

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 II

TASKS AND POWERS OF THE AUTHORITY

Article 8

Tasks and powers of the Authority

- 1 The Authority shall have the following tasks:
- [^{F1}a] based on the legislative acts referred to in Article 1(2), to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, in particular by developing draft regulatory and implementing technical standards, guidelines, recommendations, and other measures, including opinions;]
 - [^{F1}aa] to develop and maintain an up-to-date Union supervisory handbook on the supervision of financial institutions in the Union which is to set out supervisory best practices and high-quality methodologies and processes and takes into account, *inter alia*, changing business practices and business models and the size of financial institutions and of markets;]
 - [^{F2}ab] to develop and maintain an up-to-date Union resolution handbook on the resolution of financial institutions in the Union which is to set out best practices and high-quality methodologies and processes for resolution, taking into account the work of the Single Resolution Board, and changing business practices and business models and the size of financial institutions and of markets;]
 - [^{F1}b] to contribute to the consistent application of legally binding Union acts, in particular by contributing to a common supervisory culture, ensuring consistent, efficient and effective application of the legislative acts referred to in Article 1(2), preventing regulatory arbitrage, fostering and monitoring supervisory independence, mediating and settling disagreements between competent authorities, ensuring effective and consistent supervision of financial institutions, ensuring a coherent functioning of colleges of supervisors and taking actions, *inter alia*, in emergency situations;]
 - [^{F3}c] to facilitate the delegation of tasks and responsibilities among competent authorities;]
 - d to cooperate closely with the ESRB, in particular by providing the ESRB with the necessary information for the achievement of its tasks and by ensuring a proper follow up to the warnings and recommendations of the ESRB;
 - [^{F1}e] to organise and conduct peer reviews of competent authorities, and, in that context, to issue guidelines and recommendations and to identify best practices, with a view to strengthening consistency in supervisory outcomes;
 - f to monitor and assess market developments in the area of its competence including where relevant, developments relating to trends in credit, in particular, to households and SMEs and in innovative financial services duly considering developments relating to environmental, social and governance related factors;
 - g to undertake market analyses to inform the discharge of the Authority's functions;

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- h to foster, where relevant, depositor, consumer and investor protection, in particular with regards to shortcomings in a cross-border context and taking related risks into account;]
 - [^{F3}i to promote the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to depositors and investors throughout the Union and developing methods for the resolution of failing financial institutions and an assessment of the need for appropriate financing instruments, with a view to fostering cooperation between competent authorities involved in the management of crisis concerning cross-border institutions that have the potential to pose a systemic risk, in accordance with Articles 21 to 26;]
 - [^{F2}ia to contribute to the establishment of a common Union financial data strategy;]
 - j to fulfil any other specific tasks set out in this Regulation or in other legislative acts;
 - k to publish on its website, and to update regularly, information relating to its field of activities, in particular, within the area of its competence, on registered financial institutions, in order to ensure information is easily accessible by the public[^{F1};
 - [^{F2}ka to publish on its website, and to update regularly, all regulatory technical standards, implementing technical standards, guidelines, recommendations and questions and answers for each legislative act referred to in Article 1(2), including overviews that concern the state of play of ongoing work and the planned timing of the adoption of draft regulatory technical standards and draft implementing technical standards;]
 - [^{F4}l to take over, as appropriate, all existing and ongoing tasks from the Committee of European Banking Supervisors (CEBS).]
 - [^{F2}l to contribute to the prevention of the use of the financial system for the purposes of money laundering and terrorist financing, including by promoting consistent, efficient and effective application of legislative acts referred to in Article 1(2) of this Regulation, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No 1095/2010 respectively with regard to the prevention of the use of the financial system for the purpose of money laundering or terrorist financing.]
 - [^{F5}1a When carrying out its tasks in accordance with this Regulation, the Authority shall:
 - a use the full powers available to it;[^{F6} and]
 - [^{F1}b with due regard to the objective to ensure the safety and soundness of financial institutions, take fully into account the different types, business models and sizes of financial institutions; and]
 - [^{F2}c take account of technological innovation, innovative and sustainable business models, and the integration of environmental, social and governance related factors.]]
- 2 To achieve the tasks set out in paragraph 1, the Authority shall have the powers set out in this Regulation, in particular to:
- a develop draft regulatory technical standards in the specific cases referred to in Article 10;
 - b develop draft implementing technical standards in the specific cases referred to in Article 15;
 - c issue guidelines and recommendations, as laid down in Article 16;
 - [^{F2}ca issue recommendations, as laid down in Article 29a;]
 - d issue recommendations in specific cases, as referred to in Article 17(3);
 - [^{F2}da issue warnings in accordance with Article 9(3);]
 - e take individual decisions addressed to competent authorities in the specific cases referred to in Articles 18(3) and 19(3);

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- f in cases concerning directly applicable Union law, take individual decisions addressed to financial institutions, in the specific cases referred to in Article 17(6), 18(4) and 19(4);
- [^{F1}g issue opinions to the European Parliament, to the Council, or to the Commission as provided for in Article 16a;]
- [^{F2}ga issue answers to questions, as laid down in Article 16b;
- gb take action in accordance with Article 9c;]
- h collect the necessary information concerning financial institutions as provided for in Article 35;
- i develop common methodologies for assessing the effect of product characteristics and distribution processes on the financial position of institutions and on consumer protection;
- j provide a centrally accessible database of registered financial institutions in the area of its competence where specified in the acts referred to in Article 1(2).

[^{F13} When carrying out the tasks referred to in paragraph 1 and exercising the powers referred to in paragraph 2, the Authority shall act based on and within the limits of the legislative framework and shall have due regard to the principle of proportionality, where relevant, and better regulation, including the results of cost-benefit analyses in accordance with this Regulation.

The open public consultations referred to in Articles 10, 15, 16 and 16a shall be conducted as widely as possible to ensure an inclusive approach towards all interested parties and shall allow reasonable time for stakeholders to respond. The Authority shall publish a summary of the input received from stakeholders and an overview of how information and views gathered from the consultation were used in a draft regulatory technical standard and a draft implementing technical standard.]

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.

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- F4** Deleted 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.
- F5** Inserted 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.
- F6** Deleted 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 9

Tasks related to consumer protection and financial activities

1 The Authority shall take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, including by:

- [^{F1}a collecting, analysing and reporting on consumer trends, such as the development of costs and charges of retail financial services and products in Member States;]
- [^{F2}aa undertaking in-depth thematic reviews of market conduct, building a common understanding of market practices in order to identify potential problems and analyse their impact;
- ab developing retail risk indicators for the timely identification of potential causes of consumer harm;]
- b reviewing and coordinating financial literacy and education initiatives by the competent authorities;
- c developing training standards for the industry;[^{F6} and]
- d contributing to the development of common disclosure rules[^{F1};
- [^{F2}e contributing to a level playing field in the internal market where consumers and other users of financial services have fair access to financial services and products;
- f fostering further developments in terms of regulation and supervision which could facilitate deeper harmonisation and integration at the Union level; and
- g coordinating mystery shopping activities of competent authorities, if applicable.]

[^{F12} The Authority shall monitor new and existing financial activities and may adopt guidelines and recommendations with a view to promoting the safety and soundness of markets, and convergence and effectiveness of regulatory and supervisory practices.]

3 The Authority may also issue warnings in the event that a financial activity poses a serious threat to the objectives laid down in Article 1(5).

[^{F14} The Authority shall establish, as an integral part thereof, a Committee on consumer protection and financial innovation, which brings together all relevant competent authorities

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and authorities responsible for consumer protection with a view to enhancing consumer protection, achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities, and providing advice for the Authority to present to the European Parliament, to the Council and to the Commission. The Authority shall closely cooperate with the European Data Protection Board established by Regulation (EU) 2016/679 of the European Parliament and of the Council⁽¹⁾ to avoid duplication, inconsistencies and legal uncertainty in the sphere of data protection. The Authority may also invite national data protection authorities as observers in the Committee.

5 The Authority may temporarily prohibit or restrict the marketing, distribution or sale of certain financial products, instruments or activities that have the potential to cause significant financial damage to customers or consumers, or threaten the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union in the cases specified, and under the conditions laid down, in the legislative acts referred to in Article 1(2), or, if so required, in the case of an emergency situation in accordance with, and under the conditions laid down in, Article 18.

The Authority shall review the decision referred to in the first subparagraph at appropriate intervals and at least every six months. Following at least two consecutive renewals, and based on proper analysis which aims to assess the impact on the customer or consumer, the Authority may decide on the annual renewal of the prohibition.

A Member State may request the Authority to reconsider its decision. In that case, the Authority shall decide, in accordance with the procedure set out in the second subparagraph of Article 44(1), whether to maintain that decision.

The Authority may also assess the need to prohibit or restrict certain types of financial activity or practice and, where there is such a need, inform the Commission and the competent authorities in order to facilitate the adoption of any such prohibition or restriction.]

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).
- F6** Deleted 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

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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}Article 9a

Special tasks related to preventing and countering money laundering and terrorist financing

1 The Authority shall, within its respective competences, take a leading, coordinating and monitoring role in promoting integrity, transparency and security in the financial system by means of adopting measures to prevent and counter money laundering and terrorist financing in that system. In line with the principle of proportionality, those measures shall not exceed what is necessary to achieve the objectives of this Regulation and of the legislative acts referred to in Article 1(2) and shall have due regard to the nature, scale and complexity of risks, business practices, business models and size of financial sector operators and of markets. Those measures shall include:

- a collecting information from competent authorities relating to weaknesses identified during ongoing supervision and authorisation procedures in the processes and procedures, governance arrangements, fitness and propriety, acquisition of qualifying holdings, business models and activities of financial sector operators in relation to preventing and countering money laundering and terrorist financing as well as measures taken by competent authorities, in response to the following material weaknesses affecting one or more requirements of the legislative acts referred to in Article 1(2) of this Regulation, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No 1095/2010 and of any national laws transposing them, respectively, with regard to the prevention and countering the use of the financial system for the purpose of money laundering or of terrorist financing:
 - (i) a breach or a potential breach by a financial sector operator of such requirements,
 - (ii) the inappropriate or ineffective application by a financial sector operator of such requirements, or
 - (iii) the inappropriate or ineffective application by a financial sector operator of its internal policies and procedures to comply with such requirements.

Competent authorities shall provide all such information to the Authority in addition to any obligations under Article 35 of this Regulation and shall keep the Authority informed in due time about any subsequent developments relating to the information provided. The Authority shall coordinate closely with EU Financial Intelligence Units (FIUs) as referred to in Directive (EU) 2015/849, while respecting their status and obligations and without any unnecessary duplication.

Competent authorities may share, in accordance with national law, any additional information that they deem relevant to the prevention and countering of the use of the financial system for the purpose of money laundering or terrorist financing with the central database referred to in paragraph 2;

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- b coordinating closely, and, where appropriate, exchanging information, with competent authorities, including the European Central Bank with regard to matters relating to the tasks conferred on it by Regulation (EU) No 1024/2013, and with authorities entrusted with the public duty of supervising obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 as well as with FIUs, while respecting the status and obligations of the FIUs under Directive (EU) 2015/849;
- c developing common guidance and standards for preventing and countering money laundering and terrorist financing in the financial sector and promoting their consistent implementation in particular by developing draft regulatory and implementing technical standards, in line with the mandates laid down in the legislative acts referred to in Article 1(2), guidelines, recommendations, and other measures, including opinions which shall be based on the legislative acts referred to in Article 1(2);
- d providing assistance to competent authorities, following their specific requests;
- e monitoring market developments and assessing vulnerabilities and risks in relation to money laundering and terrorist financing in the financial sector.

By 31 December 2020, the Authority shall develop draft regulatory technical standards specifying the definition of weaknesses as referred to in point (a) of the first subparagraph, including the corresponding situations where weaknesses may occur, the materiality of weaknesses and the practical implementation of the information collection by the Authority as well as the type of information that should be provided pursuant to point (a) of the first subparagraph. In developing those technical standards, the Authority shall consider the volume of the information to be provided and the need to avoid duplication. It shall also set out arrangements to ensure effectiveness and confidentiality.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14.

2 The Authority shall establish and keep up to date a central database of information collected pursuant to point (a) of paragraph 1. The Authority shall ensure that that information is analysed and made available to competent authorities on a need-to-know and confidential basis. The Authority may, where appropriate, transmit evidence that is in its possession which could give rise to criminal proceedings to the national judicial authorities and the competent authorities of the Member State concerned in accordance with national procedural rules. The Authority may also, where appropriate, transmit evidence to the European Public Prosecutor's Office where such evidence concerns offences in respect of which the European Public Prosecutor's Office exercises or could exercise competence in accordance with Council Regulation (EU) 2017/1939⁽²⁾.

3 Competent authorities may address to the Authority reasoned requests for information about financial sector operators relevant for their supervisory activities with regard to the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing. The Authority shall assess those requests and provide the information requested by competent authorities on a need-to-know basis and in a timely manner. Where the Authority does not provide the requested information, it shall inform the requesting competent authority and give an explanation as to why the information is not provided. The Authority shall inform the competent authority, or any other authority or institution that has initially provided the requested information, of the identity of the requesting competent authority, the identity of the financial sector operator concerned, the reason for the information request as well as whether the information has been shared. In addition, the Authority shall analyse the information in order to share relevant information on its own initiative with competent authorities for their supervisory activities with regard to the prevention of the use of the financial system for the purpose of money laundering or terrorist financing. Where it does so share, it shall notify the

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competent authority that initially provided the information. It shall also conduct analysis on an aggregate basis for the opinion it is requested to deliver pursuant to Article 6(5) of Directive (EU) 2015/849.

By 31 December 2020, the Authority shall develop draft regulatory technical standards specifying how information is to be analysed and made available to competent authorities on a need-to-know and confidential basis.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14.

4 The Authority shall promote convergence of supervisory processes referred to in Directive (EU) 2015/849, including by conducting peer reviews, and issuing related reports and follow-up measures in accordance with Article 30 of this Regulation. The Authority, when conducting such reviews in accordance with Article 30 of this Regulation, shall take into account relevant evaluations, assessments or reports drawn up by international organisations and intergovernmental bodies competent in the field of preventing money laundering or terrorist financing as well as the biannual report made by the Commission under Article 6 of Directive (EU) 2015/849, and the risk assessments carried out by Member States pursuant to Article 7 of that Directive.

5 The Authority shall, with the participation of the competent authorities, perform risk assessments of the strategies, capacities and resources of competent authorities to address the most important emerging risks related to money laundering and terrorist financing at Union level as identified in the supranational risk assessment. It shall perform those risk assessments in particular for the purpose of issuing the opinion that it is requested to deliver pursuant to Article 6(5) of Directive (EU) 2015/849. The Authority shall perform risk assessments on the basis of the information available to it, including peer reviews in accordance with Article 30 of this Regulation, the analysis that it has conducted on an aggregate basis of the information collected for the purposes of the central database pursuant to paragraph 2 of this Article, as well as relevant evaluations, assessments or reports drawn up by international organisations and intergovernmental bodies with competence in the field of preventing money laundering and terrorist financing and the risk assessments by the Member States prepared pursuant to Article 7 of Directive (EU) 2015/849. The Authority shall make the risk assessments available to all competent authorities.

For the purposes of the first subparagraph of this paragraph, the Authority, through the internal committee established under paragraph 7 of this Article, shall develop and apply methods to allow for an objective assessment, as well as a high- quality and consistent review of the assessments and the application of the methodology and to ensure a level playing field. That internal committee shall carry out the quality and consistency review of the risk assessments. It shall prepare the draft risk assessments for adoption by the Board of Supervisors in accordance with Article 44.

6 In cases where there are indications of breaches, on the part of financial sector operators, of the requirements laid down in Directive (EU) 2015/849 and where there is a cross-border dimension with third countries, the Authority shall have a leading role in contributing to facilitate cooperation between competent authorities in the Union and the relevant authorities in third countries where necessary. This role of the Authority shall be without prejudice to the regular interactions by competent authorities with third-country authorities.

7 The Authority shall establish a permanent internal committee on anti-money-laundering and countering terrorist financing to coordinate measures in order to prevent and counter the use of the financial system for the purpose of money laundering or terrorist financing

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and to prepare, in accordance with Regulation (EU) 2015/847 and Directive (EU) 2015/849, all draft decisions to be taken by the Authority in accordance with Article 44 of this Regulation.

8 The committee referred to in paragraph 7 shall be composed of high-level representatives of the authorities and bodies of all Member States competent to ensure the compliance of financial sector operators with Regulation (EU) 2015/847 and Directive (EU) 2015/849 who have expertise and decision-making powers in the area of the prevention of the use of the financial system for the purpose of money laundering or terrorist financing as well as high-level representatives who have expertise in the different business models and sectoral specificities of the Authority, of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and of the European Supervisory Authority (European Securities and Markets Authority) respectively. The high-level representatives of the Authority and of those other European Supervisory Authorities shall participate in the meetings of that committee without the right to vote. In addition, the Commission, the ESRB, and the Supervisory Board of the European Central Bank, shall each nominate a high-level representative to participate in meetings of that committee, as observers. The chair of that committee shall be elected by and from the voting members of that committee.

Each institution, authority and body referred to in the first subparagraph shall nominate an alternate representative from its staff, who may replace the member where that person is prevented from attending. Member States where more than one authority is competent for ensuring compliance with Directive (EU) 2015/849 for financial sector operators may nominate one representative for each competent authority. Irrespective of the number of competent authorities represented in the meeting, each Member State shall have one vote. That committee may establish internal working groups on specific aspects of its work with a view to preparing draft decisions of that committee. Those groups shall be open for participation to staff from all competent authorities represented in that committee and from the Authority, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

9 The Authority, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) may at any time submit written observations on any draft decision of the committee referred to in paragraph 7 of this Article. The Board of Supervisors shall duly consider such observations before taking its final decision. Where a draft decision is based on, or connected with, the powers conferred upon the Authority under Article 9b, 17 or 19 and concerns:

- a financial institutions as defined in point (1) of Article 4 of Regulation (EU) No 1094/2010 or any of the competent authorities supervising them, or
- b financial market participants as defined in point (1) of Article 4 of Regulation (EU) No 1095/2010 or any of the competent authorities supervising them.

The Authority may only take the decision in agreement with the European Supervisory Authority (European Insurance and Occupational Pensions Authority), in the case of point (a), or of the European Supervisory Authority (European Securities and Markets Authority), in the case of point (b). The European Supervisory Authority (European Insurance and Occupational Pensions Authority) or the European Supervisory Authority (European Securities and Markets Authority) shall notify their views to the Authority within 20 days from the date of the draft decision by the committee referred to in paragraph 7. Where they do not notify their views to the Authority within 20 days nor request a duly justified prolongation for notifying such views the agreement shall be presumed.

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Textual Amendments

- 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 9b

Request for investigation related to the prevention and countering of money laundering and of terrorist financing

1 In matters concerning the prevention of and countering the use of the financial system for the purposes of money laundering and terrorist financing, in accordance with Directive (EU) 2015/849, the Authority may, where it has indications of material breaches, request a competent authority as referred to in point (2)(iii) of Article 4: (a) to investigate possible breaches of Union law, and where such Union law is composed of Directives or explicitly grants options for Member States, breaches of national law to the extent that it transposes Directives or exercises options granted to Member States by Union law, by a financial sector operator; and (b) to consider imposing sanctions on that operator in respect of such breaches. Where necessary, it may also request a competent authority as referred to in point (2)(iii) of Article 4 to consider adopting an individual decision addressed to that financial sector operator requiring it to undertake all necessary action to comply with its obligations under directly applicable Union law, or under national law to the extent that it transposes Directives or exercises options granted to Member States by Union law, including the cessation of any practice. The requests referred to in this paragraph shall not impede ongoing supervisory measures by the competent authority to which the request is addressed.

2 The competent authority shall comply with any request addressed to it in accordance with paragraph 1 and shall inform the Authority, as soon as possible and within 10 working days at the latest, of the steps it has taken or intends to take to comply with that request.

3 Without prejudice to the powers of the Commission under Article 258 TFEU, where a competent authority does not inform the Authority within 10 working days of the steps it has taken or intends to take to comply with paragraph 2 of this Article, Article 17 of this Regulation shall apply.

Textual Amendments

- 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](#)

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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 9c

No action letters

1 The Authority shall take the measures referred to in paragraph 2 of this Article only in exceptional circumstances when it considers that the application of one of the legislative acts referred to in Article 1(2), or of any delegated or implementing acts based on those legislative acts, is liable to raise significant issues, for one of the following reasons:

- a the Authority considers that provisions contained in such act may directly conflict with another relevant act;
- b where the act is one of the legislative acts referred to in Article 1(2), the absence of delegated or implementing acts that would complement or specify the act in question would raise legitimate doubts concerning the legal consequences flowing from the legislative act or its proper application;
- c the absence of guidelines and recommendations as referred to in Article 16 would raise practical difficulties concerning the application of the relevant legislative act.

2 In the cases referred to in paragraph 1, the Authority shall send a detailed account in writing to the competent authorities and the Commission of the issues it considers to exist.

In the cases referred to in points (a) and (b) of paragraph 1, the Authority shall provide the Commission with an opinion on any action it considers appropriate, in the form of a new legislative proposal or a proposal for a new delegated or implementing act, and on the urgency that, in the Authority's judgment, is attached to the issue. The Authority shall make its opinion public.

In the case referred to in point (c) of paragraph 1 of this Article, the Authority shall evaluate as soon as possible the need to adopt relevant guidelines or recommendations in accordance with Article 16.

The Authority shall act expeditiously, in particular with a view to contributing to the prevention of the issues referred to in paragraph 1, whenever possible.

3 Where necessary in the cases referred to in paragraph 1, and pending the adoption and application of new measures following the steps referred to in paragraph 2, the Authority shall issue opinions regarding specific provisions of the acts referred to in paragraph 1 with a view to furthering consistent, efficient and effective supervisory and enforcement practices, and the common, uniform and consistent application of Union law.

4 Where, on the basis of information received, in particular from competent authorities, the Authority considers that any of the legislative acts referred to in Article 1(2), or any delegated or implementing act based on those legislative acts, raises significant exceptional issues pertaining to market confidence, consumer, customer or investor protection, the orderly functioning and integrity of financial markets or commodity markets, or the stability of the whole or part of the financial system in the Union, it shall, without undue delay, send a detailed account in writing to the competent authorities and the Commission of the issues it considers to exist. The Authority may provide the Commission with an opinion on any action it considers appropriate, in the form of a new legislative proposal or a proposal for a new delegated or implementing act, and on the urgency of the issue. The Authority shall make its opinion public.]

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](#)

Textual Amendments

- 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 10

Regulatory technical standards

[^{F1} Where the European Parliament and the Council delegate power to the Commission to adopt regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU in order to ensure consistent harmonisation in the areas specifically set out in the legislative acts referred to in Article 1(2) of this Regulation, the Authority may develop draft regulatory technical standards. The Authority shall submit its draft regulatory technical standards to the Commission for adoption. At the same time, the Authority shall forward those draft regulatory technical standards for information to the European Parliament and to the Council.]

Regulatory technical standards shall be technical, shall not imply strategic decisions or policy choices and their content shall be delimited by the legislative acts on which they are based.

[^{F1} Before submitting them to the Commission, the Authority shall conduct open public consultations on draft regulatory technical standards and shall analyse the potential related costs and benefits, unless such consultations and analyses are highly disproportionate in relation to the scope and impact of the draft regulatory technical standards concerned or in relation to the particular urgency of the matter. The Authority shall also request the advice of the Banking Stakeholder Group referred to in Article 37.]

[^{F6}]

[^{F1} Within three months of receipt of a draft regulatory technical standard, the Commission shall decide whether to adopt it. The Commission shall inform the European Parliament and the Council in due time where the adoption cannot take place within the three-month period. The Commission may adopt the draft regulatory technical standard in part only, or with amendments, where the Union's interests so require.

Where the Commission intends not to adopt a draft regulatory technical standard or to adopt it in part or with amendments, it shall send the draft regulatory technical standard back to the Authority, explaining why it does not adopt it or explaining the reasons for its amendments. The Commission shall send a copy of its letter to the European Parliament and to the Council. Within a period of six weeks, the Authority may amend the draft regulatory technical standard on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.]

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

If, on the expiry of that six-week period, the Authority has not submitted an amended draft regulatory technical standard, or has submitted a draft regulatory technical standard that is not amended in a way consistent with the Commission's proposed amendments, the Commission may adopt the regulatory technical standard with the amendments it considers relevant, or reject it.

The Commission may not change the content of a draft regulatory technical standard prepared by the Authority without prior coordination with the Authority, as set out in this Article.

[^{F12} Where the Authority has not submitted a draft regulatory technical standard within the time limit set out in the legislative acts referred to in Article 1(2), the Commission may request such a draft within a new time limit. The Authority shall inform the European Parliament, the Council and the Commission, in due time, that it will not comply with the new time limit.]

3 Only where the Authority does not submit a draft regulatory technical standard to the Commission within the time limits in accordance with paragraph 2, may the Commission adopt a regulatory technical standard by means of a delegated act without a draft from the Authority.

[^{F1}The Commission shall conduct open public consultations on draft regulatory technical standards and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the draft regulatory technical standards concerned or in relation to the particular urgency of the matter. The Commission shall also request the advice of the Banking Stakeholder Group referred to in Article 37.]

The Commission shall immediately forward the draft regulatory technical standard to the European Parliament and the Council.

The Commission shall send its draft regulatory technical standard to the Authority. Within a period of 6 weeks, the Authority may amend the draft regulatory technical standard and submit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If on the expiry of the six-week period referred to in the fourth subparagraph, the Authority has not submitted an amended draft regulatory technical standard, the Commission may adopt the regulatory technical standard.

If the Authority has submitted an amended draft regulatory technical standard within the six-week period, the Commission may amend the draft regulatory technical standard on the basis of the Authority's proposed amendments or adopt the regulatory technical standard with the amendments it considers relevant. The Commission shall not change the content of the draft regulatory technical standard prepared by the Authority without prior coordination with the Authority, as set out in this Article.

[^{F14} The regulatory technical standards shall be adopted by means of regulations or decisions. The words 'regulatory technical standard' shall appear in the title of such regulations or decisions. Those standards shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.]

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](#)

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](#)

(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).

- F6** Deleted 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 11

Exercise of the delegation

1 The power to adopt regulatory technical standards referred to in Article 10 shall be conferred on the Commission for a period of 4 years from 16 December 2010. The Commission shall draw up a report in respect of the delegated power not later than 6 months before the end of the 4-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 14.

2 As soon as it adopts a regulatory technical standard, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3 The power to adopt regulatory technical standards is conferred on the Commission subject to the conditions laid down in Articles 12 to 14.

Article 12

Revocation of the delegation

1 The delegation of power referred to in Article 10 may be revoked at any time by the European Parliament or by the Council.

2 The institution which has commenced an internal procedure for deciding whether to revoke a delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation.

3 The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the regulatory technical standards already in force. It shall be published in the *Official Journal of the European Union*.

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

Article 13

Objections to regulatory technical standards

1 The European Parliament or the Council may object to a regulatory technical standard within a period of 3 months from the date of notification of the regulatory technical standard adopted by the Commission. At the initiative of the European Parliament or the Council that period shall be extended by 3 months.

[^{F6}]

2 If, on the expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the regulatory technical standard, it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The regulatory technical standard may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3 If either the European Parliament or the Council objects to a regulatory technical standard within the period referred to in paragraph 1, it shall not enter into force. In accordance with Article 296 TFEU, the institution which objects shall state the reasons for objecting to the regulatory technical standard.

Textual Amendments

F6 Deleted 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 14

Non-endorsement or amendment of draft regulatory technical standards

1 In the event that the Commission does not endorse a draft regulatory technical standard or amends it as provided for in Article 10, the Commission shall inform the Authority, the European Parliament and the Council, stating its reasons.

2 Where appropriate, the European Parliament or the Council may invite the responsible Commissioner, together with the Chairperson of the Authority, within 1 month of the notice referred to in paragraph 1, for an ad hoc meeting of the competent committee of the European Parliament or the Council to present and explain their differences.

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

Article 15

Implementing technical standards

^[F1] Where the European Parliament and the Council confer implementing powers on the Commission to adopt implementing technical standards by means of implementing acts pursuant to Article 291 TFEU, in the areas specifically set out in the legislative acts referred to in Article 1(2) of this Regulation, the Authority may develop draft implementing technical standards. Implementing technical standards shall be technical, shall not imply strategic decisions or policy choices and their content shall be to determine the conditions of application of those acts. The Authority shall submit its draft implementing technical standards to the Commission for adoption. At the same time, the Authority shall forward those technical standards for information to the European Parliament and to the Council.

Before submitting draft implementing technical standards to the Commission, the Authority shall conduct open public consultations and shall analyse the potential related costs and benefits, unless such consultations and analyses are highly disproportionate in relation to the scope and impact of the draft implementing technical standards concerned or in relation to the particular urgency of the matter. The Authority shall also request the advice of the Banking Stakeholder Group referred to in Article 37.

Within three months of receipt of a draft implementing technical standard, the Commission shall decide whether to adopt it. The Commission may extend that period by one month. The Commission shall inform the European Parliament and the Council in due time where the adoption cannot take place within the three-month period. The Commission may adopt the draft implementing technical standard in part only, or with amendments, where the Union's interests so require.

Where the Commission intends not to adopt a draft implementing technical standard or intends to adopt it in part or with amendments, it shall send it back to the Authority explaining why it does not intend to adopt it or explaining the reasons for its amendments. The Commission shall send a copy of its letter to the European Parliament and to the Council. Within a period of six weeks, the Authority may amend the draft implementing technical standard on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If, on the expiry of the six-week period referred to in the fourth subparagraph, the Authority has not submitted an amended draft implementing technical standard, or has submitted a draft implementing technical standard that is not amended in a way consistent with the Commission's proposed amendments, the Commission may adopt the implementing technical standard with the amendments it considers relevant or reject it.

The Commission shall not change the content of a draft implementing technical standard prepared by the Authority without prior coordination with the Authority, as set out in this Article.

2 Where the Authority has not submitted a draft implementing technical standard within the time limit set out in the legislative acts referred to in Article 1(2), the Commission may request such a draft within a new time limit. The Authority shall inform the

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European Parliament, the Council and the Commission, in due time, that it will not comply with the new time limit.]

3 Only where the Authority does not submit a draft implementing technical standard to the Commission within the time limits in accordance with paragraph 2, may the Commission adopt an implementing technical standard by means of an implementing act without a draft from the Authority.

[^{F1}The Commission shall conduct open public consultations on draft implementing technical standards and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the draft implementing technical standards concerned or in relation to the particular urgency of the matter. The Commission shall also request the advice of the Banking Stakeholder Group referred to in Article 37.]

The Commission shall immediately forward the draft implementing technical standard to the European Parliament and the Council.

The Commission shall send the draft implementing technical standard to the Authority. Within a period of 6 weeks, the Authority may amend the draft implementing technical standard and submit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If, on the expiry of the six-week period referred to in the fourth subparagraph, the Authority has not submitted an amended draft implementing technical standard, the Commission may adopt the implementing technical standard.

If the Authority has submitted an amended draft implementing technical standard within that six-week period, the Commission may amend the draft implementing technical standard on the basis of the Authority's proposed amendments or adopt the implementing technical standard with the amendments it considers relevant.

The Commission shall not change the content of the draft implementing technical standards prepared by the Authority without prior coordination with the Authority, as set out in this Article.

[^{F14} The implementing technical standards shall be adopted by means of regulations or decisions. The words 'implementing technical standard' shall appear in the title of such regulations or decisions. Those standards shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.]

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).

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

Article 16

Guidelines and recommendations

[^{F1} The Authority shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law, issue guidelines addressed to all competent authorities or all financial institutions and issue recommendations to one or more competent authorities or to one or more financial institutions.

Guidelines and recommendations shall be in accordance with the empowerments conferred by the legislative acts referred to in Article 1(2) or in this Article.

2 The Authority shall, where appropriate, conduct open public consultations regarding the guidelines and recommendations which it issues and analyse the related potential costs and benefits of issuing such guidelines and recommendations. Those consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines or recommendations. The Authority shall, where appropriate, also request advice from the Banking Stakeholder Group referred to in Article 37. Where the Authority does not conduct open public consultations or does not request advice from the Banking Stakeholder Group, the Authority shall provide reasons.]

[^{F2a} Guidelines and recommendations shall not merely refer to, or reproduce, elements of legislative acts. Before issuing a new guideline or recommendation, the Authority shall first review existing guidelines and recommendations, in order to avoid any duplication.]

3 The competent authorities and financial institutions shall make every effort to comply with those guidelines and recommendations.

Within 2 months of the issuance of a guideline or recommendation, each competent authority shall confirm whether it complies or intends to comply with that guideline or recommendation. In the event that a competent authority does not comply or does not intend to comply, it shall inform the Authority, stating its reasons.

The Authority shall publish the fact that a competent authority does not comply or does not intend to comply with that guideline or recommendation. The Authority may also decide, on a case-by-case basis, to publish the reasons provided by the competent authority for not complying with that guideline or recommendation. The competent authority shall receive advanced notice of such publication.

If required by that guideline or recommendation, financial institutions shall report, in a clear and detailed way, whether they comply with that guideline or recommendation.

[^{F14} In the report referred to in Article 43(5), the Authority shall inform the European Parliament, the Council and the Commission of the guidelines and recommendations that have been issued.]

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).

F² Article 16a

Opinions

1 The Authority may, upon a request from the European Parliament, from the Council or from the Commission, or on its own initiative, provide opinions to the European Parliament, to the Council and to the Commission on all issues related to its area of competence.

2 The request referred to in paragraph 1 may include a public consultation or a technical analysis.

3 With regard to assessments referred to in Article 22 of Directive 2013/36/EU, and which according to that Article require consultation between competent authorities from two or more Member States, the Authority may, at the request of one of the competent authorities concerned, issue and publish an opinion on such assessments. The opinion shall be issued promptly and, in any event, before the end of the assessment period referred to in that Article.

4 The Authority may, upon a request from the European Parliament, from the Council or from the Commission provide technical advice to the European Parliament, the Council and the Commission in the areas set out in the legislative acts referred to in Article 1(2).

Textual Amendments

- 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).

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](#)

Article 16b

Questions and answers

1 Without prejudice to paragraph 5 of this Article, questions relating to the practical application or implementation of the provisions of legislative acts referred to in Article 1(2), associated delegated and implementing acts, and guidelines and recommendations, adopted pursuant to those legislative acts, may be submitted by any natural or legal person, including competent authorities and Union institutions and bodies, to the Authority in any official language of the Union.

Before submitting a question to the Authority, financial institutions shall consider whether to address the question in the first place to their competent authority.

Before publishing answers to admissible questions, the Authority may seek further clarification on questions asked by the natural or legal person referred to in this paragraph.

2 Answers by the Authority to questions as referred to in paragraph 1 shall be non-binding. Answers shall be made available at least in the language in which the question was submitted.

3 The Authority shall establish and maintain a web-based tool available on its website for the submission of questions and the timely publication of all questions received as well as all answers to all admissible questions pursuant to paragraph 1, unless such publication is in conflict with the legitimate interest of those persons or would involve risks to the stability of the financial system. The Authority may reject questions it does not intend to answer. Rejected questions shall be published by the Authority on its website for a period of two months.

4 Three voting members of the Board of Supervisors may request the Board of Supervisors to decide pursuant to Article 44 whether to address the issue of the admissible question referred to in paragraph 1 of this Article in guidelines pursuant to Article 16, to request advice from the Stakeholder Group referred to in Article 37, to review questions and answers at appropriate intervals, to conduct open public consultations or to analyse potential related costs and benefits. Such consultations and analyses shall be proportionate in relation to the scope, nature and impact of the draft questions and answers concerned or in relation to the particular urgency of the matter. When involving the Stakeholder Group referred to in Article 37, a duty of confidentiality shall apply.

5 The Authority shall forward questions that require the interpretation of Union law to the Commission. The Authority shall publish any answers provided by the Commission.]

Textual Amendments

- 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](#)

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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 17

Breach of Union law

1 Where a competent authority has not applied the acts referred to in Article 1(2), or has applied them in a way which appears to be a breach of Union law, including the regulatory technical standards and implementing technical standards established in accordance with Articles 10 to 15, in particular by failing to ensure that a financial institution satisfies the requirements laid down in those acts, the Authority shall act in accordance with the powers set out in paragraphs 2, 3 and 6 of this Article.

[^{F12} Upon request from one or more competent authorities, the European Parliament, the Council, the Commission, the Banking Stakeholder Group, or on its own initiative, including when this is based on well- substantiated information from natural or legal persons, and after having informed the competent authority concerned, the Authority shall outline how it intends to proceed with the case and, where appropriate, investigate the alleged breach or non-application of Union law.]

[^{F7} Without prejudice to the powers laid down in Article 35, the competent authority shall, without delay, provide the Authority with all information which the Authority considers necessary for its investigation including as to how the acts referred to in Article 1(2) are applied in accordance with Union law.]

[^{F2} Without prejudice to the powers laid down in Article 35, the Authority may, after having informed the competent authority concerned, address a duly justified and reasoned request for information directly to other competent authorities whenever requesting information from the competent authority concerned has proven, or is deemed to be, insufficient to obtain the information that is deemed necessary for the purpose of investigating an alleged breach or non-application of Union law.

The addressee of such a request shall provide the Authority with clear, accurate and complete information without undue delay.]

[^{F2a} Without prejudice to powers under this Regulation and before issuing a recommendation as set out in paragraph 3, the Authority shall engage with the competent authority concerned, where it considers such engagement appropriate in order to resolve a breach of Union law, in an attempt to reach agreement on actions necessary for the competent authority to comply with Union law.]

3 The Authority may, not later than 2 months from initiating its investigation, address a recommendation to the competent authority concerned setting out the action necessary to comply with Union law.

The competent authority shall, within 10 working days of receipt of the recommendation, inform the Authority of the steps it has taken or intends to take to ensure compliance with Union law.

4 Where the competent authority has not complied with Union law within 1 month from receipt of the Authority's recommendation, the Commission may, after having been informed by the Authority, or on its own initiative, issue a formal opinion requiring the competent authority

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to take the action necessary to comply with Union law. The Commission's formal opinion shall take into account the Authority's recommendation.

The Commission shall issue such a formal opinion no later than 3 months after the adoption of the recommendation. The Commission may extend this period by 1 month.

The Authority and the competent authorities shall provide the Commission with all necessary information.

5 The competent authority shall, within 10 working days of receipt of the formal opinion referred to in paragraph 4, inform the Commission and the Authority of the steps it has taken or intends to take to comply with that formal opinion.

[^{F16} Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the formal opinion referred to in paragraph 4 of this Article within the period specified therein, and where it is necessary to remedy, in a timely manner, such non-compliance in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislative acts referred to in Article 1(2) of this Regulation are directly applicable to financial institutions or, in the context of matters relating to the prevention and countering of money laundering and of terrorist financing, to financial sector operators, adopt an individual decision addressed to a financial institution or another financial sector operator requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice.

In matters concerning the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing, where the relevant requirements of the legislative acts referred to in Article 1(2) are not directly applicable to financial sector operators, the Authority may adopt a decision requiring the competent authority to comply with the formal opinion referred to in paragraph 4 of this Article within the period specified therein. If the authority does not comply with that decision, the Authority may also adopt a decision in accordance with the first subparagraph. To that effect, the Authority shall apply all relevant Union law, and, where that Union law is composed of Directives, national law to the extent that it transposes those Directives. Where the relevant Union law is composed of Regulations and where those Regulations explicitly grant options for Member States, the Authority shall apply also national law to the extent that such options have been exercised.

The decision of the Authority shall be in conformity with the formal opinion issued by the Commission pursuant to paragraph 4.

7 Decisions adopted in accordance with paragraph 6 shall prevail over any previous decision adopted by the competent authorities on the same matter.

When taking action in relation to issues which are subject to a formal opinion pursuant to paragraph 4 or to a decision pursuant to paragraph 6, competent authorities shall comply with the formal opinion or the decision, as the case may be.]

8 In the report referred to in Article 43(5), the Authority shall set out which competent authorities and financial institutions have not complied with the formal opinions or decisions referred to in paragraphs 4 and 6 of this Article.

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](#)

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

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).

F7 Substituted by 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 Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (Text with EEA relevance).

[F² Article 17a

Protection of reporting persons

1 The Authority shall have in place dedicated reporting channels for receiving and handling information provided by a natural or legal person reporting on actual or potential breaches, abuse of law, or non-application of Union law.

2 The natural or legal persons reporting through those channels shall be protected against retaliation in accordance with Directive (EU) 2019/1937 of the European Parliament and of the Council⁽³⁾, where applicable.

3 The Authority shall ensure that all information may be submitted anonymously or confidentially, and safely. Where the Authority deems that the submitted information contains evidence or significant indications of a material breach, it shall provide feedback to the reporting person.]

Textual Amendments

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).

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

Article 18

Action in emergency situations

[^{F31} In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, the Authority shall actively facilitate and, where deemed necessary, coordinate any actions undertaken by the relevant competent supervisory authorities.

In order to be able to perform that facilitating and coordinating role, the Authority shall be fully informed of any relevant developments, and shall be invited to participate as an observer in any relevant gathering by the relevant competent supervisory authorities.]

2 The Council, in consultation with the Commission and the ESRB and, where appropriate, the ESAs, may adopt a decision addressed to the Authority, determining the existence of an emergency situation for the purposes of this Regulation, following a request by the Authority, the Commission or the ESRB. The Council shall review that decision at appropriate intervals and at least once a month. If the decision is not renewed at the end of a 1-month period, it shall automatically expire. The Council may declare the discontinuation of the emergency situation at any time.

Where the ESRB or the Authority considers that an emergency situation may arise, it shall issue a confidential recommendation addressed to the Council and provide it with an assessment of the situation. The Council shall then assess the need for a meeting. In that process, due care of confidentiality shall be guaranteed.

If the Council determines the existence of an emergency situation, it shall duly inform the European Parliament and the Commission without delay.

[^{F13} Where the Council has adopted a decision pursuant to paragraph 2 of this Article and, in exceptional circumstances, where coordinated action by competent authorities is necessary to respond to adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union or customer and consumer protection, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislative acts referred to in Article 1(2) to address any such developments by ensuring that financial institutions and competent authorities satisfy the requirements laid down in those legislative acts.]

4 Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the decision of the Authority referred to in paragraph 3 within the period laid down in that decision, the Authority may, where the relevant requirements laid down in the legislative acts referred to in Article 1(2) including in regulatory technical standards and implementing technical standards adopted in accordance with those acts are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under that legislation, including the cessation of any practice. This shall apply only in situations in which a competent authority does not apply the legislative acts referred to in Article 1(2), including regulatory technical standards and implementing technical standards adopted in accordance with those acts, or applies them in a way which appears to be a manifest breach of those acts, and where urgent remedying is necessary to restore the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union.

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

5 Decisions adopted under paragraph 4 shall prevail over any previous decision adopted by the competent authorities on the same matter.

Any action by the competent authorities in relation to issues which are subject to a decision pursuant to paragraph 3 or 4 shall be compatible with those decisions.

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).
- 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.

Article 19

Settlement of disagreements between competent authorities in cross-border situations

[^{F1} In cases specified in the legislative acts referred to in Article 1(2) and without prejudice to the powers laid down in Article 17, the Authority may assist the competent authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4 of this Article in either of the following circumstances:

- a at the request of one or more of the competent authorities concerned where a competent authority disagrees with the procedure or content of an action, proposed action, or inactivity of another competent authority;
- b in cases where the legislative acts referred to in Article 1(2) provide that the Authority may assist, on its own initiative, where on the basis of objective reasons, disagreement can be determined between competent authorities.

In cases where the legislative acts referred to in Article 1(2) require a joint decision to be taken by competent authorities and where, in accordance with those acts, the Authority may assist, on its own initiative, in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4 of this Article, the competent authorities concerned, a disagreement shall be presumed in the absence of a joint decision being taken by those authorities within the time limits set out in those acts.]

[^{F2}1a The competent authorities concerned shall, in the following cases, notify the Authority without undue delay that an agreement has not been reached:

- a where a time limit for reaching an agreement between competent authorities has been provided for in the legislative acts referred to in Article 1(2), and either of the following occurs:
 - (i) the time limit has expired; or

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- (ii) at least two competent authorities concerned conclude that a disagreement exists, on the basis of objective reasons;
- b where no time limit for reaching an agreement between competent authorities has been provided for in the legislative acts referred to in Article 1(2), and either of the following occurs:
 - (i) at least two competent authorities concerned conclude that a disagreement exists on the basis of objective reasons; or
 - (ii) two months have elapsed from the date of receipt by a competent authority of a request from another competent authority to take certain action in order to comply with those acts and the requested authority has not yet adopted a decision that satisfies the request.

1b The Chairperson shall assess whether the Authority should act in accordance with paragraph 1. Where the intervention is at the Authority's own initiative, the Authority shall notify the competent authorities concerned of its decision regarding the intervention.

Pending the Authority's decision in accordance with the procedure set out in Article 44(3a), in cases where the legislative acts referred to in Article 1(2) require a joint decision to be taken, all competent authorities involved in the joint decision shall defer their individual decisions. Where the Authority decides to act, all the competent authorities involved in the joint decision shall defer their decisions until the procedure set out in paragraphs 2 and 3 of this Article is concluded.]

2 The Authority shall set a time limit for conciliation between the competent authorities taking into account any relevant time periods specified in the acts referred to in Article 1(2) and the complexity and urgency of the matter. At that stage the Authority shall act as a mediator.

3 [^{F1}Where the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority may take a decision requiring those authorities to take specific action, or to refrain from certain action, in order to settle the matter, and to ensure compliance with Union law. The decision of the Authority shall be binding on the competent authorities concerned. The Authority's decision may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant Union law.]

[^{F23a} The Authority shall notify the competent authorities concerned of the conclusion of the procedures under paragraphs 2 and 3 together with, where applicable, its decision taken under paragraph 3.]

[^{F14} Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the decision of the Authority, and thereby fails to ensure that a financial institution or, in the context of matters relating to the prevention and countering of money laundering or of terrorist financing, a financial sector operator complies with requirements directly applicable to it by virtue of the legislative acts referred to in Article 1(2) of this Regulation, the Authority may adopt an individual decision addressed to that financial institution or financial sector operator requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice.

In matters concerning the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing, the Authority may also adopt a decision in accordance with the first subparagraph of this paragraph where the relevant requirements of the legislative acts referred to in Article 1(2) are not directly applicable to financial sector operators. To that effect, the Authority shall apply all relevant Union

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law, and where such Union law is composed of Directives, national law to the extent that it transposes those Directives. Where the relevant Union law is composed of Regulations and where those Regulations explicitly grant options for Member States, the Authority shall apply also national law to the extent that such options have been exercised.]

5 Decisions adopted under paragraph 4 shall prevail over any previous decision adopted by the competent authorities on the same matter. Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 3 or 4 shall be compatible with those decisions.

6 In the report referred to in Article 50(2), the Chairperson of the Authority shall set out the nature and type of disagreements between competent authorities, the agreements reached and the decisions taken to settle such disagreements.

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).

Article 20

Settlement of disagreements between competent authorities across sectors

The Joint Committee shall, in accordance with the procedure laid down in Articles 19 and 56, settle cross-sectoral disagreements that may arise between competent authorities as defined in Article 4(2) of this Regulation, of Regulation (EU) 1094/2010 and of Regulation (EU) 1095/2010 respectively.

[^{F5}Article 20a

Convergence of supervisory review process

The Authority shall promote, within the scope of its powers, convergence of the supervisory review and evaluation process in accordance with Directive 2013/36/EU in order to bring about strong supervisory standards in the Union.]

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](#)

Textual Amendments

- F5** Inserted 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.](#)

Article 21

Colleges of supervisors

[^{F1} The Authority shall promote and monitor, within the scope of its powers, the efficient, effective and consistent functioning of the colleges of supervisors where established by legislative acts referred to in Article 1(2) and foster the consistency and coherence of the application of Union law among the colleges of supervisors. With the objective of converging supervisory best practices, the Authority shall promote joint supervisory plans and joint examinations, and staff from the Authority shall have full participation rights in the colleges of supervisors and, as such, shall be able to participate in the activities of the colleges of supervisors, including on-site inspections, carried out jointly by two or more competent authorities.]

[^{F3} The Authority shall lead in ensuring a consistent functioning of colleges of supervisors for cross-border institutions across the Union, taking account of the systemic risk posed by financial institutions referred to in Article 23, and shall, where appropriate, convene a meeting of a college.]

For the purpose of this paragraph and of paragraph 1 of this Article, the Authority shall be considered a ‘competent authority’ within the meaning of the relevant legislation.

The Authority may:

- a collect and share all relevant information in cooperation with the competent authorities in order to facilitate the work of the college and establish and manage a central system to make such information accessible to the competent authorities in the college;
- [^{F1}b initiate and coordinate Union-wide stress tests in accordance with Article 32 to assess the resilience of financial institutions, in particular the systemic risk posed by financial institutions as referred to in Article 23, to adverse market developments, and evaluate the potential for systemic risk to increase in situations of stress, ensuring that a consistent methodology is applied at national level to such tests and, where appropriate, address a recommendation to the competent authority to correct issues identified in the stress test, including a recommendation to conduct specific assessments; it may recommend competent authorities to carry out on-site inspections, and may participate in such on-site inspections, in order to ensure comparability and reliability of methods, practices and results of Union-wide assessments;]
- c promote effective and efficient supervisory activities, including evaluating the risks to which financial institutions are or might be exposed as determined under the supervisory review process or in stress situations;
- d oversee, in accordance with the tasks and powers specified in this Regulation, the tasks carried out by the competent authorities; and
- e request further deliberations of a college in any cases where it considers that the decision would result in an incorrect application of Union law or would not contribute to the objective of convergence of supervisory practices. It may also require the consolidating supervisor to schedule a meeting of the college or add a point to the agenda of a meeting.

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*

[^{F13} The Authority may develop draft regulatory and implementing technical standards in accordance with the empowerments laid down in the legislative acts referred to in Article 1(2), and in accordance with Articles 10 to 15, to ensure uniform conditions of application with respect to the provisions regarding the operational functioning of colleges of supervisors. The Authority may issue guidelines and recommendations in accordance with Article 16 to promote convergence in supervisory functioning and best practices that have been adopted by the colleges of supervisors.]

4 The Authority shall have a legally binding mediation role to resolve disputes between competent authorities in accordance with the procedure set out in Article 19. The Authority may take supervisory decisions directly applicable to the institution concerned in accordance with Article 19.

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).
- 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.

Article 22

[^{F1}General provisions on systemic risk]

1 The Authority shall duly consider systemic risk as defined by Regulation (EU) No 1092/2010. It shall address any risk of disruption in financial services that:

- a is caused by an impairment of all or parts of the financial system; and
- b has the potential to have serious negative consequences for internal market and the real economy.

The Authority shall consider, where appropriate, the monitoring and assessment of systemic risk as developed by the ESRB and the Authority and respond to warnings and recommendations by the ESRB in accordance with Article 17 of Regulation (EU) No 1092/2010.

[^{F51a} At least annually, the Authority shall consider whether it is appropriate to carry out Union-wide assessments of the resilience of financial institutions, in accordance with Article 32, and shall inform the European Parliament, the Council and the Commission of its reasoning. Where such Union-wide assessments are carried out and the Authority considers it appropriate to do so, it shall disclose the results for each participating financial institution.]

[^{F12} The Authority shall, in collaboration with the ESRB, and in accordance with Article 23, develop a common set of quantitative and qualitative indicators (risk dashboard) to identify and measure systemic risk.]

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The Authority shall also develop an adequate stress-testing regime to help identifying those institutions that may pose systemic risk. These institutions shall be subject to strengthened supervision, and where necessary, to the recovery and resolution procedures referred to in Article 25.

3 Without prejudice to the acts referred to in Article 1(2), the Authority shall draw up, as necessary, additional guidelines and recommendations for financial institutions, to take account of the systemic risk posed by them.

The Authority shall ensure that the systemic risk posed by financial institutions is taken into account when developing draft regulatory and implementing technical standards in the areas laid down in the legislative acts referred to in Article 1(2).

[^{F14} Upon request from one or more competent authorities, the European Parliament, the Council or the Commission, or on its own initiative, the Authority may conduct an inquiry into a particular type of financial institution or type of product or type of conduct in order to assess potential threats to the stability of the financial system or to the protection of customers or consumers.

Following an inquiry conducted pursuant to the first subparagraph, the Board of Supervisors may make appropriate recommendations for action to the competent authorities concerned.

For those purposes, the Authority may use the powers conferred on it under this Regulation, including Article 35.]

5 The Joint Committee shall ensure overall and cross-sectoral coordination of the activities carried out in accordance with this Article.

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 \(Text with EEA relevance\).](#)
- F5** Inserted 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.](#)

Article 23

Identification and measurement of systemic risk

[^{F11} The Authority shall, in consultation with the ESRB, develop criteria for the identification and measurement of systemic risk and an adequate stress-testing regime which includes an evaluation of the potential for systemic risk posed by, or to, financial institutions to increase in situations of stress, including potential environmental-related systemic risk. The

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financial institutions that may pose a systemic risk shall be subject to strengthened supervision, and where necessary, the recovery and resolution procedures referred to in Article 25.]

2 The Authority shall take fully into account the relevant international approaches when developing the criteria for the identification and measurement of systemic risk posed by financial institutions, including those established by the Financial Stability Board, the International Monetary Fund and the Bank for International Settlements.

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 24

Permanent capacity to respond to systemic risks

1 The Authority shall ensure it has specialised and ongoing capacity to respond effectively to the materialisation of systemic risks as referred to in Articles 22 and 23, in particular, with respect to institutions that pose a systemic risk.

2 The Authority shall fulfil the tasks conferred upon it in this Regulation and in the legislation referred to in Article 1(2), and shall contribute to ensuring a coherent and coordinated crisis management and resolution regime in the Union.

Article 25

Recovery and resolution procedures

[^{F3}1 The Authority shall contribute to, and participate actively in, the development and coordination of effective, consistent and up-to-date recovery and resolution plans for financial institutions. The Authority shall also, where provided for in the Union acts referred to in Article 1(2), assist in developing procedures in emergency situations and preventive measures to minimise the systemic impact of any failure.]

[^{F8}1a The Authority may organise and conduct peer reviews of the exchange of information and of the joint activities of the Board referred to in Regulation (EU) No 806/2014 and national resolution authorities of Member States non-participating in the Single Resolution Mechanism in the resolution of cross-border groups to strengthen effectiveness and consistency in outcomes. To that end, the Authority shall develop methods to allow for objective assessment and comparison.]

2 The Authority may identify best practices aimed at facilitating the resolution of failing institutions and, in particular, cross-border groups, in ways which avoid contagion, ensuring

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that appropriate tools, including sufficient resources, are available and allow the institution or the group to be resolved in an orderly, cost-efficient and timely manner.

3 The Authority may develop regulatory and implementing technical standards as specified in the legislative acts referred to in Article 1(2) in accordance with the procedure laid down in Articles 10 to 15.

Textual Amendments

- 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.
- F8** Inserted by 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.

Article 26

European system of deposit guarantee schemes

1 The Authority shall contribute to strengthening the European system of national deposit guarantee schemes by acting under the powers conferred to it in this Regulation to ensure the correct application of Directive 94/19/EC with the aim of ensuring that national deposit guarantee schemes are adequately funded by contributions from financial institutions including from those financial institutions established and taking deposits within the Union but headquartered outside the Union as provided for in Directive 94/19/EC and provide a high level of protection to all depositors in a harmonised framework throughout the Union, which leaves the stabilising safeguard role of mutual guarantee schemes intact, provided they comply with Union legislation.

2 Article 16 concerning the Authority's powers to adopt guidelines and recommendations shall apply to deposit guarantee schemes.

3 The Authority may develop regulatory and implementing technical standards as specified in the legislative acts referred to in Article 1(2) in accordance with the procedure laid down in Articles 10 to 15.

4 The review of this Regulation provided for in Article 81 shall, in particular, examine the convergence of the European system of national deposit guarantee schemes.

Article 27

European system of bank resolution and funding arrangements

1 The Authority shall contribute to developing methods for the resolution of failing financial institutions, in particular those that may pose a systemic risk, in ways which avoid contagion and allow them to be wound down in an orderly and timely manner, including, where applicable, coherent and robust funding mechanisms as appropriate.

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[^{F32} The Authority shall provide its assessment of the need for a system of coherent, robust and credible funding mechanisms, with appropriate financing instruments linked to a set of coordinated crisis management arrangements.]

The Authority shall contribute to the work on the level playing field issues and cumulative impacts of any systems of levies and contributions on financial institutions that may be introduced to ensure fair burden sharing and incentives to contain systemic risk as a part of a coherent and credible resolution framework.

[^{F6}]

Textual Amendments

- 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.
- F6** Deleted 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 28

Delegation of tasks and responsibilities

1 Competent authorities may, with the consent of the delegate, delegate tasks and responsibilities to the Authority or other competent authorities subject to the conditions set out in this Article. Member States may set out specific arrangements regarding the delegation of responsibilities that have to be complied with before their competent authorities enter into such delegation agreements, and may limit the scope of delegation to what is necessary for the effective supervision of cross-border financial institutions or groups.

2 The Authority shall stimulate and facilitate the delegation of tasks and responsibilities between competent authorities by identifying those tasks and responsibilities that can be delegated or jointly exercised and by promoting best practices.

3 The delegation of responsibilities shall result in the reallocation of competences laid down in the acts referred to in Article 1(2). The law of the delegate authority shall govern the procedure, enforcement and administrative and judicial review relating to the delegated responsibilities.

4 The competent authorities shall inform the Authority of delegation agreements into which they intend to enter. They shall put the agreements into effect at the earliest 1 month after informing the Authority.

The Authority may give an opinion on the intended agreement within 1 month of being informed.

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

The Authority shall publish, by appropriate means, any delegation agreement as concluded by the competent authorities, in order to ensure that all parties concerned are informed appropriately.

Article 29

Common supervisory culture

1 The Authority shall play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union. The Authority shall carry out, at a minimum, the following activities:

- a providing opinions to competent authorities;
- [^{F2}aa establishing Union strategic supervisory priorities in accordance with Article 29a;
- ab establishing coordination groups in accordance with Article 45b to promote supervisory convergence and identify best practices;]
- [^{F1}b promoting an effective bilateral and multilateral exchange of information between competent authorities, pertaining to all relevant issues, including cyber security and cyber-attacks, with full respect for the applicable confidentiality and data protection provisions provided for in the relevant Union legislative acts;]
- c contributing to developing high-quality and uniform supervisory standards, including reporting standards, and international accounting standards in accordance with Article 1(3);
- d reviewing the application of the relevant regulatory and implementing technical standards adopted by the Commission, and of the guidelines and recommendations issued by the Authority and proposing amendments where appropriate; [^{F6} and]
- [^{F1}e establishing sectoral and cross-sectoral training programmes, including with respect to technological innovation, facilitating personnel exchanges and encouraging competent authorities to intensify the use of secondment schemes and other tools; and]
- [^{F2}f putting in place a monitoring system to assess material environmental, social and governance-related risks, taking into account the Paris Agreement to the United Nations Framework Convention on Climate Change.]

[^{F12} The Authority may, as appropriate, develop new practical instruments and convergence tools to promote common supervisory approaches and practices.

For the purpose of establishing a common supervisory culture, the Authority shall develop and maintain an up-to-date Union supervisory handbook on the supervision of financial institutions in the Union, which duly takes into account the nature, scale and complexity of risks, business practices, business models and the size of financial institutions and of markets. The Authority shall also develop and maintain an up-to-date Union resolution handbook on the resolution of financial institutions in the Union, which duly takes into account the nature, scale and complexity of risks, business practices, business models and the size of financial institutions and of markets. Both the Union supervisory handbook and the Union resolution handbook shall set out best practices and shall specify high-quality methodologies and processes.

The Authority shall, where appropriate, conduct open public consultations regarding the opinions referred to in point (a) of paragraph 1 and tools and instruments referred to in this paragraph. It shall also, where appropriate, analyse the related potential costs and benefits. Such consultations and analyses shall be proportionate in relation to the scope, nature and impact of the opinions or tools and instruments. The Authority shall,

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

where appropriate, also request advice from the Banking Stakeholder Group referred to in Article 37.]

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).
- F6** Deleted 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 Article 29a

Union strategic supervisory priorities

Following a discussion in the Board of Supervisors and taking into account contributions received from competent authorities, existing work by the Union Institutions, and analysis, warnings and recommendations published by the ESRB, the Authority shall, at least every three years, by 31 March, identify up to two priorities of Union-wide relevance which shall reflect future developments and trends. Competent authorities shall take those priorities into account when drawing up their work programmes and shall notify the Authority accordingly. The Authority shall discuss the relevant activities by the competent authorities in the following year and draw conclusions. The Authority shall discuss possible follow-up which may include guidelines, recommendations to competent authorities, and peer reviews, in the respective area.

The priorities of Union-wide relevance identified by the Authority shall not prevent competent authorities from applying their best practices, acting on their additional priorities and developments, and national specificities shall be considered.]

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

Textual Amendments

- 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).

^{F1}Article 30

Peer reviews of competent authorities

1 The Authority shall periodically conduct peer reviews of some or all of the activities of competent authorities, to further strengthen consistency and effectiveness in supervisory outcomes. To that end, the Authority shall develop methods to allow for an objective assessment and comparison between the competent authorities reviewed. When planning and conducting peer reviews, existing information and evaluations already made with regard to the competent authority concerned, including any relevant information provided to the Authority in accordance with Article 35, and any relevant information from stakeholders shall be taken into account.

2 For the purposes of this Article, the Authority shall establish ad hoc peer review committees, which shall be composed of staff from the Authority and members of the competent authorities. The peer review committees shall be chaired by a member of the Authority's staff. The Chairperson, after consulting the Management Board and following an open call for participation, shall propose the chair and the members of a peer review committee which shall be approved by the Board of Supervisors. The proposal shall be deemed to be approved unless, within 10 days of the Chairperson proposing it, the Board of Supervisors adopts a decision to reject it.

3 The peer review shall include an assessment of, but shall not be limited to:

- a the adequacy of resources, the degree of independence, and governance arrangements of the competent authority, with particular regard to the effective application of the legislative acts referred to in Article 1(2) and the capacity to respond to market developments;
- b the effectiveness and the degree of convergence reached in the application of Union law and in supervisory practice, including regulatory technical standards and implementing technical standards, guidelines and recommendations adopted pursuant to Articles 10 to 16, and the extent to which the supervisory practice achieves the objectives set out in Union law;
- c the application of best practices developed by competent authorities whose adoption might be of benefit for other competent authorities;
- d the effectiveness and the degree of convergence reached with regard to the enforcement of the provisions adopted in the implementation of Union law, including the administrative sanctions and other administrative measures imposed against persons responsible where those provisions have not been complied with.

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

4 The Authority shall produce a report setting out the results of the peer review. That peer review report shall be prepared by the peer review committee and adopted by the Board of Supervisors in accordance with Article 44(3a). When drafting that report, the peer review committee shall consult the Management Board in order to maintain consistency with other peer review reports and to ensure a level playing field. The Management Board shall assess in particular whether the methodology has been applied in the same manner. The report shall explain and indicate the follow-up measures that are deemed appropriate, proportionate and necessary as a result of the peer review. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 16 and opinions pursuant to point (a) of Article 29(1).

In accordance with Article 16(3), the competent authorities shall make every effort to comply with any guidelines and recommendations issued.

When developing draft regulatory technical standards or draft implementing technical standards in accordance with Articles 10 to 15, or guidelines or recommendations in accordance with Article 16, the Authority shall take into account the outcome of the peer review, along with any other information acquired by the Authority in carrying out its tasks, in order to ensure convergence of the highest quality supervisory practices.

5 The Authority shall submit an opinion to the Commission where, having regard to the outcome of the peer review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of Union rules applicable to financial institutions or competent authorities would be necessary from the Union's perspective.

6 The Authority shall undertake a follow-up report after two years of the publication of the peer review report. The follow-up report shall be prepared by the peer review committee and adopted by the Board of Supervisors in accordance with Article 44(3a). When drafting that report, the peer review committee shall consult the Management Board in order to maintain consistency with other follow-up reports. The follow-up report shall include an assessment of, but shall not be limited to, the adequacy and effectiveness of the actions undertaken by the competent authorities that are subject to the peer review in response to the follow-up measures of the peer review report.

7 The peer review committee shall, after consulting the competent authorities subject to the peer review, identify the reasoned main findings of the peer review. The Authority shall publish the reasoned main findings of the peer review and of the follow-up report referred to in paragraph 6. Where the reasoned main findings of the Authority differ from those identified by the peer review committee, the Authority shall transmit, on a confidential basis, the peer review committee's findings to the European Parliament, to the Council and to the Commission. Where a competent authority that is subject to the peer review is concerned that the publication of the Authority's reasoned main findings would pose a risk to the stability of the financial system, it shall have the possibility to refer the matter to the Board of Supervisors. The Board of Supervisors may decide not to publish those extracts.

8 For the purposes of this Article, the Management Board shall make a proposal for a peer review work plan for the coming two years, which shall *inter alia* reflect the lessons learnt from the past peer review processes and discussions of coordination groups referred to in Article 45b. The peer review work plan shall constitute a separate part of the annual and multiannual working programme. It shall be made public. In case of urgency or unforeseen events, the Authority may decide to carry out additional peer reviews.]

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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 31

Coordination function

[^{F1} The Authority shall fulfil a general coordination role between competent authorities, in particular in situations where adverse developments could potentially jeopardise the orderly functioning and integrity of financial markets or the stability of the financial system in the Union.]

- [^{F12} The Authority shall promote a coordinated Union response, *inter alia*, by:]
- a facilitating the exchange of information between the competent authorities;
 - [^{F3}b determining the scope and verifying where appropriate the reliability of information that should be made available to all the competent authorities concerned;]
 - c without prejudice to Article 19, carrying out non-binding mediation upon a request from the competent authorities or on its own initiative;
 - [^{F3}d notifying the ESRB, the Council and the Commission of any potential emergency situations without delay;
 - [^{F1}e taking appropriate measures in the event of developments which may jeopardise the functioning of the financial markets with a view to the coordination of actions undertaken by relevant competent authorities;]
 - [^{F2}ea taking appropriate measures to coordinate actions undertaken by relevant competent authorities with a view to facilitating the entry into the market of actors or products relying on technological innovation;]
 - f centralising information received from competent authorities in accordance with Articles 21 and 35 as the result of the regulatory reporting obligations of institutions. The Authority shall share that information with the other competent authorities concerned.]

[^{F23} In order to contribute to the establishment of a common European approach towards technological innovation, the Authority shall promote supervisory convergence, with the support, where relevant, of the Committee on consumer protection and financial innovation, facilitating entry into the market of actors or products relying on technological innovation, in particular through the exchange of information and best practices. Where appropriate, the Authority may adopt guidelines or recommendations in accordance with Article 16.]

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- 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.

F² Article 31a

Information exchange on fitness and propriety

The Authority shall, together with the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and with the European Supervisory Authority (European Securities and Markets Authority), establish a system for the exchange of information relevant to the assessment of the fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions by competent authorities in accordance with the legislative acts referred to in Article 1(2).]

Textual Amendments

- 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).

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Article 32

[^{F1}Assessment of market developments, including stress tests]

[^{F1}1 The Authority shall monitor and assess market developments in the area of its competence and, where necessary, inform the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), the ESRB, and the European Parliament, the Council and the Commission about the relevant micro-prudential trends, potential risks and vulnerabilities. The Authority shall include in its assessments an analysis of the markets in which financial institutions operate and an assessment of the impact of potential market developments on such institutions.]

[^{F3}[^{F1}2 The Authority shall initiate and coordinate Union-wide assessments of the resilience of financial institutions to adverse market developments. To that end, it shall develop:]

[^{F1}a common methodologies for assessing the effect of economic scenarios on a financial institution's financial position taking into account *inter alia* risks stemming from adverse environmental developments;]

[^{F2}aa common methodologies for identifying financial institutions to be included in Union-wide assessments;]

b common approaches to communication on the outcomes of those assessments of the resilience of financial institutions;

[^{F1}c common methodologies for assessing the effect of particular products or distribution processes on a financial institution;

d common methodologies for asset evaluation, as necessary, for the purpose of the stress testing; and]

[^{F2}e common methodologies for assessing the effect of environmental risks on the financial stability of financial institutions.]

[^{F2}For the purposes of this paragraph, the Authority shall cooperate with the ESRB.]]

[^{F1}3 Without prejudice to the tasks of the ESRB set out in Regulation (EU) No 1092/2010, the Authority shall, once a year, and more frequently where necessary, provide assessments to the European Parliament, to the Council, to the Commission and to the ESRB of trends, potential risks and vulnerabilities in its area of competence, in combination with the risk dashboard referred to in Article 22(2) of this Regulation.]

The Authority shall include a classification of the main risks and vulnerabilities in these assessments and, where necessary, recommend preventative or remedial actions.

[^{F5}3a For the purpose of running the Union-wide assessments of the resilience of financial institutions under this Article, the Authority may, in accordance with Article 35 and subject to the conditions set out therein, request information directly from those financial institutions. It may also require competent authorities to conduct specific reviews. It may request competent authorities to carry out on-site inspections, and may participate in such on-site inspections in accordance with Article 21 and subject to the conditions set out therein, in order to ensure comparability and reliability of methods, practices and results.

[^{F1}3b The Authority may request that the competent authorities require that financial institutions make information that they must provide under paragraph 3a subject to an independent audit.]]

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

4 The Authority shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating 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.

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.
- F5** Inserted 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 33

International relations including equivalence

1 Without prejudice to the respective competences of the Member States and the Union institutions, the Authority may develop contacts and enter into administrative arrangements with regulatory, supervisory and, where applicable, resolution authorities, international organisations and third-country administrations. Those arrangements shall not create legal obligations in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral or multilateral arrangements with those third countries.

Where a third country, in accordance with a delegated act, which is in force, adopted by the Commission pursuant to Article 9 of Directive (EU) 2015/849, is on the list of jurisdictions which have strategic deficiencies in their national anti-money laundering and countering the financing of terrorism regimes that pose significant threats to the financial system of the Union, the Authority shall not conclude administrative arrangements with the regulatory, supervisory and, where applicable,

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resolution authorities of that third country. This shall not preclude other forms of cooperation between the Authority and the respective third-country authorities with a view to reduce threats to the financial system of the Union.

2 The Authority shall assist the Commission in preparing equivalence decisions pertaining to regulatory and supervisory regimes in third countries following a specific request for advice from the Commission or where required to do so by the legislative acts referred to in Article 1(2).

3 The Authority shall monitor, with a particular focus on their implications for financial stability, market integrity, investor protection and the functioning of the internal market, relevant regulatory, supervisory and, where applicable, resolution developments, and enforcement practices and market developments in third countries, to the extent they are relevant to risk-based equivalence assessments, for which equivalence decisions have been adopted by the Commission pursuant to the legislative acts referred to in Article 1(2).

Furthermore, it shall verify whether the criteria, on the basis of which those equivalence decisions have been taken, and any conditions set out therein, are still fulfilled.

The Authority may liaise with relevant authorities in third countries. The Authority shall submit a confidential report to the European Parliament, to the Council, to the Commission and to the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) summarising the findings of its monitoring of all equivalent third countries. The report shall focus in particular on implications for financial stability, market integrity, investor protection or the functioning of the internal market.

Where the Authority identifies relevant developments in relation to the regulation, supervision or, where applicable, resolution, or the enforcement practices in the third countries referred to in this paragraph that may affect the financial stability of the Union or of one or more of its Member States, market integrity, investor protection or the functioning of the internal market, it shall inform the European Parliament, the Council and the Commission on a confidential basis and without undue delay.

4 Without prejudice to specific requirements set out in the legislative acts referred to in Article 1(2) and subject to the conditions set out in the second sentence of paragraph 1 of this Article, the Authority shall cooperate where possible with the relevant competent authorities, and where applicable, also with resolution authorities, of third countries whose regulatory and supervisory regimes have been recognised as equivalent. In principle, that cooperation shall be pursued on the basis of administrative arrangements concluded with the relevant authorities of those third countries. When negotiating such administrative arrangements, the Authority shall include provisions on the following:

- a the mechanisms which allow the Authority to obtain relevant information, including information on the regulatory regime, the supervisory approach, relevant market developments and any changes that may affect the equivalence decision;
- b to the extent necessary for the follow-up of such equivalence decisions, the procedures concerning the coordination of supervisory activities including, where necessary, on-site inspections.

The Authority shall inform the Commission where a third-country competent authority refuses to conclude such administrative arrangements or when it refuses to effectively cooperate.

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5 The Authority may develop model administrative arrangements, with a view to establishing consistent, efficient and effective supervisory practices within the Union and to strengthening international supervisory coordination. The competent authorities shall make every effort to follow such model arrangements.

In the report referred to in Article 43(5), the Authority shall include information on the administrative arrangements agreed upon with supervisory authorities, international organisations or administrations in third countries, the assistance provided by the Authority to the Commission in preparing equivalence decisions and the monitoring by the Authority in accordance with paragraph 3 of this Article.

6 The Authority shall, within its powers pursuant to this Regulation and to the legislative acts referred to in Article 1(2), contribute to the united, common, consistent and effective representation of the Union's interests in 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).

^{F6}Article 34

[^{F6}Other tasks]

Textual Amendments

F6 Deleted 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 35

Collection of information

[^{F31} At the request of the Authority, the competent authorities shall provide the Authority with all the necessary information, in specified formats, to carry out the tasks conferred on

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it by this Regulation, provided that they have legal access to the relevant information. The information shall be accurate, coherent, complete and timely.

2 The Authority may also request information to be provided at recurring intervals and in specified formats or by way of comparable templates approved by the Authority. Such requests shall, where possible, be made using common reporting formats.

3 Upon a duly justified request from a competent authority, the Authority shall provide any information that is necessary to enable the competent authority to carry out its tasks in accordance with the professional secrecy obligations laid down in sectoral legislation and in Article 70.]

4 Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take account of any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks.

5 Where information is not available or is not made available by the competent authorities in a timely fashion, the Authority may address a duly justified and reasoned request to other supervisory authorities, to the ministry responsible for finance where it has at its disposal prudential information, to the national central bank or to the statistical office of the Member State concerned.

[^{F36} Where complete or accurate information is not available or is not made available in a timely fashion under paragraph 1 or 5, the Authority may request information, by way of a duly justified and reasoned request, directly from:

- a relevant financial institutions;
- b holding companies or branches of a relevant financial institution;
- c non-regulated operational entities within a financial group or conglomerate that are significant to the financial activities of the relevant financial institutions.

The addressees of such a request shall provide the Authority promptly and without undue delay with clear, accurate and complete information.]

The Authority shall inform the relevant competent authorities of requests in accordance with this paragraph and with paragraph 5.

At the request of the Authority, the competent authorities shall assist the Authority in collecting the information.

7 The Authority may use confidential information received pursuant to this Article only for the purposes of carrying out the duties assigned to it by this Regulation.

[^{F57a} Where the addressees of a request under paragraph 6 do not provide clear, accurate and complete information promptly, the Authority shall inform the European Central Bank where applicable and the relevant authorities in the Member States concerned which, subject to national law, shall cooperate with the Authority with a view of ensuring full access to the information and to any originating documents, books or records to which the addressees have legal access in order to verify the information.]

Textual Amendments

- 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.](#)

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

F5 Inserted 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.

Article 36

Relationship with the ESRB

1 The Authority shall cooperate closely and on a regular basis with the ESRB.

2 The Authority shall provide the ESRB with regular and timely information necessary for the achievement of its tasks. Any data necessary for the achievement of its tasks that are not in summary or aggregate form shall be provided, without delay, to the ESRB upon a reasoned request, as specified in Article 15 of Regulation (EU) No 1092/2010. The Authority, in cooperation with the ESRB, shall have in place adequate internal procedures for the transmission of confidential information, in particular information regarding individual financial institutions.

^{F63}

[^{F14} On receipt of a warning or recommendation from the ESRB addressed to the Authority, the Authority shall discuss that warning or recommendation at the next meeting of the Board of Supervisors or, where appropriate, earlier, in order to assess the implications of, and possible follow-up to, such a warning or recommendation for the fulfilment of its tasks.

It shall decide, by the relevant decision-making procedure, on any actions to be taken in accordance with the powers conferred upon it by this Regulation for addressing the issues identified in the warnings and recommendations.

If the Authority does not act on a warning or recommendation, it shall explain to the ESRB its reasons for not doing so. The ESRB shall inform the European Parliament thereof in accordance with Article 19(5) of Regulation (EU) No 1092/2010. The ESRB shall also inform the Council thereof.

5 On receipt of a warning or recommendation from the ESRB addressed to a competent authority, the Authority shall, where relevant, use the powers conferred upon it by this Regulation to ensure a timely follow-up.

Where the addressee intends not to follow the recommendation of the ESRB, it shall inform and discuss with the Board of Supervisors its reasons for not acting.

Where the competent authority, in accordance with Article 17(1) of Regulation (EU) No 1092/2010, informs the European Parliament, the Council, the Commission and the ESRB of the actions it has undertaken in response to a recommendation of the ESRB, it shall take due account of the views of the Board of Supervisors.]

^{F66}

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

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(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).

- F6** Deleted 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 37

Banking Stakeholder Group

1 To help facilitate consultation with stakeholders in areas relevant to the tasks of the Authority, a Banking Stakeholder Group shall be established. The Banking Stakeholder Group shall be consulted on actions taken in accordance with Articles 10 to 15 concerning regulatory technical standards and implementing technical standards and, to the extent that these do not concern individual financial institutions, Article 16 concerning guidelines and recommendations. If actions must be taken urgently and consultation becomes impossible, the Banking Stakeholder Group shall be informed as soon as possible.

[^{F3}The Banking Stakeholder Group shall meet on its own initiative as necessary, and in any event at least four times a year.]

[^{F12} The Banking Stakeholder Group shall be composed of 30 members. Those members shall comprise of:

- a 13 members representing, in balanced proportions, financial institutions operating in the Union of whom three shall represent cooperative and savings banks;
- b 13 members representing employees' representatives of financial institutions operating in the Union, consumers, users of banking services and representatives of SMEs; and
- c four members who are independent top-ranking academics.

3 The members of the Banking Stakeholder Group shall be appointed by the Board of Supervisors following an open and transparent selection procedure. In making its decision, the Board of Supervisors shall, to the extent possible, ensure an appropriate reflection of diversity of the banking sector, geographical and gender balance and representation of stakeholders across the Union. Members of the Banking Stakeholder Group shall be selected according to their qualifications, skills, relevant knowledge and proven expertise.]

[^{F23a} Members of the Banking Stakeholder Group shall elect a Chair from among its members. The position of Chair shall be held for a period of two years.

The European Parliament may invite the Chair of the Banking Stakeholder Group to make a statement before it and answer any questions from its members whenever so requested.]

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[^{F14} The Authority shall provide all necessary information subject to professional secrecy as set out in Article 70 of this Regulation and ensure adequate secretarial support for the Banking Stakeholder Group. Adequate compensation shall be provided to members of the Banking Stakeholder Group representing non-profit organisations, excluding industry representatives. This compensation shall take into account the members' preparatory and follow-up work and shall be at least equivalent to the reimbursement rates of officials pursuant to Title V, Chapter 1, Section 2 of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68⁽⁴⁾ (the Staff Regulations). The Banking Stakeholder Group may establish working groups on technical issues. Members of the Banking Stakeholder Group shall serve for a period of four years, following which a new selection procedure shall take place.]

The members of the Banking Stakeholder Group may serve two successive terms.

[^{F15} The Banking Stakeholder Group may submit advice to the Authority on any issue related to the tasks of the Authority with particular focus on the tasks set out in Articles 10 to 16, 29, 30 and 32.

Where members of the Banking Stakeholder Group cannot agree on advice, one third of its members or the members representing one group of stakeholders shall be permitted to issue separate advice.

The Banking Stakeholder Group, the Securities and Markets Stakeholder Group, the Insurance and Reinsurance Stakeholder Group, and the Occupational Pensions Stakeholder Group may issue a joint advice on issues related to the work of the ESAs under Article 56 on joint positions and common acts.]

6 The Banking Stakeholder Group shall adopt its rules of procedure by a majority of two-thirds of its members.

[^{F17} The Authority shall make public the advice of the Banking Stakeholder Group, the separate advice of its members, and the results of its consultations as well as information on how advice and results of consultations have been taken into account.]

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).

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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.

Article 38

Safeguards

1 The Authority shall ensure that no decision adopted pursuant to Article 18 or 19 impinges in any way on the fiscal responsibilities of Member States.

2 Where a Member State considers that a decision taken pursuant to Article 19(3) impinges on its fiscal responsibilities, it may notify the Authority and the Commission within 2 weeks after notification of the Authority's decision to the competent authority that the decision will not be implemented by the competent authority.

In its notification, the Member State shall clearly and specifically explain why and how the decision impinges on its fiscal responsibilities.

In the case of such notification, the decision of the Authority shall be suspended.

Within a period of 1 month from the notification by the Member State, the Authority shall inform the Member State as to whether it maintains its decision or whether it amends or revokes it. If the decision is maintained or amended, the Authority shall state that fiscal responsibilities are not affected.

Where the Authority maintains its decision, the Council shall take a decision, by a majority of the votes cast, at one of its meetings not later than 2 months after the Authority has informed the Member State as set out in the fourth subparagraph, as to whether the Authority's decision is maintained.

Where the Council, after having considered the matter, does not take a decision to maintain the Authority's decision in accordance with the fifth subparagraph, the Authority's decision shall be terminated.

3 Where a Member State considers that a decision taken pursuant to Article 18(3) impinges on its fiscal responsibilities, it may notify the Authority, the Commission and the Council within 3 working days after notification of the Authority's decision to the competent authority that the decision will not be implemented by the competent authority.

In its notification, the Member State shall clearly and specifically explain why and how the decision impinges on its fiscal responsibilities.

In the case of such notification, the decision of the Authority shall be suspended.

The Council shall, within 10 working days, convene a meeting and take a decision, by a simple majority of its members, as to whether the Authority's decision is revoked.

Where the Council, after having considered the matter, does not take a decision to revoke the Authority's decision in accordance with the fourth subparagraph, the suspension of the Authority's decision shall be terminated.

4 Where the Council has taken a decision in accordance with paragraph 3 not to revoke a decision of the Authority relating to Article 18(3), and the Member State concerned still considers that the decision of the Authority impinges upon its fiscal responsibilities, that

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Member State may notify the Commission and the Authority and request the Council to re-examine the matter. The Member State concerned shall clearly set out the reasons for its disagreement with the decision of the Council.

Within a period of 4 weeks after the notification referred to in the first subparagraph, the Council shall confirm its original decision or take a new decision in accordance with paragraph 3.

The period of 4 weeks may be extended by four additional weeks by the Council, if the particular circumstances of the case so require.

5 Any abuse of this Article, in particular in relation to a decision by the Authority which does not have a significant or material fiscal impact, shall be prohibited as incompatible with the internal market.

[^{F1}Article 39

Decision-making procedures

1 The Authority shall act in accordance with paragraphs 2 to 6 of this Article when adopting decisions pursuant to Articles 17, 18 and 19.

2 The Authority shall inform any addressee of a decision of its intention to adopt the decision, in the official language of the addressee, setting a time limit within which the addressee may express its views on the subject-matter of the decision, taking full account of the urgency, complexity and potential consequences of the matter. The addressee may express its views in its official language. The provision laid down in the first sentence shall apply *mutatis mutandis* to recommendations as referred to in Article 17(3).

3 The decisions of the Authority shall state the reasons on which they are based.

4 The addressees of decisions of the Authority shall be informed of the legal remedies available under this Regulation.

5 Where the Authority has taken a decision pursuant to Article 18(3) or 18(4), it shall review that decision at appropriate intervals.

6 The decisions which the Authority takes pursuant to Article 17, 18 or 19 shall be made public. The publication shall disclose the identity of the competent authority or financial institution concerned and the main content of the decision, unless such publication is in conflict with the legitimate interest of those financial institutions, or with the protection of their business secrets, or could seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system of the Union.]

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](#)

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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).

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- (1) [^{F1}Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).]
- (2) [^{F2}Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).]
- (3) [^{F2}Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).]
- (4) [^{F1}OJ L 56, 4.3.1968, p. 1.]

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).

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Changes and effects yet to be applied to :

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