This Regulation does not apply to aspects related to the conclusion and validity of contracts or other legal obligations where there are requirements as regards form prescribed by national or</td>
<td>(3) This Regulation shall be without prejudice to provisions of national or Union law on the formation or validity of contracts or other private law obligations.</td>
</tr>
</tbody>
</table>
Union law.

Justification

The wording proposed by the Commission is too imprecise for a regulation.

Amendment 24

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(3a) This Regulation shall be without prejudice to rules and restrictions in national or Union law on the use of documents. It shall not apply to register procedures, particularly those relating to land registers and trade registers.</td>
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Amendment 25

Proposal for a regulation
Article 3 – point 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(1) ‘electronic identification’ means the process of using person identification data in electronic form unambiguously representing a natural or legal person;</td>
<td>(1) 'electronic identification' means the process of using person identification data in electronic form representing a natural or legal person either unambiguously or to the degree necessary for the specific purpose;</td>
</tr>
</tbody>
</table>

Justification

The principle of data minimization should be integrated in this proposal. While some services require unambiguous identification others might not require the transfer of all data. A practical example would be a simple age verification for which other personal details are not required.
Amendment 26
Proposal for a regulation
Article 3 – point 4

Text proposed by the Commission

(4) ‘authentication’ means an electronic process that allows the validation of the electronic identification of a natural or legal person; or of the origin and integrity of any electronic data;

Amendment

(4) ‘authentication’ means an electronic process that allows the validation of the electronic identification of a natural or legal person; or of the origin and integrity of any electronic data;

Amendment 27
Proposal for a regulation
Article 3 – point 7 – point b

Text proposed by the Commission

(b) it is capable of identifying the signatory;

Amendment

(b) it is capable of guaranteeing the legal validity of the identity of the signatory;

Justification

The use of the term ‘identifying’ could prove confusing given that the regulation concerns electronic identification. This particular point is a definition of an advanced electronic signature, which relates to the ‘trust services’ part of the proposal (Chapter III).

Amendment 28
Proposal for a regulation
Article 3 – point 7 – point c

Text proposed by the Commission

(c) it is created using electronic signature creation data that the signatory can, with a high level of confidence, use under his sole control; and

Amendment

(c) it is created using an electronic signature creation device that the signatory can use under his sole control; and

Justification

Wording changed to bring the text into line with the terminology used in Articles 22 and 23. The expression ‘high level of confidence’ is legally meaningless.
Amendment 29  
Proposal for a regulation  
Article 3 – point 7 – point d  

**Text proposed by the Commission**  
(d) it is linked to the data to which it relates in such a way that any subsequent change in the data is detectable;  

**Amendment**  
(d) it is linked to the data signed therewith in such a way that any subsequent change in the data is detectable;  

Amendment 30  
Proposal for a regulation  
Article 3 – point 8  

**Text proposed by the Commission**  
(8) 'qualified electronic signature' means an advanced electronic signature which is created by a qualified electronic signature creation device, and which is based on a qualified certificate for electronic signatures;  

**Amendment**  
(8) 'qualified electronic signature' means an advanced electronic signature which is created by a qualified electronic signature creation device, and which is based on a qualified certificate for electronic signatures issued by a qualified trust provider;  

Amendment 31  
Proposal for a regulation  
Article 3 – point 10  

**Text proposed by the Commission**  
(10) 'certificate' means an electronic attestation which links electronic signature or seal validation data of a natural or a legal person respectively to the certificate and confirms those data of that person;  

**Amendment**  
(10) 'certificate' means an electronic attestation which links electronic signature or seal validation data with the identification data of an entity, or a natural or a legal person respectively and confirms those data of that person;  

Amendment 32  
Proposal for a regulation  
Article 3 – point 11
(11) ‘qualified certificate for electronic signature’ means an attestation which is used to support electronic signatures, is issued by a qualified trust service provider and meet the requirements laid down in Annex I;

(12) ‘trust service’ means any electronic service consisting in the creation, verification, validation, handling and preservation of electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic delivery services, website authentication, and electronic certificates, including certificates for electronic signature and for electronic seals;

(13) ‘qualified trust service’ means a trust service that meets the applicable requirements provided for in this Regulation;
Amendment 35
Proposal for a regulation
Article 3 – point 19

Text proposed by the Commission
(19) ‘creator of a seal’ means a legal person who creates an electronic seal;

Amendment
(19) ‘creator of a seal’ means a natural or legal person who creates an electronic seal;

Amendment 36
Proposal for a regulation
Article 3 – point 20

Text proposed by the Commission
(20) ‘electronic seal’ means data in electronic form which are attached to or logically associated with other electronic data to ensure the origin and the integrity of the associated data;

Amendment
(20) ‘electronic seal’ means data in electronic form which are attached to or logically associated with other electronic data to ensure the authenticity and the integrity of the associated data;

Amendment 37
Proposal for a regulation
Article 3 – point 21 – point c

Text proposed by the Commission
(c) it is created using electronic seal creation data that the creator of the seal can, with a high level of confidence under its control, use for electronic seal creation; and

Amendment
(c) it is created using an electronic seal creation device that the creator of the seal can, with a high level of confidence under its control, use for electronic seal creation; and

Justification
Wording changed to bring the text into line with the terminology used in Articles 22 and 23.

Amendment 38
Proposal for a regulation
Article 3 – point 21 – point d
Text proposed by the Commission

(d) it is linked to the data to which it relates in such a way that any subsequent change in the data is detectable;

Amendment

(d) it is linked to the data the origin and integrity of which it attests in such a way that any subsequent change in the data is detectable;

Amendment 39
Proposal for a regulation
Article 3 – point 22

Text proposed by the Commission

22) ‘qualified electronic seal’ means an advanced electronic seal which is created by a qualified electronic seal creation device, and which is based on a qualified certificate for electronic seal;

Amendment

22) ‘qualified electronic seal’ means an advanced electronic seal which is created by a qualified electronic seal creation device, and which is based on a qualified certificate for electronic seal issued by a qualified trust service provider;

Amendment 40
Proposal for a regulation
Article 3 – point 27

Text proposed by the Commission

(27) ‘electronic document’ means a document in any electronic format;

Amendment

(27) ‘electronic document’ means a separate set of structured data in any electronic format;

Amendment 41
Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

1. There shall be no restriction on the provision of trust services in the territory of

Amendment

1. There shall be no restriction on the provision of trust services in the territory of
a Member State by a trust service provider established in another Member States for reasons which fall within the fields covered by this Regulation.

**Amendment 42**

**Proposal for a regulation**

**Article 4 – paragraph 2**

*Text proposed by the Commission*

2. Products which comply with this Regulation shall *be permitted to* circulate freely in the internal market.

*Amendment*

2. Products which comply with this Regulation shall circulate freely *and securely* in the internal market.

**Amendment 43**

**Proposal for a regulation**

**Article 5 - title**

*Text proposed by the Commission*

Mutual recognition *and acceptance*

*Amendment*

Mutual recognition

**Amendment 44**

**Proposal for a regulation**

**Article 5**

*Text proposed by the Commission*

When an electronic identification using an electronic identification means and authentication is required under national legislation or administrative practice to access a service online, *any* electronic identification means issued in another Member State *falling* under a scheme included in the list published by the Commission pursuant to the procedure referred to in Article 7 *shall be recognised and accepted for the purposes of*

*Amendment*

When an electronic identification using an electronic identification means and authentication is required under Union or national legislation or administrative practice to access a service online in one Member State or provided online by Union institutions, bodies, offices and agencies, *this* electronic identification means issued in another Member State or by Union institutions, bodies, offices and agencies under a scheme included in the
accessing this service.

list published by the Commission pursuant to Article 7, and with a security level equal to or higher than the security level required to access the service, shall be recognised in the Member State or by Union institutions, bodies, offices and agencies for the purposes of accessing that service online, not later than six months after the list, including that scheme, is published.

Amendment 45
Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) the electronic identification means are issued by, on behalf of or under the responsibility of the notifying Member State;

Amendment

(a) the electronic identification means are mandated, recognised or issued by or on behalf the notifying Member State;

Amendment 46

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) the electronic identification means can be used to access at least public services requiring electronic identification in the notifying Member State;

Amendment

(b) the electronic identification means can be used to access at least public services which accept electronic identification in the notifying Member State;

Amendment 47

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

Text proposed by the Commission

(c) the notifying Member State ensures that the person identification data are attributed

Amendment

(c) the notifying Member State ensures that the person identification data are attributed
unambiguously to the natural or legal person referred to in Article 3 point 1; either unambiguously or to the degree necessary for the specific purpose;

Justification

The principle of data minimization should be integrated in the proposal. While some services require unambiguous identification others might not require the transfer of all data. A practical example would be a simple age verification for which other personal details are not required.

Amendment 48
Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission
(d) the notifying Member State ensures the availability of an authentication possibility online, at any time and free of charge so that any relying party can validate the person identification data received in electronic form. Member States shall not impose any specific technical requirements on relying parties established outside of their territory intending to carry out such authentication. When either the notified identification scheme or authentication possibility is breached or partly compromised, Member States shall suspend or revoke without delay the notified identification scheme or authentication possibility or the compromised parts concerned and inform the other Member States and the Commission pursuant to Article 7;

Amendment
(d) the notifying Member State ensures the availability of an authentication online, at any time so that any relying party established outside of the territory of that Member State can validate the person identification data received in electronic form. Such authentication shall be provided free of charge where access to a service is provided online by a public sector body. Member States shall not impose any disproportionate specific technical requirements on relying parties intending to carry out such authentication.

Amendment 49
Proposal for a regulation
Article 6 – paragraph 1 – point e – introductory part
(e) the notifying Member State **takes liability for**:

**Justification**

*Liability of Member States should be addressed separately. See subsequent amendments.*

### Amendment 50

**Proposal for a regulation**  
**Article 6 – paragraph 1 – point e – point i**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(i) the <em>unambiguous</em> attribution of the person identification data referred to in point (c), and</td>
<td>(i) the attribution of the person identification data referred to in point (c), and</td>
</tr>
</tbody>
</table>

### Amendment 51

**Proposal for a regulation**  
**Article 6 – paragraph 1 – point e – subpoint ii**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>ii) the authentication <em>possibility</em> specified in point (d).</td>
<td>ii) the authentication <em>arrangements</em> specified in point (d).</td>
</tr>
</tbody>
</table>

### Amendment 52

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) a description of the notified electronic identification scheme;</td>
<td>(a) a description of the notified electronic identification scheme <em>and, in particular,</em> <em>information on the different security levels</em>;</td>
</tr>
</tbody>
</table>

**Justification**

*Unlike trust services, which are covered by a common set of security requirements, the*
Commission has no such provisions for electronic identification. The rapporteur takes the view that the introduction of different security levels (and consequently of a minimum level of security) is a prerequisite for the principle of mutual recognition and will help increase security in the digital world.

Amendment 53
Proposal for a regulation
Article 7 – paragraph 1 – point c

Text proposed by the Commission
(c) information on by whom the registration of the unambiguous person identifiers is managed;

Amendment
(c) information on who is responsible for managing the registration of the person identifiers;

Amendment 54
Proposal for a regulation
Article 7 – paragraph 1 – point d

Text proposed by the Commission
(d) a description of the authentication possibility;

Amendment
(d) a description of the authentication arrangements and in particular the minimum levels of security required and any technical requirements imposed on relying parties;

Justification

Unlike trust services, which are covered by a common set of security requirements, the Commission has no such provisions for electronic identification. The rapporteur takes the view that the introduction of different security levels (and consequently of a minimum level of security) is a prerequisite for the principle of mutual recognition and will help increase security in the digital world.

Amendment 55
Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission
2. Six months after the entry into force of the Regulation, the Commission shall

Amendment
2. Six months after the entry into force of the Regulation, the Commission shall
publish in the Official Journal of the European Union the list of the electronic identification schemes which were notified pursuant to paragraph 1 and the basic information thereon.

Publish in the Official Journal of the European Union as well as on a publicly available website the list of the electronic identification schemes which were notified pursuant to paragraph 1 and the basic information thereon.

**Justification**

*Publication on publicly available website would ensure user friendliness.*

**Amendment 56**

**Proposal for a regulation**

**Article 7 – paragraph 3**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. If the Commission receives a notification after the period referred to in paragraph 2 expired, it shall amend the list within <em>three months</em>.</td>
<td>3. If the Commission receives a notification after the period referred to in paragraph 2 expired, it shall amend the list within <em>one month</em>.</td>
</tr>
</tbody>
</table>

**Justification**

*The time limit proposed by the Commission does not seem justified in this case.*

**Amendment 57**

**Proposal for a regulation**

**Article 7 – paragraph 4**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. The Commission may, by means of implementing acts, define the circumstances, formats and procedures of the notification referred to in paragraphs 1 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).</td>
<td>4. The Commission may, by means of implementing acts, define the formats and procedures of the notification referred to in paragraphs 1 and 3. <em>The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation.</em> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).</td>
</tr>
</tbody>
</table>
Amendment 58
Proposal for a regulation
Article 7a (new)

Text proposed by the Commission

Amendment

Article 7a

Security breach

1. When either the electronic identification scheme notified pursuant to Article 7(1) or the authentication referred to in point (d) of Article 6(1) is breached or partly compromised in a way that would affect the reliability of that scheme for cross-border transactions, the notifying Member State shall without undue delay suspend or revoke the cross-border function of that electronic identification scheme or that authentication or the compromised parts concerned and inform other Member States and the Commission thereof.

2. When the breach or compromise referred to in paragraph 1 has been remedied, the notifying Member State shall re-establish the authentication and shall inform other Member States and the Commission as soon as possible.

3. If the breach or compromise referred to in paragraph 1 is not remedied within three months of the suspension or revocation, the notifying Member State shall notify the withdrawal of the electronic identification scheme to other Member States and to the Commission. The Commission shall publish without undue delay in the Official Journal of the European Union the corresponding amendments to the list referred to in Article 7(2).
Amendment 59
Proposal for a regulation
Article 7 b (new)

Text proposed by the Commission

Article 7b

Liability

1. The notifying Member State shall be liable for any damage caused to a natural or legal person which could reasonably be expected to arise under normal circumstances as a result of its failure to comply with its obligations under points (c) and (d) of Article 6(1), unless it can show that it has acted with due diligence.

2. The party issuing the electronic identification means shall be liable for any damage caused to any natural or legal person which could reasonably be expected to arise under normal circumstances as a result of its failure to ensure, consistent with the application of the identity assurance levels within national schemes:

(i) the attribution of the person identification data referred to in point (ca) of Article 6(1), and

(ii) the correct operation of the authentication referred to in point (d) of Article 6(1), unless it can show that he has acted with due diligence.

3. Paragraphs 1 and 2 are without prejudice to the liability under national legislation of parties to a transaction in which electronic identification means falling under the notified scheme are used.
Amendment 60

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

Amendment

Coordination

and interoperability

Amendment 61

Proposal for a regulation
Article 8 – paragraph 1a (new)

Text proposed by the Commission

1a. Member States and the Commission shall in particular prioritize interoperability for such e-services with the greatest cross border relevance by:

(a) exchanging best practices concerning the electronic identification means falling under a notified scheme;

(b) providing and regularly update best practices on trust and security of the electronic identification means;

(c) providing and regularly update on the promotion of the use of electronic identification means.

Amendment 62

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the facilitation of cross border interoperability of electronic identification means by setting of minimum, technology-neutral, technical
minimum technical requirements.

Amendment 63
Proposal for a regulation
Article 9 – title

Text proposed by the Commission

Liability

Amendment

Liability of qualified trust service providers

Justification

The rapporteur takes the view that only qualified trust service providers should be subject to the liability scheme, as in Directive 1999/93/EC. Non-qualified service providers should be covered by the general scheme of civil and contractual liability defined in the national law of each Member State.

Amendment 64
Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. A trust service provider shall be liable for any direct damage caused to any natural or legal person due to failure to comply with the obligations laid down in Article 15(1), unless the trust service provider can prove that he has not acted negligently.

Amendment

deleted

Justification

The rapporteur takes the view that only qualified trust service providers should be subject to the liability scheme, as in Directive 1999/93/EC. Non-qualified service providers should be covered by the general system of civil and contractual liability defined in national law.

Amendment 65
Proposal for a regulation
Article 9 - paragraph 2

Text proposed by the Commission

2. A qualified trust service provider shall

Amendment

2. A qualified trust service provider shall

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be liable for any direct damage caused to any natural or legal person due to failure to meet the requirements laid down in this Regulation, in particular in Article 19, unless the qualified trust service provider can prove that he has not acted negligently.

(a) any damage caused to any natural or legal person which could reasonably be expected to arise under normal circumstances as a result of its failure to meet the requirements laid down in this Regulation, in particular in Article 19, unless the qualified trust service provider can prove that it has acted with due diligence;

(b) point (a) shall apply mutatis mutandis where the qualified trust service provider has guaranteed, pursuant to point (b) of Article 10(1), the compliance with the requirements of this Regulation of a qualified trust service provider established in a third country, unless the qualified trust service provider established in the Union can prove that the former has acted with due diligence.

Amendment 66
Proposal for a regulation
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

2a. In the event of loss attributable to a qualified trust service provider as a result of failure to comply with the requirements set out in Article 19, the court with jurisdiction and the applicable law shall be those of the country in which the loss was suffered.

Justification

The rapporteur wishes to specify the applicable law.
Amendment 67
Proposal for a regulation
Article 10 – title

Text proposed by the Commission

Trust services providers from third countries

Amendment

Qualified trust services providers from third countries

Justification

As this article introduces only provisions covering qualified trust service providers, the title should be amended accordingly.

Amendment 68
Proposal for a regulation
Article 10 - paragraph 1

Text proposed by the Commission

1. Qualified trust services and qualified certificates provided by qualified trust service providers established in a third country shall be accepted as qualified trust services and qualified certificates provided by a qualified trust service providers established in the territory of the Union if the qualified trust services or qualified certificates originating from the third country are recognised under an agreement between the Union and third countries or international organisations in accordance with Article 218 TFUE.

Amendment

1. Qualified trust services and qualified certificates provided by qualified trust service providers established in a third country shall be accepted as qualified trust services and qualified certificates provided by a qualified trust service provider established in the territory of the Union if:

(a) the qualified trust service provider fulfils the requirements laid down in this Regulation and has been accredited under an accreditation scheme established in a Member State; or

(b) the qualified trust service provider established within the Union which fulfils the requirements laid down in this Regulation guarantees the compliance with the requirements laid down in this Regulation; or

(c) the qualified trust services or qualified certificates originating from a third
country are recognised under an agreement between the Union and that third country or international organisation in accordance with Article 218 TFEU.

Amendment 69
Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. With reference to paragraph 1, such agreements shall ensure that the requirements applicable to qualified trust services and qualified certificates provided by qualified trust service providers established in the territory of the Union are met by the trust service providers in the third countries or international organisations, especially with regard to the protection of personal data, security and supervision.

Amendment

2. With reference to paragraph 1, such agreements shall ensure that the requirements applicable to qualified trust services and qualified certificates provided by qualified trust service providers established in the territory of the Union are met by the trust service providers in the third countries or international organisations, especially the security of the trust services provided and the supervision of qualified trust service providers.

The third country in question shall afford adequate protection of personal data, in accordance with Article 25(2) of Directive 95/46/EC.

Justification

The rapporteur wishes to refer to the provision of EU personal data protection law which specifies that the adequacy of the level of protection afforded by a third country shall be assessed in the light of all the circumstances surrounding a data transfer operation or set of data transfer operations.

Amendment 70
Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Trust service providers and supervisory

Amendment

1. Trust service providers and supervisory
bodies shall ensure fair and lawful processing in accordance with Directive 95/46/EC when processing personal data. bodies shall ensure fair and lawful processing in accordance with Directive 95/46/EC when processing personal data, adhering to the principles of data minimization.

Amendment 71
Proposal for a regulation
Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Processing of personal data by or on behalf of the trust service provider, where strictly necessary to ensure network and information security for the purpose of complying with the requirements of Articles 11, 15, 16 and 19 of this Regulation, shall be considered a legitimate interest in the meaning of point (f) of Article 7 of Directive 95/46/EC.

Justification

Processing of personal data might be necessary in case of a breach or in order to take appropriate counter measures and should be applied where this is absolutely necessary and be a "legitimate interest" under the Data Protection Directive and thus be lawful.

Amendment 72
Proposal for a regulation
Article 12

Text proposed by the Commission

Amendment

Trust services provided and end user products used in the provision of those services shall be made accessible for persons with disabilities whenever possible. Trust services provided and end user products used in the provision of those services shall be made accessible for persons with disabilities in accordance with Union law.
Amendment 73

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall designate an appropriate body established in their territory or, upon mutual agreement, in another Member State under the responsibility of the designating Member State. Supervisory bodies shall be given all supervisory and investigatory powers that are necessary for the exercise of their tasks.

Amendment

1. Member States shall designate a supervisory body established in their territory or, upon mutual agreement, in another Member State under the responsibility of the designating Member State. The designated supervisory body, its addresses and the names of responsible persons shall be communicated to the Commission. Supervisory bodies shall be given adequate resources necessary for the exercise of their tasks.

Justification

The primary powers of the supervisory bodies have been established in this Regulation, however it is important that these authorities can function properly. Furthermore, "investigatory powers" might imply powers that are usually limited to law enforcement authorities, which would go beyond what is necessary.

Amendment 74

Proposal for a regulation
Article 13 – paragraph 3 – point c

Text proposed by the Commission

(c) statistics on the market and usage of qualified trust services, including information on qualified trust service providers themselves, the qualified trust services they provide, the products they use and the general description of their customers.

Amendment

(c) statistics on the market and usage of qualified trust services.

Justification

The rapporteur takes the view that this information is not useful and should not therefore be included in the body of the regulation.
Amendment 75

Proposal for a regulation
Article 13 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 38, concerning the definition of procedures applicable to the tasks referred to in paragraph 2.

Amendment

5. The Commission shall be empowered to **deleted**

Justification

Under Article 290, a legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act. The proposed delegation would go beyond mere supplementing or amending of non-essential elements of the proposed Regulation.

Amendment 76

Proposal for a regulation
Article 13 – paragraph 6

Text proposed by the Commission

6. The Commission may, by means of implementing acts, define the **circumstances**, formats and procedures for the report referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment

6. The Commission may, by means of implementing acts, define the formats and procedures for the report referred to in paragraph 3. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment 77

Proposal for a regulation
Article 14 – paragraph 2 – point b
(b) compliance with the request would be incompatible with this Regulation.

Amendment

(b) compliance with the request would be incompatible with this Regulation and applicable legislation.

Amendment 78

Proposal for a regulation
Article 14 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Where appropriate, supervisory bodies may carry out joint investigations in which staff from other Member States’ supervisory bodies is involved.

Amendment

3. Where appropriate, supervisory bodies may carry out joint supervisory actions.

Justification

The word "investigation" appears to be closely linked to law enforcement authorities. Furthermore, formulation "joint actions" implies that staff from other Member State' bodies is involved, thus is considered redundant.

Amendment 79

Proposal for a regulation
Article 14 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The supervisory body of the Member State where the investigation is to take place, in compliance with its own national law, may devolve investigative tasks to the assisted supervisory body's staff. Such powers may be exercised only under the guidance and in the presence of staff from the host supervisory body. The assisted supervisory body's staff shall be subject to the host supervisory body's national law. The host supervisory body shall assume responsibility for the assisted supervisory body's actions.

Amendment

Deleted.

The supervisory body of the Member State where the investigation is to take place, in compliance with its own national law, may devolve investigative tasks to the assisted supervisory body's staff. Such powers may be exercised only under the guidance and in the presence of staff from the host supervisory body. The assisted supervisory body's staff shall be subject to the host supervisory body's national law. The host supervisory body shall assume responsibility for the assisted supervisory body's actions.
body staff's actions.

Justification

The purpose of this paragraph is not entirely clear. If a Member State allows to devolve powers to public bodies of other Member States then there is no need for a EU legal base for this. However, if a Member State has the power to do so then it naturally also has the powers to set the specific conditions and procedures. With a view to the lack of added value and the subsidiarity principle this paragraph should be deleted.

Amendment 80

Proposal for a regulation
Article 14 – paragraph 4

Text proposed by the Commission

4. The Commission may, by means of implementing acts, specify the formats and procedures for the mutual assistance provided for in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment

deleted

Justification

The article does not necessarily require an implementing act as the tasks of supervisory bodies are clearly set out.

Amendment 81

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

Text proposed by the Commission

1. Trust service providers who are established in the territory of the Union shall take appropriate technical and organisational measures to manage the risks posed to the security of the trust services they provide. Having regard to state of the art, these measures shall

Amendment

1. Trust service providers who are established in the territory of the Union shall take appropriate technical and organisational measures to manage the risks posed to the security of the trust services they provide. Having regard to the technological development, these
ensure that the level of security is appropriate to the degree of risk. In particular, measures shall be taken to prevent and minimise the impact of security incidents and inform stakeholders of adverse effects of any incidents.

measures shall fully respect the data protection rights and ensure a level of security appropriate to the degree of risk. In particular, measures shall be taken to prevent and minimise the impact of security incidents and inform stakeholders of adverse effects of any significant incidents.

**Justification**

Referring to technological development seems more appropriate and better describes the ongoing process of adapting to new technologies. Also, state of the art could be mistaken for "best technology available" which would take out cost as a factor and put a disproportionate burden on service providers, which is probably not the aim of the provision. Finally, only significant incidents should be reported to avoid disproportionate burden and information overflow for users.

**Amendment 82**

**Proposal for a regulation**

**Article 15 – paragraph 1 – subparagraph 2**

**Text proposed by the Commission**

Without prejudice to Article 16(1), any trust service provider may submit the report of a security audit carried out by a recognised independent body to the supervisory body to confirm that appropriate security measures have been taken.

**Amendment**

Without prejudice to Article 16(1), any trust service provider shall, without undue delay and not later than six months following the commencement of its activities, submit the report of a compliance audit carried out by a recognised independent body to the supervisory body to confirm that appropriate security measures have been taken.

**Justification**

With a view to the reliability and safety requirements of trust services, a mandatory compliance audit should always be carried out.

**Amendment 83**

**Proposal for a regulation**
### Article 15 – paragraph 2 – subparagraph 2

**Text proposed by the Commission**

Where appropriate, in particular if a breach of security or loss of integrity concerns two or more Member States, the supervisory body concerned shall inform supervisory bodies in *other* Member States and the European Network and Information Security Agency (ENISA).

**Amendment**

Where appropriate, in particular if a breach of security or loss of integrity concerns two or more Member States, the supervisory body concerned shall inform supervisory bodies in *these* Member States and the European Network and Information Security Agency (ENISA).

### Amendment 84

**Proposal for a regulation**

**Article 15 – paragraph 2 – subparagraph 3**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The supervisory body concerned may also inform the public or require the trust service provider to do so, where it determines that disclosure of the breach is in the public interest.</td>
<td>The supervisory body concerned, in consultation with the trust service provider, may also inform the public or require the trust service provider to do so, where it determines that disclosure of the breach is in the public interest.</td>
</tr>
</tbody>
</table>

**Justification**

*While the ultimate decision to notify the public should rest with the public authority, a consultation with the service provider should take place as well. The provider might be better placed to assess the impact of the breach on users and the consequences for incident investigation / remedies.*

### Amendment 85

**Proposal for a regulation**

**Article 15 – paragraph 4**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. In order to implement paragraphs 1 and 2, the competent supervisory body shall have the power to issue binding instructions to trust service providers.</td>
<td>4. In order to ensure compliance with paragraphs 1 and 2, the competent supervisory body shall have the power to issue binding instructions to trust service providers.</td>
</tr>
</tbody>
</table>
Amendment 86

Proposal for a regulation
Article 15 – paragraph 5

Text proposed by the Commission Amendment

5. The Commission shall be empowered to delete adopt delegated acts, in accordance with Article 38, concerning the further specification of the measures referred to in paragraph 1.

Justification

Merged with following paragraph.

Amendment 87

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission Amendment

1. Qualified trust service providers shall be audited by a recognised independent body once a year to confirm that they and the qualified trust services provided by them fulfil the requirements set out in this Regulation, and shall submit the resulting security audit report to the supervisory body.

1. Qualified trust service providers shall be audited by a recognised independent body every two years and following any significant technological or organizational changes to confirm that they and the qualified trust services provided by them fulfil the requirements set out in this Regulation, and shall submit the resulting compliance audit report to the supervisory body.

Justification

The report should not only limit to the security requirements but also include all requirements for qualified trust service providers stemming from this Regulation. Furthermore, an issuance of the report every 2 years should constitute a sufficient and proportionate measure, taking account of the administrative and financial burden introduced by it. However, in case of significant changes an audit should be conducted to ensure the changes do not affect providers.
Amendment 88

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

Without prejudice to paragraph 1, the supervisory body may at any time audit the qualified trust service providers to confirm that they and the qualified trust services provided by them still meet the conditions set out in this Regulation, either on its own initiative or in response to a request from the Commission. The supervisory body shall inform the data protection authorities of the results of its audits, in case personal data protection rules appear to have been breached.

Amendment

2. Without prejudice to paragraph 1, in case of substantiated doubts, the supervisory body may at any time audit the qualified trust service providers to confirm that they and the qualified trust services provided by them still meet the conditions set out in this Regulation, either on its own initiative or in response to a request from a supervisory body in another Member State. The supervisory body shall inform the data protection authorities of the results of its audits, in case personal data protection rules appear to have been breached.

Justification

It should be clarified that such audits cannot be conducted arbitrarily but should be based on substantiated indications of non-compliance. The reference to "on request from the Commission" has been deleted since supervisory bodies are in a better position to assess the necessity of such an audit.

Amendment 89

Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

3. The supervisory body shall have the power to issue binding instructions to qualified trust service providers to remedy any failure to fulfil the requirements indicated in the security audit report.

Amendment

3. The supervisory body shall have the power to issue binding instructions to qualified trust service providers to remedy any failure to fulfil the requirements set out in this Regulation.
Justification

The original wording would mean the supervisory body would only have the power to issue binding instructions based on the security audit. It is unclear why these powers should be limited to this source of information.

Amendment 90

Proposal for a regulation
Article 16 – paragraph 6

6. The Commission may, by means of implementing acts, define the circumstances, procedures and formats applicable for the purpose of paragraphs 1, 2 and 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment

6. The Commission may, by means of implementing acts, define the procedures and formats applicable for the purpose of paragraphs 1, 2 and 4. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment 91

Proposal for a regulation
Article 16 a (new)

Article 16a

Supervision of trust service providers

In order to facilitate supervision by the supervisory body referred to in point (a) of Article 13(2), trust service providers shall notify the supervisory body of their intention to start offering a trust service and shall inform it of the technical and organisational measures they have taken to manage the risks linked to the security of the trust services they provide in
accordance with Article 15(1).

Justification

Correction by the rapporteur to Amendment 35, in which the word ‘qualified’ was written by mistake. Justification for Amendment 35: the rapporteur wishes to introduce this new article in order to facilitate the work of the supervisory body in respect of trust service providers (meaning non-qualified trust service providers) and to guarantee a minimum legal value for non-qualified trust services.

Amendment 92
Proposal for a regulation
Article 17

Text proposed by the Commission

1. Qualified trust service providers shall notify the supervisory body of their intention to start providing a qualified trust service and shall submit to the supervisory body a security audit report carried out by a recognised independent body, as provided for in Article 16(1). Qualified trust service providers may start to provide the qualified trust service after they have submitted the notification and security audit report to the supervisory body.

2. Once the relevant documents are submitted to the supervisory body according to paragraph 1, the qualified service providers shall be included in the trusted lists referred to in Article 18 indicating that the notification has been submitted.

3. The supervisory body shall verify the compliance of the qualified trust service provider and of the qualified trust services provided by it with the requirements of the Regulation.

Amendment

1. Where trust service providers intend to provide a qualified trust service, they shall submit to the supervisory body a notification of their intention together with a security audit report carried out by a recognised independent body, as provided for in Article 16(1).

2. Once the relevant documents are submitted in accordance with paragraph 1, the supervisory body shall verify the compliance of the trust service provider and of the trust services to be provided by it with the requirements of this Regulation.

3. If the verification process confirms compliance with this Regulation, the supervisory body shall grant qualified status to the trust service provider and indicate such status in the trusted list referred to in Article 18, not later than one month after notification has been submitted in accordance with paragraph 1.
The supervisory body shall indicate the qualified status of the qualified service providers and the qualified trust services they provide in the trusted lists after the positive conclusion of the verification, not later than one month after the notification has been done in accordance with paragraph 1.

If the verification is not concluded within one month, the supervisory body shall inform the qualified trust service provider specifying the reasons of the delay and the period by which the verification shall be concluded.

4. A qualified trust service which has been subject to the notification referred to in paragraph 1 cannot be refused for the fulfilment of an administrative procedure or formality by the concerned public sector body for not being included in the lists referred to in paragraph 3.

5. The Commission may, by means of implementing acts, define the circumstances, formats and procedures for the purpose of paragraphs 1, 2 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment 93

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. Member States shall establish, maintain and publish, in a secure manner, electronically signed or sealed trusted lists provided for in paragraph 1 in a form suitable for automated processing.

Amendment

2. Member States shall establish, maintain and publish, in a secure manner, electronically signed or sealed trusted lists provided for in paragraph 1 in a form suitable for automated processing of both the list itself as well as the individual
certificates.

Justification

Clarification has been introduced to ensure that applications can process the certificates, what is necessary for validation in practice.

Amendment 94
Proposal for a regulation
Article 18 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the definition of the information referred to in paragraph 1.

Amendment

deleted

Justification

The information on qualified trust service providers should be defined in an implementing act rather than a delegated act.

Amendment 95
Proposal for a regulation
Article 18 a (new)

Text proposed by the Commission

Article 18a

EU trustmark for qualified trust services

1. Qualified trust service providers may use an EU trustmark to present and advertise the qualified trust services they offer that meet the requirements laid down in this Regulation.

2. By using the EU trustmark for qualified trust services referred to in paragraph 1, qualified trust service providers shall be responsible for ensuring that the services meet all applicable requirements laid down in this Regulation.

3. By means of implementing acts, the
Commission shall lay down specific, binding criteria relating to the presentation, composition, size and design of the EU trustmark for qualified trust services. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Justification

Parliament called for the creation of a trustmark in its resolution of 11 December 2012 on completing the Digital Single Market. Its aim in doing so was to boost users’ confidence online by creating an easily recognisable European label. Bearing in mind the aim of making trust services more secure online, qualified trust service providers who meet the requirements, especially those laid down in Article 19, should be able to benefit from this label and enjoy added value in e-commerce.

Amendment 96

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>When issuing a qualified certificate, a qualified trust service provider shall verify, by appropriate means and in accordance with national law, the identity and, if applicable, any specific attributes of the natural or legal person to whom a qualified certificate is issued.</td>
</tr>
</tbody>
</table>

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<th>Amendment</th>
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<tbody>
<tr>
<td>When issuing a qualified certificate, a qualified trust service provider shall verify, by appropriate means and in accordance with national and Union law, the identity and, if applicable, any specific attributes of the natural or legal person to whom a qualified certificate is issued.</td>
</tr>
</tbody>
</table>

Justification

Clarification.

Amendment 97

Proposal for a regulation
Article 19 – paragraph 2 – point c

**Text proposed by the Commission**

(c) before entering into a contractual relationship, inform any person seeking to use a qualified trust service of the precise terms and conditions regarding the use of that service;

**Amendment**

(c) before entering into a contractual relationship, inform any person seeking to use a qualified trust service of the precise terms and conditions regarding the use of that service, *including any limitation on its use*;

Amendment 98

Proposal for a regulation

Article 19 – paragraph 2 – point d

**Text proposed by the Commission**

(d) use *trustworthy* systems and products which are protected against modification and guarantee the technical security and reliability of the process supported by them;

**Amendment**

(d) use systems and products which are protected against *unauthorized* modification and guarantee the technical security and reliability of the process supported by them;

**Justification**

*While trustworthy might imply a higher standard, the system ultimately has to comply with the requirements of this paragraph. It is unclear whether "trustworthy" constitutes an additional requirement in itself. To clarify, authorized modifications should be possible.*

Amendment 99

Proposal for a regulation

Article 19 – paragraph 2 – point e – introductory part

**Text proposed by the Commission**

(e) use *trustworthy* systems to store data provided to them, in a verifiable form so that:

**Amendment**

(e) use systems to store data provided to them, in a verifiable form so that:

**Justification**

*While trustworthy might imply a higher standard, the system ultimately has to comply with the*
requirements of this paragraph. It is unclear whether "trustworthy" constitutes an additional requirement in itself.

Amendment 100

Proposal for a regulation
Article 19 – paragraph 2 – point e – indent 1

Text proposed by the Commission

– they are publicly available for retrieval only where the consent of the person to whom the data has been issued has been obtained,

Amendment

– they are publicly available for retrieval only where national or Union law allows for this or where the consent of the person to whom the data relates has been obtained,

Amendment 101

Proposal for a regulation
Article 19 – paragraph 2 – point g

Text proposed by the Commission

(g) record for an appropriate period of time all relevant information concerning data issued and received by the qualified trust service provider, in particular for the purpose of providing evidence in legal proceedings. Such recording may be done electronically;

Amendment

(g) record for an appropriate period of time, regardless of whether the qualified trust service provider has ceased to provide qualified trust services, all relevant information concerning data issued and received by the qualified trust service provider, in particular for the purpose of providing evidence in legal proceedings. Such recording may be done electronically;

Justification

It is important that relevant information is still accessible even if the service provider has ceased its activities.

Amendment 102

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

3. Qualified trust service providers issuing qualified certificates shall register in their certificate database the revocation of the certificate within ten minutes after such revocation has taken effect.

Amendment

3. Qualified trust service providers issuing qualified certificates shall register the revocation of the certificate in their certificate database on the same working day that such revocation has taken effect, and if such revocation has taken effect on a weekend or public holiday, on the next working day.

Amendment 103

Proposal for a regulation

Article 19 – paragraph 4

Text proposed by the Commission

4. With regard to paragraph 3, qualified trust service providers issuing qualified certificates shall provide to any relying party information on the validity or revocation status of qualified certificates issued by them. This information shall be made available at any time at least on a certificate basis in an automated manner which is reliable, free of charge and efficient.

Amendment

4. With regard to paragraph 3, qualified trust service providers issuing qualified certificates shall provide to any relying party information on the validity or revocation status of qualified certificates issued by them. This information shall be made available at any time at least on a certificate basis in an automated manner.

Justification

It is unclear what "efficient" and "reliable" mean exactly. "Available at any time" already implies reliability. Furthermore, in contrast to public sector services, private sector solutions cannot be always free of charge. Parties using such services should be free to choose their underlying business model.

Amendment 104

Proposal for a regulation

Article 19 – paragraph 5
Text proposed by the Commission

5. The Commission may, by means of implementing acts, establish reference numbers of standards for trustworthy systems and products. Compliance with the requirements laid down in Article 19 shall be presumed where trustworthy systems and products meet those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

5. The Commission may, by means of implementing acts, establish reference numbers of standards for trustworthy systems and products. **The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation.** Compliance with the requirements laid down in Article 19 shall be presumed where trustworthy systems and products meet those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

*This modification is relevant for each article throughout the text which mentions the use of standards.*

Amendment 105

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. An electronic signature shall **not be denied** legal effect and **admissibility** as evidence in legal proceedings **solely on the grounds that it is in an** electronic form.

Amendment

1. An electronic signature shall **have** legal effect and **may be admissible** as evidence in legal proceedings. **It shall be taken into account that the qualified electronic signature offers a higher level of security than other types of electronic signatures.**

Justification

*Given the difficulties to translate the French version into English of Rapporteur's amendment 43, the Rapporteur decided to table a new amendment in English to rephrase this paragraph.*
Amendment 106

Proposal for a regulation
Article 20 – paragraph 2

2. A qualified electronic signature shall have the equivalent legal effect of a handwritten signature.

Amendment

2. A qualified electronic signature shall satisfy the legal requirements of a signature in relation to data in electronic form in the same manner as a handwritten signature satisfies those requirements in relation to paper-based data;

Justification

The wording of Directive 1999/93/EC appears to better take into account different national forms and procedural requirements.

Amendment 107

Proposal for a regulation
Article 20 – paragraph 2 a (new)

2a. A valid qualified electronic signature shall serve as prima facie evidence for the authenticity and integrity of the electronic document associated with it.

Amendment

Justification

The term ‘valid’ refers to Article 25(1) of the proposal for a regulation. Only if a signature has been positively validated can it have a specific evidentiary value.

Amendment 108

Proposal for a regulation
Article 20 – paragraph 3
3. Qualified electronic signatures shall be recognised and accepted in all Member States.

Amendment
3. Qualified electronic signatures shall be recognised and accepted in Member States and institutions of the Union.

Amendment 109
Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission
4. If an electronic signature with a security assurance level below qualified electronic signature is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic signatures matching at least the same security assurance level shall be recognised and accepted.

Amendment
4. If an electronic signature with a security assurance level below qualified electronic signature is required, by a Member State or by institutions, bodies, offices and agencies of the Union for completing a transaction offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic signatures matching at least the same security assurance level shall be recognised and accepted for access to that online service.

Amendment 110
Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission
5. Member States shall not request for cross-border access to a service online offered by a public sector body an electronic signature at a higher security assurance level than qualified electronic signature.

Amendment
5. Member States shall not request for cross-border access to a service online offered by a public sector body an electronic signature at a higher security level than qualified electronic signature.

Justification
The word ‘assurance’ is superfluous here.
Amendment 111  
Proposal for a regulation  
Article 20 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the definition of the different security levels of electronic signature referred to in paragraph 4.

Amendment

deleted

Justification

As the definition of the different security levels of electronic signature is a key element of the Regulation, the rapporteur takes the view that decisions on this matter should not be taken by means of delegated acts.

Amendment 112

Proposal for a regulation  
Article 20 – paragraph 7

Text proposed by the Commission

7. The Commission may, by means of implementing acts, establish reference numbers of standards for the security levels of electronic signature. Compliance with the security level defined in a delegated act adopted pursuant to paragraph 6 shall be presumed when an electronic signature meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

7. The Commission may, by means of implementing acts, establish reference numbers of standards for the security levels of electronic signature. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the security level defined in a delegated act adopted pursuant to paragraph 6 shall be presumed when an electronic signature meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.
Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 113

Proposal for a regulation
Article 21 – paragraph 4

**Text proposed by the Commission**

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the further specification of the requirements laid down in Annex I.

**Amendment**

deleted

**Justification**

An implementing act appears more appropriate, therefore it has been merged with the following paragraph.

Amendment 114

Proposal for a regulation
Article 21 – paragraph 5

**Text proposed by the Commission**

5. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified certificates for electronic signature. Compliance with the requirements laid down in Annex I shall be presumed where a qualified certificate for electronic signature meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

**Amendment**

5. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified certificates for electronic signature. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the requirements laid down in Annex I shall be presumed where a qualified certificate for electronic signature meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure
This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 115
Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

2. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified electronic signature creation devices. Compliance with the requirements laid down in Annex II shall be presumed where a qualified electronic signature creation device meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

2. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified electronic signature creation devices. **The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation.** Compliance with the requirements laid down in Annex II shall be presumed where a qualified electronic signature creation device meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 116
Proposal for a regulation
Article 23 – paragraph 1

This modification is relevant for each article throughout the text which mentions the use of standards.
1. Qualified electronic signature creation devices may be certified by appropriate public or private bodies designated by Member States provided that they have been submitted to a security evaluation process carried out in accordance with one of the standards for the security assessment of information technology products included in a list that shall be established by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

1. Qualified electronic signature creation devices must be certified by public or private certification bodies designated by Member States following a security evaluation process carried out in accordance with one of the standards for the security assessment of information technology products included in a list that shall be established by the Commission by means of implementing acts. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

The certification process is crucial in ensuring the security of electronic services. If it is not made mandatory, it is unlikely that providers will take the trouble to have their services certified. However, parties wishing to make use of validation services provided by a trust service provider needs to know whether signature creation devices are trustworthy. Mandatory certification by a certification body would thus appear to be indispensable.

Amendment 117

Proposal for a regulation

Article 25 – paragraph 3

Text proposed by the Commission

3. The Commission may, by means of implementing acts, establish reference numbers of standards for the validation of qualified electronic signatures. Compliance with the requirements laid down in paragraph 1 shall be presumed where the validation of qualified electronic signatures

Amendment

3. The Commission may, by means of implementing acts, establish reference numbers of standards for the validation of qualified electronic signatures. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact
meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the requirements laid down in paragraph 1 shall be presumed where the validation of qualified electronic signatures meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 118

Proposal for a regulation
Article 26 – paragraph 1 – point b

Text proposed by the Commission

(b) allows relying parties to receive the result of the validation process in an automated manner which is reliable, efficient and bearing the advanced electronic signature or advanced electronic seal of the provider of the qualified validation service.

Amendment

(b) allows relying parties to receive the result of the validation process in an automated manner bearing the advanced electronic signature or advanced electronic seal of the provider of the qualified validation service.

Justification

It is unclear what is meant by "efficient and reliable". In any case, this should be left to the business model of the service provider as it lies in their very own interest to offer efficient and reliable services to users.

Amendment 119

Proposal for a regulation
Article 26 – paragraph 2
2. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified validation service referred to in paragraph 1. Compliance with the requirements laid down in point (b) of paragraph 1 shall be presumed where the validation service for qualified electronic signature meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 120

Proposal for a regulation
Article 27 – paragraph 3

Text proposed by the Commission

3. The Commission may, by means of implementing acts, establish reference numbers of standards for the preservation of qualified electronic signatures. Compliance with the requirements laid down in paragraph 1 shall be presumed where the arrangements for the preservation of qualified electronic signatures meet those standards. Those implementing acts shall be adopted in accordance with the examination procedure

Amendment

3. The Commission may, by means of implementing acts, establish reference numbers of standards for the preservation of qualified electronic signatures. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the requirements laid down in paragraph 1 shall be presumed

where the arrangements for the preservation of qualified electronic signatures meet those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

**Justification**

This modification is relevant for each article throughout the text which mentions the use of standards.

### Amendment 121

**Proposal for a regulation**

**Article 28 – paragraph 2**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. A qualified electronic seal shall <em>enjoy the legal presumption of ensuring the origin and integrity of the data to which it is linked.</em></td>
<td>2. A <em>valid</em> qualified electronic seal shall serve at least as prima facie evidence for the authenticity and integrity of the electronic document associated with it. This shall be without prejudice to national provisions on power of attorney and representation.</td>
</tr>
</tbody>
</table>

### Amendment 122

**Proposal for a regulation**

**Article 28 – paragraph 3**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. A qualified electronic seal shall be recognised <em>and accepted</em> in all Member States.</td>
<td>3. A qualified electronic seal shall be recognised in all Member States.</td>
</tr>
</tbody>
</table>

**Justification**

*The difference between "recognised" and "accepted" is unclear. This paragraph is, in contrast to the corresponding provisions on electronic signatures, not deleted as the concept*
of an (electronic) seal does not exist in all Member States.

Amendment 123
Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission
4. If an electronic seal security assurance level below the qualified electronic seal is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic seals matching at a minimum the same security assurance level shall be accepted.

Amendment
4. If an electronic seal security level below the qualified electronic seal is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic seals matching at a minimum the same security assurance level shall be accepted for access to that online service.

Justification
The word ‘assurance’ is superfluous here.

Amendment 124
Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission
5. Member States shall not request for accessing a service online offered by a public sector body an electronic seal with higher security assurance level than qualified electronic seals.

Amendment
5. Member States shall not request for cross-border access to a service online offered by a public sector body an electronic seal with higher security level than qualified electronic seals.

Justification
The word ‘assurance’ is superfluous here.

Amendment 125
Proposal for a regulation
Article 28 – paragraph 6
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the definition of different security assurance levels of electronic seals referred to in paragraph 4.

Justification

As the definition of the different security levels of electronic seals is a key element of the Regulation, the rapporteur takes the view that decisions on this matter should not be taken by means of delegated acts.

Amendment 126

Proposal for a regulation
Article 28 – paragraph 7

Text proposed by the Commission

7. The Commission may, by means of implementing acts, establish reference numbers of standards for the security assurance levels of electronic seals. Compliance with the security assurance level defined in a delegated act adopted pursuant to paragraph 6 shall be presumed when an electronic seal meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

7. The Commission may, by means of implementing acts, establish reference numbers of standards for the security assurance levels of electronic seals. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the security assurance level defined in a delegated act adopted pursuant to paragraph 6 shall be presumed when an electronic seal meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of
standards.

Amendment 127

Proposal for a regulation
Article 29 – paragraph 5

Text proposed by the Commission
5. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified certificates for electronic seal. Compliance with the requirements laid down in Annex III shall be presumed where a qualified certificate for electronic seal meet those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment
5. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified certificates for electronic seal. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the requirements laid down in Annex III shall be presumed where a qualified certificate for electronic seal meet those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 128

Proposal for a regulation
Article 32 – paragraph 2

Text proposed by the Commission
2. Qualified electronic time stamp shall enjoy a legal presumption of ensuring the time it indicates and the integrity of the data to which the time is bound.

Amendment
2. A qualified electronic time stamp shall constitute at least prima facie evidence of the correctness of the time it indicates and the integrity of the document with which it
is associated.

Amendment 129

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

2. The Commission may, by means of implementing acts, establish reference numbers of standards for the accurate linkage of time to data and an accurate time source. Compliance with the requirements laid down in paragraph 1 shall be presumed where an accurate linkage of time to data and an accurate time source meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

2. The Commission may, by means of implementing acts, establish reference numbers of standards for the accurate linkage of time to data and an accurate time source. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation. Compliance with the requirements laid down in paragraph 1 shall be presumed where an accurate linkage of time to data and an accurate time source meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 130

Proposal for a regulation
Article 34 – paragraph 1

1. An electronic document shall be considered as equivalent to a paper document and admissible as evidence in legal proceedings, having regard to its assurance level of authenticity and

Amendment

1. An electronic document shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in electronic format.

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Amendment 131
Proposal for a regulation
Article 34 – paragraph 2

Text proposed by the Commission

2. A document bearing a qualified electronic signature or a qualified electronic seal of the person who is competent to issue the relevant document, shall enjoy legal presumption of its authenticity and integrity provided the document does not contain any dynamic features capable of automatically changing the document.

Amendment

2. A document bearing a qualified electronic signature or a qualified electronic seal, shall have the equivalent legal effect of a paper document bearing a handwritten signature or a physical seal, where this exists under national law, provided the document does not contain any dynamic features capable of automatically changing the document.

Amendment 132
Proposal for a regulation
Article 34 – paragraph 3

Text proposed by the Commission

3. When an original document or a certified copy is required for the provision of a service online offered by a public sector body, at least electronic documents issued by the persons who are competent to issue the relevant documents and that are considered to be originals or certified copies in accordance with national law of the Member State of origin, shall be accepted in other Member States without additional requirements.

Amendment

deleted

Justification

Art. 34 (3) would call into question the tried and tested instrument of the endorsement (apostille) for the recognition of foreign documents, which is also to be the subject of new regulation by the Commission.
Amendment 133

Proposal for a regulation
Article 34 – paragraph 4

Text proposed by the Commission

4. The Commission may, by means of implementing acts, define formats of electronic signatures and seals that shall be accepted whenever a signed or sealed document is requested by a Member State for the provision of a service online offered by a public sector body referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment

deleted

Amendment 134

Proposal for a regulation
Article 35 – paragraph 1

Text proposed by the Commission

1. Data sent or received using an electronic delivery service shall be admissible as evidence in legal proceedings with regard to the integrity of the data and the certainty of the date and time at which the data were sent to or received by a specified addressee.

Amendment

1. Data sent or received using an electronic delivery service shall be admissible as evidence in legal proceedings.

Amendment 135

Proposal for a regulation
Article 35 – paragraph 2

Text proposed by the Commission

2. Data sent or received using a qualified electronic delivery service shall enjoy legal presumption of the integrity of the data

Amendment

2. Data sent or received using a qualified electronic delivery service shall constitute at least prima facie evidence of the
and the **accuracy** of the date and time of sending or receiving the data indicated by the qualified electronic delivery system.

**Amendment 136**

Proposal for a regulation
Article 35 – paragraph 2 a (new)

*Text proposed by the Commission*

2a. *This Article shall be without prejudice to Regulation (EC) No 1348/2000.*

**Amendment 137**

Proposal for a regulation
Article 35 – paragraph 3

*Text proposed by the Commission*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the specification of mechanisms for sending or receiving data using electronic delivery services, which shall be used with a view to fostering interoperability between electronic delivery services.

**Amendment 138**

Proposal for a regulation
Article 36 – paragraph 2

*Text proposed by the Commission*

2. The Commission may, by means of implementing acts, establish reference numbers of standards for processes for sending and receiving data. Compliance with the requirements laid down in paragraph 1 shall be presumed where the

**Amendment**
process for sending and receiving data meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation.
Compliance with the requirements laid down in paragraph 1 shall be presumed where the process for sending and receiving data meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.

Amendment 139

Proposal for a regulation
Article 37 – paragraph 4

Text proposed by the Commission

4. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified certificates for website authentication. Compliance with the requirements laid down in Annex IV shall be presumed where a qualified certificate for website authentication meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Amendment

4. The Commission may, by means of implementing acts, establish reference numbers of standards for qualified certificates for website authentication. The Commission shall ensure, that stakeholder input is duly considered, preferably in form of an impact assessment, when defining standards to be used for the purpose of this Regulation.
Compliance with the requirements laid down in Annex IV shall be presumed where a qualified certificate for website authentication meets those standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

This modification is relevant for each article throughout the text which mentions the use of standards.
**Justification**

This modification is relevant for each article throughout the text which mentions the use of standards.

**Amendment 140**
Proposal for a regulation
Article 38 – paragraph 2

*Text proposed by the Commission*

2. The power to adopt delegated acts referred to in Articles 8(3), 13(5), 15(5), 16(5), 18(5), 20(6), 21(4), 23(3), 25(2), 27(2), 28(6), 29(4), 30(2), 31, 35(3) and 37(3) shall be conferred on the Commission for an indeterminate period of time from the entry into force of this Regulation.

*Amendment*

2. The power to adopt delegated acts referred to in Articles 8(3), 16(5), 23(3), 25(2), 27(2), 29(4), 30(2), 31 and 37(3) shall be conferred on the Commission for an indeterminate period of time from the entry into force of this Regulation.

**Amendment 141**
Proposal for a regulation
Article 38 – paragraph 3

*Text proposed by the Commission*

3. The delegation of power referred to in Articles 8(3), 13(5), 15(5), 16(5), 18(5), 20(6), 21(4), 23(3), 25(2), 27(2), 28(6), 29(4), 30(2), 31, 35(3) and 37(3) may be revoked at any time by the European Parliament or by the Council. The revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

*Amendment*

3. The delegation of power referred to in Articles 8(3), 16(5), 23(3), 25(2), 27(2), 29(4), 30(2), 31 and 37(3) may be revoked at any time by the European Parliament or by the Council. The revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

**Amendment 142**
Proposal for a regulation
Article 38 – paragraph 5
5. A delegated act adopted pursuant to Articles 8(3), 13(5), 15(5), 16(5), 18(5), 20(6), 21(4), 23(3), 25(2), 27(2), 28(6), 29(4), 30(2), 31, 35(3) and 37(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 143
Proposal for a regulation
Article 40

Text proposed by the Commission
The Commission shall report to the European Parliament and to the Council on the application of this Regulation. The first report shall be submitted no later than four years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter.

Amendment
The Commission shall report to the European Parliament and to the Council on the application of this Regulation. The first report shall be submitted no later than two years after the entry into force of this Regulation. Subsequent reports shall be submitted every four years thereafter.

Justification
With all the new elements that have been added to the regulation and given that it is directly applicable in the Member States, the rapporteur takes the view that the first assessment report should be submitted at the most two years after the entry into force of the regulation.

Amendment 144
Proposal for a regulation
Article 40 – paragraph 1 a (new)
1a. The report must make it possible to establish whether the scope of this Regulation needs to be changed for the purposes of adaptation to developments in technology, in the market and in the legal context in the Member States and internationally; generally, the report must indicate whether the Regulation has made it possible to attain its stated objectives with regard to building trust in the online environment. The report must, in particular, include an assessment of the application of Articles 13, 16 and 19. The report shall be accompanied by legislative proposals, if necessary.

Amendment 145
Proposal for a regulation
Article 40 – paragraph 1 b (new)

1b. The report must make it possible to establish whether the scope of this Regulation needs to be changed for the purposes of adaptation to developments in technology, in the market and in the legal context in the Member States and internationally; generally, the report must indicate whether the Regulation has made it possible to attain its stated objectives with regard to building trust in the online environment. The report must, in particular, include an assessment of the application of Articles 13, 16 and 19. The report shall be accompanied by legislative proposals, if necessary.

Amendment 146
Proposal for a regulation
Annex III – paragraph 1 – point b – subparagraph 2 a (new)
Amendment 147

Proposal for a regulation
Annex IV – paragraph 1 – point b – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

*Sensitive data within the meaning of Article 8 of Directive 95/46/CE shall not be processed.*
## PROCEDURE

<table>
<thead>
<tr>
<th><strong>Title</strong></th>
<th>Electronic identification and trust services for electronic transactions in the internal market</th>
</tr>
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<tbody>
<tr>
<td><strong>References</strong></td>
<td>COM(2012)0238 – C7-0133/2012 – 2012/0146(COD)</td>
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<tr>
<td><strong>Committee responsible</strong></td>
<td>ITRE</td>
</tr>
<tr>
<td><strong>Date announced in plenary</strong></td>
<td>14.6.2012</td>
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<td><strong>Opinion by</strong></td>
<td>IMCO</td>
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<td>14.6.2012</td>
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<td><strong>Associated committee(s) - date announced in plenary</strong></td>
<td>7.2.2013</td>
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<tr>
<td><strong>Rapporteur</strong></td>
<td>Marielle Gallo</td>
</tr>
<tr>
<td><strong>Date appointed</strong></td>
<td>21.6.2012</td>
</tr>
<tr>
<td><strong>Discussed in committee</strong></td>
<td>21.2.2013 24.4.2013 8.7.2013</td>
</tr>
<tr>
<td><strong>Date adopted</strong></td>
<td>9.7.2013</td>
</tr>
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| **Result of final vote** | +: 31  
-: 0  
0: 2 |
| **Members present for the final vote** | Claudette Abela Baldacchino, Pablo Arias Echeverría, Adam Bielan, Preslav Borissov, Sergio Gaetano Cofferati, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, Cornelis de Jong, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Thomas Händel, Malgorzata Handzlik, Philippe Juvin, Edvard Kožušník, Toine Manders, Sirpa Pietikäinen, Phil Prendergast, Robert Rochefort, Heide Rühle, Christel Schaldemose, Andreas Schwab, Róža Gräfin von Thun und Hohenstein, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler |
| **Substitute(s) present for the final vote** | Jürgen Creutzmann, Marielle Gallo, Ildikó Gáll-Pelcz, Maria Irigoyen Pérez, Roberta Metsola, Olle Schmidt, Sabine Verheyen |