

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 III

ORGANISATION

SECTION 1

**Board of Supervisors**

*Article 40*

**Composition**

- 1 The Board of Supervisors shall be composed of:
- [<sup>F1</sup>a the Chairperson;]
  - b the head of the national public authority competent for the supervision of credit institutions in each Member State, who shall meet in person at least twice a year;
  - c one representative of the Commission, who shall be non-voting;
  - [<sup>F2</sup>d one representative nominated by the Supervisory Board of the European Central Bank, who shall be non-voting;]
  - e one representative of the ESRB, who shall be non-voting;
  - f one representative of each of the other two European Supervisory Authorities, who shall be non-voting.
- 2 The Board of Supervisors shall convene meetings with the Banking Stakeholder Group regularly, at least twice a year.
- 3 Each competent authority shall be responsible for nominating a high-level alternate from its authority, who may replace the member of the Board of Supervisors referred to in paragraph 1(b), where that person is prevented from attending.
- 4 Where the authority referred to in paragraph 1(b) is not a central bank, the member of the Board of Supervisors referred to in that point may decide to bring a representative from the Member State's central bank, who shall be non-voting.
- [<sup>F3</sup>4a In discussions not relating to individual financial institutions, as provided in Article 44(4), the representative nominated by the Supervisory Board of the European Central Bank may be accompanied by a representative of the European Central Bank with expertise on central banking tasks.]
- 5 In Member States where more than one authority is responsible for the supervision according to this Regulation, those authorities shall agree on a common representative. Nevertheless, when an item to be discussed by the Board of Supervisors does not fall within the competence of the national authority being represented by the member referred to in

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paragraph 1(b), that member may bring a representative from the relevant national authority, who shall be non-voting.

6 For the purpose of acting within the scope of Directive 94/19/EC, the member of the Board of Supervisors referred to in paragraph 1(b) may, where appropriate, be accompanied by a representative from the relevant bodies which administer deposit-guarantee schemes in each Member State, who shall be non-voting.

[<sup>F4</sup>For the purpose of acting within the scope of Directive 2014/59/EU, the member of the Board of Supervisors referred to in point (b) of paragraph 1 may, where appropriate, be accompanied by a representative from the resolution authority in each Member State, who shall be non-voting.]

[<sup>F5</sup>For the purpose of acting within the scope of Directive 2014/59/EU, the Chair of the Single Resolution Board shall be an observer to the Board of Supervisors.]

7 The Board of Supervisors may decide to admit observers.

The Executive Director may participate in meetings of the Board of Supervisors, without the right to vote.

[<sup>F68</sup> Where the national public authority referred to in point (b) of paragraph 1 is not responsible for the enforcement of consumer protection rules, the member of the Board of Supervisors referred to in that point may decide to invite a representative from the Member State's consumer protection authority, who shall be non-voting. In the case where the responsibility for consumer protection is shared by several authorities in a Member State, those authorities shall agree on a common representative.]

#### 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** 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.
- F3** 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.
- F4** Inserted by Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (Text with EEA relevance).
- F5** 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

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certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010.

- F6** 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).

## *[<sup>F1</sup>Article 41*

### **Internal committees**

1 The Board of Supervisors, on its own initiative or at the request of the Chairperson, may establish internal committees for specific tasks attributed to it. Upon request from the Management Board or from the Chairperson, the Board of Supervisors may establish internal committees for specific tasks attributed to the Management Board. The Board of Supervisors may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Management Board or to the Chairperson.

2 For the purposes of Article 17, and without prejudice to the role of the committee referred to in Article 9a(7), the Chairperson shall propose a decision to convene an independent panel, to be adopted by the Board of Supervisors. The independent panel shall consist of the Chairperson and six other members, to be proposed by the Chairperson after consulting the Management Board and following an open call for participation. The six other members shall not be representatives of the competent authority alleged to have breached Union law and shall not have any interest in the matter or direct links to the competent authority concerned.

Each member of the panel shall have one vote.

Decisions of the panel shall be taken where at least four members vote in favour.

3 For the purposes of Article 19, and without prejudice to the role of the committee referred to in Article 9a(7), the Chairperson shall propose a decision to convene an independent panel, to be adopted by the Board of Supervisors. The independent panel shall consist of the Chairperson and six other members, to be proposed by the Chairperson after consulting the Management Board and following an open call for participation. The six other members shall not be representatives of the competent authorities party to the disagreement and shall not have any interest in the matter or direct links to the competent authorities concerned.

Each member of the panel shall have one vote.

Decisions of the panel shall be taken where at least four members vote in favour.

4 For the purposes of conducting the inquiry provided for in the first subparagraph of Article 22(4), the Chairperson may propose a decision to launch the inquiry and a decision to convene an independent panel, to be adopted by the Board of Supervisors. The independent panel shall consist of the Chairperson and six other members, to be proposed by the Chairperson after consulting the Management Board and following an open call for participation.

Each member of the panel shall have one vote.

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Decisions of the panel shall be taken where at least four members vote in favour.

5 The panels referred to in paragraphs 2 and 3 of this Article or the Chairperson shall propose decisions under Article 17, or Article 19, except on matters concerning the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing, for final adoption by the Board of Supervisors. A panel referred to in paragraph 4 of this Article shall present the outcome of the inquiry conducted pursuant to the first subparagraph of Article 22(4) to the Board of Supervisors.

6 The Board of Supervisors shall adopt rules of procedure for the panels referred to in 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 \(Text with EEA relevance\).](#)

### Article 42

#### Independence of the Board of Supervisors

1 When carrying out the tasks conferred upon them by this Regulation, the members of the Board of Supervisors shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government or from any other public or private body.

2 Member States, Union institutions or bodies, and any other public or private body, shall not seek to influence the members of the Board of Supervisors in the performance of their tasks.

3 Members of the Board of Supervisors, the Chairperson as well as non-voting representatives and observers participating in the meetings of the Board of Supervisors shall, before such meetings, accurately and completely declare the absence or existence of any interest which might be considered prejudicial to their independence in relation to any items on the agenda, and shall abstain from participating in the discussion of, and voting upon, such points.

4 The Board of Supervisors shall lay down, in its rules of procedure, the practical arrangements for the rule on declaration of interest referred to in paragraph 3 and for the prevention and the management of conflict of interest.]

#### 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).

### Article 43

#### Tasks

[<sup>F1</sup> The Board of Supervisors shall give guidance to the work of the Authority and shall be in charge of taking the decisions referred to in Chapter II. The Board of Supervisors shall adopt the opinions, recommendations, guidelines and decisions of the Authority, and issue the advice referred to in Chapter II, based on a proposal of the relevant internal committee or panel, the Chairperson, or of the Management Board, as applicable.]

<sup>F2</sup> .....

<sup>F3</sup> .....

4 The Board of Supervisors shall adopt, before 30 September of each year, on the basis of a proposal by the Management Board, the work programme of the Authority for the coming year, and shall transmit it for information to the European Parliament, the Council and the Commission.

The work programme shall be adopted without prejudice to the annual budgetary procedure and shall be made public.

[<sup>F15</sup> The Board of Supervisors shall adopt, on the basis of a proposal by the Management Board, the annual report on the activities of the Authority, including on the performance of the Chairperson's duties, and shall transmit that report to the European Parliament, to the Council, to the Commission, to the Court of Auditors and to the European Economic and Social Committee by 15 June each year. The report shall be made public.]

6 The Board of Supervisors shall adopt the multi-annual work programme of the Authority, and shall transmit it for information to the European Parliament, the Council and the Commission.

The multi-annual work programme shall be adopted without prejudice to the annual budgetary procedure and shall be made public.

7 The Board of Supervisors shall adopt the budget in accordance with Article 63.

[<sup>F18</sup> The Board of Supervisors shall exercise disciplinary authority over the Chairperson and the Executive Director. It may remove the Executive Director from office in accordance with Article 51(5).]

#### 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).

- F7** 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).

### *[<sup>F6</sup>Article 43a*

#### **Transparency of decisions adopted by the Board of Supervisors**

Notwithstanding Article 70, within six weeks of each meeting of the Board of Supervisors, the Authority shall, at least provide the European Parliament with a comprehensive and meaningful record of the proceedings of that meeting that enables a full understanding of the discussions, including an annotated list of decisions. Such record shall not reflect discussions within the Board of Supervisors relating to individual financial institutions, unless otherwise provided for in Article 75(3) or in the legislative acts referred to in Article 1(2).]

#### **Textual Amendments**

- F6** 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 44*

#### **Decision-making**

[<sup>F11</sup> Decisions of the Board of Supervisors shall be taken by a simple majority of its members. Each voting member shall have one vote.

With regard to the acts specified in Articles 10 to 16 of this Regulation and measures and decisions adopted under the third subparagraph of Article 9(5) of this Regulation, and Chapter VI of this Regulation and, by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a qualified majority of its members, as defined in Article 16(4) TEU and in Article 3 of the Protocol No 36 on transitional provisions, which shall include at least a simple majority of

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the members, present at the vote, from competent authorities of Member States that are participating Member States as defined in point (1) of Article 2 of Regulation (EU) No 1024/2013 ('participating Member States') and a simple majority of the members, present at the vote, from competent authorities of Member States that are not participating Member States ('non-participating Member States').

The Chairperson shall not vote on the decisions referred to in the second subparagraph.

With regard to the composition of the panels in accordance with Article 41(2), (3) and (4), and the members of the peer review committee referred to in Article 30(2), the Board of Supervisors, when considering the proposals by its Chairperson, shall strive for consensus. In the absence of consensus, decisions of the Board of Supervisors shall be taken by a majority of three quarters of its voting members. Each voting member shall have one vote.

With regard to decisions adopted under Article 18(3) and (4), and by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a simple majority of its voting members, which shall include a simple majority of its members from competent authorities of participating Member States and a simple majority of its members from competent authorities of non-participating Member States.]

2 Meetings of the Board of Supervisors shall be convened by the Chairperson at his own initiative or at the request of one third of its members, and shall be chaired by the Chairperson.

3 The Board of Supervisors shall adopt and make public its rules of procedure.

[<sup>F63a</sup> With regard to the decisions in accordance with Article 30, the Board of Supervisors shall vote on the proposed decisions using a written procedure. The voting members of the Board of Supervisors shall have eight working days to vote. Each voting member shall have one vote. The proposed decision shall be considered adopted unless a simple majority of voting members of the Board of Supervisors objects. Abstentions shall not be counted as approvals or as objections, and shall not be considered when calculating the number of votes cast. If three voting members of the Board of Supervisors object to the written procedure, the draft decision shall be discussed and decided on by the Board of Supervisors in accordance with the procedure set out in paragraph 1 of this Article.

3b With regard to decisions in accordance with Articles 17 and 19, the Board of Supervisors shall vote on the proposed decision using a written procedure. The voting members of the Board of Supervisors shall have eight working days to vote. Each voting member shall have one vote. The proposed decision shall be considered adopted unless a simple majority of its members from competent authorities of participating Member States, or a simple majority of its members from competent authorities of non-participating Member States, objects to it. Abstentions shall not be counted as approvals or as objections, and shall not be considered when calculating the number of votes cast. If three voting members of the Board of Supervisors object to the written procedure, the draft decision shall be discussed by the Board of Supervisors and can be adopted by a simple majority of the voting members of the Board of Supervisors, which shall include a simple majority of its members from competent authorities of participating Member States and a simple majority of its members from competent authorities of non-participating Member States.

By way of derogation from the first subparagraph, from the date when four or fewer voting members are from competent authorities of non-participating Member States, the decision proposed shall be adopted by a simple majority of the voting members of

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the Board of Supervisors, which shall include at least one vote from members from competent authorities of non-participating Member States.]

[<sup>F14</sup> The non-voting members and the observers shall not attend any discussions within the Board of Supervisors relating to individual financial institutions, unless otherwise provided for in Article 75(3) or in the legislative acts referred to in Article 1(2).

The first subparagraph shall not apply to the Executive Director and the European Central Bank representative nominated by its Supervisory Board.

4a The Authority's Chairperson shall have the prerogative to call a vote at any time. Without prejudice to that power and to the effectiveness of the Authority's decision-making procedures, the Board of Supervisors of the Authority shall strive for consensus when taking its 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).
- F6** 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).

## SECTION 2

### Management Board

*[<sup>F1</sup> Article 45*

#### Composition

1 The Management Board shall be composed of the Chairperson and six members of the Board of Supervisors, elected by and from the voting members of the Board of Supervisors.

Other than the Chairperson, each member of the Management Board shall have an alternate, who may replace him or her if he or she is prevented from attending.

2 The term of office of the members elected by the Board of Supervisors shall be two-and-a-half years. That term may be extended once. The composition of the Management



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Board shall be gender balanced and proportionate and shall reflect the Union as a whole. The Management Board shall include at least two representatives of non-participating Member States. Mandates shall be overlapping and an appropriate rotating arrangement shall apply.

3 Meetings of the Management Board shall be convened by the Chairperson at his or her own initiative or at the request of at least a third of its members, and shall be chaired by the Chairperson. The Management Board shall meet prior to every meeting of the Board of Supervisors and as often as the Management Board deems necessary. It shall meet at least five times a year.

4 The members of the Management Board may, subject to the rules of procedure, be assisted by advisers or experts. The non-voting members, with the exception of the Executive Director, shall not attend any discussions within the Management Board relating to individual financial institutions.]

#### 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).

### *<sup>F6</sup>Article 45a*

#### **Decision-making**

1 Decisions by the Management Board shall be adopted by simple majority of its members whilst striving for consensus. Each member shall have one vote. The Chairperson shall be a voting member.

2 The Executive Director and a representative of the Commission shall participate in meetings of the Management Board without the right to vote. The representative of the Commission shall have the right to vote on matters referred to in Article 63.

3 The Management Board shall adopt and make public its rules of procedure.

#### Textual Amendments

**F6** 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 45b

#### Coordination Groups

1 The Management Board may set up coordination groups on its own initiative or upon the request of a competent authority on defined topics for which there may be a need to coordinate having regard to specific market developments. The Management Board shall set up coordination groups on defined topics at the request of five members of the Board of Supervisors.

2 All competent authorities shall participate in the coordination groups and shall provide, in accordance with Article 35, to the coordination groups the information necessary in order to allow the coordination groups to conduct their coordinating tasks in accordance with their mandate. The work of the coordination groups shall be based on information provided by the competent authorities and any findings identified by the Authority.

3 The groups shall be chaired by a member of the Management Board. Each year, the respective member of the Management Board in charge of the coordination group shall report to the Board of Supervisors on the main elements of the discussions and findings and, where relevant, make a suggestion for a regulatory follow-up or a peer review in the respective area. Competent authorities shall notify the Authority as to how they have taken into account the work of coordination groups in their activities.

4 When monitoring market developments that may be the focus of coordination groups, the Authority may request competent authorities in accordance with Article 35 to provide information necessary to allow the Authority to perform its monitoring role.]

#### Textual Amendments

**F6** 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).

### [<sup>F1</sup> Article 46

#### Independence of the Management Board

The members of the Management Board shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from the Union institutions or bodies, from any government or from any other public or private body.

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Member States, Union institutions or bodies and any other public or private body shall not seek to influence the members of the Management Board in the performance of their tasks.]

#### 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 47

##### Tasks

1 The Management Board shall ensure that the Authority carries out its mission and performs the tasks assigned to it in accordance with this Regulation.

2 The Management Board shall propose, for adoption by the Board of Supervisors, an annual and multi-annual work programme.

3 The Management Board shall exercise its budgetary powers in accordance with Articles 63 and 64.

[<sup>F63a</sup> The Management Board may examine, give an opinion on, and make proposals on all matters, except for tasks laid down in Articles 9a, 9b, 30 as well as Articles 17 and 19 on matters concerning the prevention of the use of the financial system for the purpose of money laundering and of terrorist financing.]

[<sup>F24</sup> The Management Board shall adopt the Authority's staff policy plan and, pursuant to Article 68(2), the necessary implementing measures of the Staff Regulations.]

5 The Management Board shall adopt the special provisions on right of access to the documents of the Authority, in accordance with Article 72.

[<sup>F16</sup> The Management Board shall propose an annual report on the activities of the Authority, including on the Chairperson's duties, to the Board of Supervisors for approval.]

7 The Management Board shall adopt and make public its rules of procedure.

[<sup>F18</sup> The Management Board shall appoint and remove the members of the Board of Appeal in accordance with Article 58(3) and (5), taking duly into account a proposal by the Board of Supervisors.]

[<sup>F69</sup> The members of the Management Board shall make public all meetings held and any hospitality received. Expenses shall be recorded publicly in accordance with the Staff Regulations.]

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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).
- F2** 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** 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).

## SECTION 3

### Chairperson

#### *Article 48*

#### **Appointment and tasks**

1 The Authority shall be represented by a Chairperson, who shall be a full-time independent professional.

[<sup>F1</sup>The Chairperson shall be responsible for preparing the work of the Board of Supervisors, including setting the agenda to be adopted by the Board of Supervisors, convening the meetings and tabling items for decision, and shall chair the meetings of the Board of Supervisors.

The Chairperson shall be responsible for setting the agenda of the Management Board, to be adopted by the Management Board, and shall chair the meetings of the Management Board.

The Chairperson may invite the Management Board to consider setting up a coordination group in accordance with Article 45b.]

[<sup>F12</sup> The Chairperson shall be selected on the basis of merit, skills, knowledge of financial institutions and markets, and of experience relevant to financial supervision and regulation, following an open selection procedure which shall respect the principle of gender balance and

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

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shall be published in the *Official Journal of the European Union*. The Board of Supervisors shall draw up a shortlist of qualified candidates for the position of the Chairperson, with the assistance of the Commission. Based on the shortlist, the Council shall adopt a decision to appoint the Chairperson, after confirmation by the European Parliament.

Where the Chairperson no longer fulfils the conditions referred to in Article 49 or has been found guilty of serious misconduct, the Council may, acting on a proposal from the Commission which has been approved by the European Parliament, adopt a decision to remove him or her from office.

The Board of Supervisors shall also elect, from among its members, a Vice-Chairperson who shall carry out the functions of the Chairperson in the absence of the Chairperson. That Vice-Chairperson shall not be elected from among the members of the Management Board.]

3 The Chairperson's term of office shall be 5 years and may be extended once.

4 In the course of the 9 months preceding the end of the 5-year term of office of the Chairperson, the Board of Supervisors shall evaluate:

- a the results achieved in the first term of office and the way they were achieved;
- b the Authority's duties and requirements in the coming years.

[<sup>F1</sup>For the purpose of the evaluation referred to in the first subparagraph, the tasks of the Chairperson shall be carried out by the Vice-Chairperson.

The Council, acting on a proposal from the Board of Supervisors and with the assistance of the Commission, and taking into account the evaluation referred to in the first subparagraph, may extend the term of office of the Chairperson once.]

[<sup>F15</sup> The Chairperson may be removed from office only on serious grounds. He or she may only be removed by the European Parliament following a decision of the Council, adopted after consulting the Board of Supervisors.]

#### 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 49

#### [<sup>F1</sup>Independence of the Chairperson]

[<sup>F1</sup>Without prejudice to the role of the Board of Supervisors in relation to the tasks of the Chairperson, the Chairperson shall neither seek nor take instructions from the Union institutions or bodies, from any government or from any other public or private body.]

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Chairperson in the performance of his tasks.

**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

In accordance with the Staff Regulations referred to in Article 68, the Chairperson shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.

#### 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).

#### <sup>F1</sup>Article 49a

#### Expenses

The Chairperson shall make public all meetings held with external stakeholders within a period of two weeks following the meeting and any hospitality received. Expenses shall be recorded publicly in accordance with the Staff Regulations.]

#### 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).

#### <sup>F7</sup>Article 50

#### [<sup>F7</sup>Report]

#### Textual Amendments

- F7** 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

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

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(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).

## SECTION 4

### Executive Director

#### Article 51

#### Appointment

1 The Authority shall be managed by an Executive Director, who shall be a full-time independent professional.

2 The Executive Director shall be appointed by the Board of Supervisors, after confirmation by the European Parliament, on the basis of merit, skills, knowledge of financial institutions and markets, and experience relevant to financial supervision and regulation and managerial experience, following an open selection procedure.

3 The Executive Director's term of office shall be 5 years and may be extended once.

4 In the course of the 9 months preceding the end of the Executive Director's term of office, the Board of Supervisors shall evaluate in particular:

- a the results achieved in the first term of office and the way they were achieved;
- b the Authority's duties and requirements in the coming years.

The Board of Supervisors, taking into account the evaluation referred to in the first subparagraph, may extend the term of office of the Executive Director once.

5 The Executive Director may be removed from office only upon a decision of the Board of Supervisors.

#### Article 52

#### Independence

Without prejudice to the respective roles of the Management Board and the Board of Supervisors in relation to the tasks of the Executive Director, the Executive Director shall neither seek nor take instructions from the Union institutions or bodies, from any government of a Member State or from any other public or private body.

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Executive Director in the performance of his tasks.

In accordance with the Staff Regulations referred to in Article 68, the Executive Director shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.

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

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### *F<sup>3</sup>* Article 52a

#### **Expenses**

The Executive Director shall make public meetings held and hospitality received. Expenses shall be recorded publicly in accordance with the Staff Regulations.]

#### **Textual Amendments**

- F3** 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 53

#### **Tasks**

- 1 The Executive Director shall be in charge of the management of the Authority and shall prepare the work of the Management Board.
- 2 The Executive Director shall be responsible for implementing the annual work programme of the Authority under the guidance of the Board of Supervisors and under the control of the Management Board.
- 3 The Executive Director shall take the necessary measures, notably the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Authority, in accordance with this Regulation.
- 4 The Executive Director shall prepare a multi-annual work programme, as referred to in Article 47(2).
- 5 Each year, by 30 June, the Executive Director shall prepare a work programme for the following year, as referred to in Article 47(2).
- 6 The Executive Director shall draw up a preliminary draft budget of the Authority pursuant to Article 63 and shall implement the budget of the Authority pursuant to Article 64.
- 7 Each year the Executive Director shall prepare a draft report with a section on the regulatory and supervisory activities of the Authority and a section on financial and administrative matters.
- 8 The Executive Director shall exercise in respect to the Authority's staff the powers laid down in Article 68 and manage staff matters.



**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.

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**Changes and effects yet to be applied to :**

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