

Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC

CHAPTER I

ESTABLISHMENT AND LEGAL STATUS

Article 1

Establishment and scope of action

1 This Regulation establishes a European Supervisory Authority (European Banking Authority) (hereinafter ‘the Authority’).

[^{F12} The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC⁽¹⁾, Directive 2009/110/EC, Regulation (EU) No 575/2013⁽²⁾, Directive 2013/36/EU⁽³⁾, Directive 2014/49/EU⁽⁴⁾, Directive 2014/92/EU⁽⁵⁾, Directive (EU) 2015/2366⁽⁶⁾ of the European Parliament and of the Council and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013⁽⁷⁾.

The Authority shall also act within the powers conferred by this Regulation and within the scope of Directive (EU) 2015/849 of the European Parliament and of the Council⁽⁸⁾ and of Regulation (EU) 2015/847 of the European Parliament and of the Council⁽⁹⁾ to the extent that that Directive and Regulation apply to financial sector operators and the competent authorities that supervise them. For that purpose only, the Authority shall carry out the tasks conferred by any legally binding Union act on the European Supervisory Authority (European Insurance and Occupational Pensions Authority), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council⁽¹⁰⁾ or on the European Supervisory Authority (European Securities and Markets Authority), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁽¹¹⁾. When carrying out such tasks, the Authority shall consult those European Supervisory Authorities and keep them informed of its activities concerning any entity which is a ‘financial institution’ as defined in point (1) of Article 4 of Regulation (EU) No 1094/2010 or a ‘financial market participant’ as defined in point (1) of Article 4 of Regulation (EU) No 1095/2010.

3 The Authority shall act in the field of activities of credit institutions, financial conglomerates, investment firms, payment institutions and e-money institutions in relation to issues not directly covered by the legislative acts referred to in paragraph 2, including matters of corporate governance, auditing and financial reporting, taking into account sustainable business models and the integration of environmental, social and governance related factors, provided that such actions are necessary to ensure the effective and consistent application of those acts.]

4 The provisions of this Regulation are without prejudice to the powers of the Commission, in particular pursuant to Article 258 TFEU, to ensure compliance with Union law.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1093/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

[^{F1}5 The objective of the Authority shall be to protect the public interest by contributing to the short-, medium- and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses. The Authority shall, within its respective competences, contribute to:]

- a improving the functioning of the internal market, including, in particular, a sound, effective and consistent level of regulation and supervision;
- b ensuring the integrity, transparency, efficiency and orderly functioning of financial markets;
- c strengthening international supervisory coordination;
- d preventing regulatory arbitrage and promoting equal conditions of competition;
- [^{F1}e ensuring that the taking of credit and other risks are appropriately regulated and supervised;
- f enhancing customer and consumer protection;]
- [^{F2}g enhancing supervisory convergence across the internal market; and
- h preventing the use of the financial system for the purposes of money laundering and terrorist financing.]

[^{F1}For those purposes, the Authority shall contribute to ensuring the consistent, efficient and effective application of the acts referred to in paragraph 2 of this Article, foster supervisory convergence, and provide opinions in accordance with Article 16a to the European Parliament, to the Council, and to the Commission.]

In the exercise of the tasks conferred upon it by this Regulation, the Authority shall pay particular attention to any systemic risk posed by financial institutions, the failure of which may impair the operation of the financial system or the real economy.

[^{F1}When carrying out its tasks, the Authority shall act independently, objectively and in a non-discriminatory and transparent manner, in the interests of the Union as a whole and shall respect, where relevant, the principle of proportionality. The Authority shall be accountable and act with integrity and shall ensure that all stakeholders are treated fairly.]

[^{F2}The content and form of the Authority's actions and measures, in particular guidelines, recommendations, opinions, questions and answers, draft regulatory standards and draft implementing standards, shall fully respect the applicable provisions of this Regulation and of the legislative acts referred to in paragraph 2. To the extent permitted and relevant under those provisions, the Authority's actions and measures shall, in accordance with the principle of proportionality, take due account of the nature, scale and complexity of the risks inherent in the business of a financial institution, undertaking, other subject or financial activity, that is affected by the Authority's actions and measures.]

[^{F2}6 The Authority shall establish, as an integral part thereof, a Committee advising it as to how, in full compliance with applicable rules, its actions and measures should take account of specific differences prevailing in the sector, pertaining to the nature, scale and complexity of risks, to business models and practice as well as to the size of financial institutions and of markets to the extent that such factors are relevant under the rules considered.]

Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\), Regulation \(EU\) No 1094/2010 establishing a European Supervisory Authority \(European Insurance and Occupational Pensions Authority\), Regulation \(EU\) No 1095/2010 establishing a European Supervisory Authority \(European Securities and](#)

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Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).

- F2** Inserted by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).

Article 2

European System of Financial Supervision

[^{F1} The Authority shall form part of a European system of financial supervision (ESFS). The main objective of the ESFS shall be to ensure that the rules applicable to the financial sector are adequately implemented to preserve financial stability and to ensure confidence in the financial system as a whole, and effective and sufficient protection for the customers and consumers of financial services.]

- 2 The ESFS shall comprise the following:
- a the European Systemic Risk Board (ESRB), for the purposes of the tasks as specified in Regulation (EU) No 1092/2010 and this Regulation;
 - b the Authority;
 - c the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council⁽¹²⁾;
 - d the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁽¹³⁾;
 - e the Joint Committee of the European Supervisory Authorities (Joint Committee) for the purposes of carrying out the tasks as specified in Articles 54 to 57 of this Regulation, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010;
 - [^{F3}f the competent or supervisory authorities as specified in the Union acts referred to in Article 1(2) of this Regulation, including the European Central Bank with regard to the tasks conferred on it by Regulation (EU) No 1024/2013, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.]

3 The Authority shall cooperate regularly and closely with the ESRB as well as with the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) through the Joint Committee, ensuring cross-sectoral consistency of work and reaching joint positions in the area of supervision of financial conglomerates and on other cross-sectoral issues.

[^{F4} In accordance with the principle of sincere cooperation pursuant to Article 4(3) of the Treaty on European Union (TEU), the parties to the ESFS shall cooperate with trust and full mutual respect, in particular in ensuring the flow of appropriate and reliable information among them and from the Authority to the European Parliament, to the Council and to the Commission.]

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5 Those supervisory authorities that are party to the ESFS shall be obliged to supervise financial institutions operating in the Union in accordance with the acts referred to in Article 1(2).

[^{F2}Without prejudice to national competences, references in this Regulation to supervision shall include all relevant activities of all competent authorities to be carried out pursuant to the legislative acts referred to in Article 1(2).]

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).
- F2** Inserted by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).
- F3** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

^{F1}Article 3

Accountability of the Authorities

1 The Authorities referred to in points (a) to (d) of Article 2(2) shall be accountable to the European Parliament and to the Council. The European Central Bank shall be accountable to the European Parliament and to the Council with regard to the exercise of the supervisory tasks conferred on it by Regulation (EU) No 1024/2013 in accordance with that Regulation.

2 In accordance with Article 226 TFEU, the Authority shall fully cooperate with the European Parliament during any investigation carried out under that Article.

3 The Board of Supervisors shall adopt an annual report on the activities of the Authority, including on the performance of the Chairperson's duties, and shall, by 15 June each year, transmit that report to the European Parliament, to the Council, to the Commission, to the Court of Auditors and to the European Economic and Social Committee. The report shall be made public.

4 At the request of the European Parliament, the Chairperson shall participate in a hearing before the European Parliament on the performance of the Authority. A hearing

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shall take place at least annually. The Chairperson shall make a statement before the European Parliament and answer any questions from its members, whenever so requested.

5 The Chairperson shall report in writing on the activities of the Authority to the European Parliament when requested and at least 15 days before making the statement referred to in paragraph 4.

6 In addition to the information referred to in Articles 11 to 18 and Articles 20 and 33, the report shall also include any relevant information requested by the European Parliament on an ad hoc basis.

7 The Authority shall reply orally or in writing to any question addressed to it by the European Parliament or by the Council within five weeks of its receipt.

8 Upon request, the Chairperson shall hold confidential oral discussions behind closed doors with the Chair, Vice-Chairs and Coordinators of the competent committee of the European Parliament. All participants shall respect the requirements of professional secrecy.

9 Without prejudice to its confidentiality obligations stemming from participation in international fora, the Authority shall inform the European Parliament upon request about its contribution to a united, common, consistent and effective representation of the Union's interests in such international fora.]

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).

Article 4

Definitions

For the purposes of this Regulation the following definitions apply:

- (1) ^[F1]‘financial institution’ means any undertaking that is subject to regulation and supervision pursuant to any of the legislative acts referred to in Article 1(2);]
- (1a) ^[F2]‘financial sector operator’ means an ‘entity’ as referred to in Article 2 of Directive (EU) 2015/849, which is either a financial institution as defined in point (1) of this Article or in point (1) of Article 4 of Regulation (EU) No 1094/2010 or a ‘financial market participant’ as defined in point (1) of Article 4 of Regulation (EU) No 1095/2010;]
- (2) ^[F1]‘competent authorities’ means:
- (i) competent authorities as defined in point (40) of Article 4(1) of Regulation (EU) No 575/2013, including the European Central Bank with regard

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- to matters relating to the tasks conferred on it by Regulation (EU) No 1024/2013;
- (ii) with regard to Directive 2002/65/EC, the authorities and bodies competent for ensuring compliance with the requirements of that Directive by financial institutions;
 - (iii) with regard to Directive (EU) 2015/849, the authorities and bodies that supervise financial sector operators and are competent for ensuring their compliance with the requirements of that Directive;
 - (iv) with regard to deposit guarantee schemes, bodies which administer deposit guarantee schemes pursuant to Directive 2014/49/EU or, where the operation of the deposit guarantee scheme is administered by a private company, the public authority supervising those schemes pursuant to that Directive, and relevant administrative authorities as referred to in that Directive;
 - (v) with regard to Directive 2014/59/EU of the European Parliament and of the Council⁽¹⁴⁾ and to Regulation (EU) No 806/2014 of the European Parliament and of the Council⁽¹⁵⁾, the resolution authorities designated in accordance with Article 3 of Directive 2014/59/EU, the Single Resolution Board established by Regulation (EU) No 806/2014, and the Council and the Commission when taking actions under Article 18 of Regulation (EU) No 806/2014, except where they exercise discretionary powers or make policy choices;
 - (vi) ‘competent authorities’ as referred to in Directive 2014/17/EU of the European Parliament and of the Council⁽¹⁶⁾, in Regulation (EU) 2015/751 of the European Parliament and of the Council⁽¹⁷⁾, in Directive (EU) 2015/2366, in Directive 2009/110/EC of the European Parliament and of the Council⁽¹⁸⁾, and in Regulation (EU) No 260/2012 of the European Parliament and of the Council⁽¹⁹⁾;
 - (vii) ‘bodies and authorities’ as referred to in Article 20 of Directive 2008/48/EC.]

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).
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to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).

Article 5

Legal status

- 1 The Authority shall be a Union body with legal personality.
- 2 In each Member State, the Authority shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.
- 3 The Authority shall be represented by its Chairperson.

Article 6

Composition

The Authority shall comprise:

- (1) a Board of Supervisors, which shall exercise the tasks set out in Article 43;
- (2) a Management Board, which shall exercise the tasks set out in Article 47;
- (3) a Chairperson, who shall exercise the tasks set out in Article 48;
- (4) an Executive Director, who shall exercise the tasks set out in Article 53;
- (5) a Board of Appeal, which shall exercise the tasks set out in Article 60.

^{F4}Article 7

Seat

The Authority shall have its seat in Paris, France.

The location of the seat of the Authority shall not affect the Authority's execution of its tasks and powers, the organisation of its governance structure, the operation of its main organisation, or the main financing of its activities, while allowing, where applicable, for the sharing with Union agencies of administrative support services and facility management services which are not related to the core activities of the Authority. By 30 March 2019 and every 12 months thereafter, the Commission shall report to the European Parliament and the Council on the compliance of the European Supervisory Authorities with that requirement.]

Textual Amendments

- F4** Substituted by Regulation (EU) 2018/1717 of the European Parliament and of the Council of 14 November 2018 amending Regulation (EU) No 1093/2010 as regards the location of the seat of the European Banking Authority (Text with EEA relevance).

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1093/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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- (1) [^{F1}Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).]
- (2) [^{F1}Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).]
- (3) [^{F1}Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).]
- (4) [^{F1}Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).]
- (5) [^{F1}Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).]
- (6) [^{F1}Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).]
- (7) [^{F1}Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).]
- (8) [^{F1}Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).]
- (9) [^{F1}Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).]
- (10) [^{F1}Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).]
- (11) [^{F1}Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).]
- (12) See page 48 of this Official Journal.
- (13) See page 84 of this Official Journal.
- (14) [^{F1}Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).]
- (15) [^{F1}Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).]
- (16) [^{F1}Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending

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Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).]

- (17) [^{F1}Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).]
- (18) [^{F1}Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).]
- (19) [^{F1}Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).]

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (Text with EEA relevance).

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Changes and effects yet to be applied to :

- [Regulation revoked by S.I. 2019/541 reg. 8\(b\)](#)