

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010

(Text with EEA relevance)

COMP I – Indirect supervision.

AMs covered: 719, 720, 721, 722, 723, 724, 725, 728, 729, 731, 732, 733, 734, 735, 736, 737, 739, 740, 742, 743, 744, 745, 746, 747, 748, 749, 751

AMs falling: CONT 41, 98, 99, CONT 42, 100, 101, 260, 20, 21, 727

741, 102, CONT 43, 103, CONT 44, 106, CONT 45, 749, 107, 750, 751, 754

SECTION 4

INDIRECT SUPERVISION OF NON-SELECTED OBLIGED ENTITIES

Article 28

AM719, 720, 721, 722, 723, 724, 725, 727, 728, 729, 731, 732, 733, 734, 735, 736, 737, 739, 740.

Assessments of the state of supervisory convergence

1. The Authority shall perform periodic assessments of some or all of the activities of one, several, or all financial supervisors, including their tools and resources. **As part of each assessment, the Authority shall assess the extent to which a financial supervisor monitors effectively, and takes the necessary steps to ensure consistent high level supervisory standards and practices, and effective application of the legislative acts referred to in Article 1 (2), (AM720, Hansen et al.) as well as compliance by the obliged entities it supervises with applicable Union law.** (AM719, Strugariu et al.; AM721, Schirdewan). **To that end, the Authority shall develop methods to allow for a consistent assessment and comparison between the financial supervisors reviewed.** (AM720, Hansen et al.) The assessments shall include a review of the application of the AML/CFT supervisory methodology developed pursuant to Article 8, and shall cover all financial supervisors in a single

assessment cycle. The length of each assessment cycle shall be determined by the Authority and shall not exceed seven years. **At the end of each assessment cycle, the Authority shall present its findings to the European Parliament and the Council.** (AM719, Strugariu et al.; AM721, Schirdewan; AM722, 740, Castaldo et al.; AM723, Daly; AM724, Delbos-Corfield; AM725, Marques et al.; AM737, Schirdewan)

2. The assessments shall be carried out by the staff of the Authority with voluntary involvement of the staff of financial supervisors that are not subject to review, upon agreement on such involvement by the Executive Board. The assessments **may** take due account of **the information set out in the central AML/CFT database established pursuant to Article 11, as well as** (AM728, Benjumea) all the 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. (AM729, Marques et al.)
3. The Authority shall produce a report setting out the results of each assessment. ~~The report shall be prepared by the staff of the Authority, or by the staff of the Authority jointly with the staff of the financial supervisors where the staff of financial supervisors were involved in the review on an ad-hoc basis.~~ **The Authority shall share the draft report in a timely manner with the financial supervisor subject to review. Within a deadline determined by the Authority, the financial supervisor subject to review shall submit comments to the draft report** (AM731, Marques et al.) The **final** report shall be adopted by the Executive Board, taking into account the observations of the General Board in supervisory composition (AM732, Hansen et al.; AM733, Delbos-Corfield et al.) **and shared in a timely manner with the financial supervisor subject to review. The Executive Board shall, in particular, ensure consistency between its reports and in the application of the assessment's methodology.** (AM732, Hansen et al.) The report shall explain and indicate any specific follow-up measures required to be taken by the financial supervisor or financial supervisors subject to the assessment that are deemed appropriate, proportionate and necessary as a result of the assessment. The follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 43 including recommendations addressed to all or several financial supervisors or to any specific financial supervisor, as appropriate. (AM734, Marques et al.)
4. Financial supervisors shall make every effort to comply with the specific follow-up measures addressed to them as a result of the assessment. **Financial supervisors shall provide regular updates to the Authority on the type of measures they have implemented in response to the report referred to in paragraph 3.** (AM737, Schirdewan; AM738, Marques et al.; AM739, Strugariu et al.)
 - 4a. **Where a financial supervisor does not implement the specific follow up measures addressed to it as a result of the assessment, the Authority shall take the necessary steps in accordance with Article 10.** (AM735, Delbos-Corfield et al.) **Where the Authority deems implementation of the follow-up measures to be inadequate or insufficient,** (AM738, Marques et al.) **it may exercise the powers conferred by Article 30 (2) or launch an investigation of an alleged breach or non-application of Union law by the reviewed financial supervisor in accordance with Article 30c.** (AM736, Delbos-Corfield et al.; AM738, Marques et al.)

Article 29

AM742, 743, 744, 745, 746, 747, 748, 749, 751.

Coordination and facilitation of work of the AML colleges

1. The Authority shall ensure, within the scope of its powers and without prejudice to the powers of the relevant financial supervisors pursuant to Article 36 [OP please insert the next number to the AMLD, COM(2021)423], that AML supervisory colleges are established and functioning consistently for non-selected obliged entities operating in several Member States in accordance with Article 36 [OP please insert the next number to the AMLD, COM(2021)423]. To that end, the Authority **shall**: (AM742, Marques et al.)
 - (a) ~~establish colleges, convene and organize the meetings of~~ **liaise with the relevant financial supervisors to ensure the establishment of** colleges, ~~where such college has not~~ **which have not** been established although the relevant conditions for **their** establishment set out in Article 36 [OP please insert the next number to the AMLD, COM(2021)423] are met;
 - (b) assist in the organisation of college meetings, where requested by the relevant financial supervisors **or convene a college meeting at its own discretion where deemed necessary (AM743, Marques et al.)**;
 - (c) assist in the organisation of joint supervisory plans and joint examinations;
 - (d) ~~collect and share~~ **ensure that** all relevant information ~~in cooperation with~~ **is collected and shared** by the financial supervisors in order to facilitate the work of the college and make such information accessible to the **relevant** authorities in the college; **(AM744, Marques et al.)**
 - (e) promote effective and efficient supervisory ~~activities~~ **practices**, including evaluating the risks to which obliged entities are or might be exposed; **(AM745, Marques et al.)**
 - (f) oversee, in accordance with the tasks and powers specified in this Regulation, the tasks carried out by the financial supervisors;
 - (fa) **provide assistance to financial supervisors, following their specific requests, including the requests to mediate between financial supervisors, as referred to in Article 5(3), point (g); (AM746, 749 Marques et al.; AM750, Benjumea)**
 - (faa) **settle disagreements between financial supervisors with binding effect on the measures to be taken by financial supervisors in relation to an obliged entity, following a request as referred to in Article 5(3), point (ga); (AM746, 749 Marques et al.; AM750, Benjumea)**
- (fab) **report to the Commission any instances where the absence of effective and efficient supervisory practices and activities in the context of AML colleges derives from inadequate or lack of transposition of Union law into national law. (AM747, Marques et al.)**
 - 1a. **AML supervisory colleges shall consist of permanent members and, where deemed necessary by the permanent members, observers. The Authority and financial supervisors shall be permanent members. Observers may include prudential supervisors, including the European Central Bank, the European Supervisory Authorities, where relevant, AML/CFT supervisors from third countries,**

and FIUs and any other authorities deemed necessary by the permanent members. (AM748, Marques et al.)

2. For the purposes of paragraph 1, the staff of the Authority shall have full participation rights in the AML supervisory colleges and shall be able to participate in their activities, including on-site inspections, carried out jointly by two or more financial supervisors.
- 2b. **An AML supervisory college that had been previously established in accordance with Article 36 [OP please insert the next number to the AMLD, COM(2021)423] shall suspend its work for the period in which the Authority exercises direct supervision over the relevant selected obliged entity. The relevant AML supervisory college shall resume its work once the relevant obliged entity is no longer selected by the Authority. (AM751, Marques et al.)**

RECITALS

- (27) For non-selected obliged entities, the AML/CFT supervision is to remain primarily at national level, with national competent authorities retaining full responsibility and accountability for direct supervision. The Authority should be granted adequate indirect supervisory powers to ensure that supervisory actions at national level are consistent and of a high quality across the Union. Therefore, it should carry out assessments of the state of supervisory convergence and publish reports with its findings. It should be empowered to issue guidelines and recommendations, addressed to both obliged entities as well as supervisory authorities, **and should request the relevant authorities to take follow-up measures on their application** with a view to ensuring harmonised and high level supervisory practices across the Union.
- (27a) **The Authority should lead in ensuring a consistent functioning of colleges of supervisors for non-selected obliged entities operating in several Member States, taking account of the systemic risk posed by financial institutions, and should, where appropriate, convene a meeting of a college. The Authority should also have a role in legally binding mediation to resolve disputes between financial supervisors under their request and, where necessary, to take supervisory decisions directly applicable to the institution concerned. Prudential supervisors including the European Central Bank, the European Supervisory Authorities and, where necessary, FIUs, should actively engage in such colleges, using them as forums for discussion and to exchange relevant information.**

COMP J – Step-in, settlement of disagreements and breach of Union law procedure.

AMs covered: 758, 759, 760, 755, 758, 759, 760, 785, 786, 787, 788, 761, 754, 773, 750, 752, 753, 792, 261, 262, 264, 265,

AMs falling: 753, 752, 108, 109, 756, 757, AFCO 47, 110, 758, 759, 760, 761, 762, 763, 764, 111, 112, 765, 766, 772, 783, 789, 768, 777, 784, 773, 791, 769, 770, 771, 778, 782, 774, 790, 767, AFCO 48, AFCO 49, AFCO 50, AFCO 51, AFCO 52, 113, 775, 776, 779, 780, 781, 785, 786, 787, 788, 114, 115, 792, 793, 22, 23, 24, 25, AFCO 5, 263, 27, 28, 29

Article 30

AM755, 767, 768, 780, 785, 786, 787, 788.

Requests to act in exceptional circumstances following indications of serious, repeated or systematic breaches

1. Financial supervisors shall notify the Authority where the situation of any non-selected obliged entity with regard to its compliance with applicable requirements and its exposure to money laundering and terrorism financing risks deteriorates rapidly **or** significantly, especially where such deterioration could lead to significant harm to the **integrity of the financial system or to the (AM758, Marques et al.; AM759, Delbos-Corfield et al.; AM760, Daly)** reputation of several Member States or of the Union as a whole.
2. The Authority may, where it has indications of **serious, repeated or systematic** breaches by a non-selected obliged entity, request its financial supervisor to:
 - (a) investigate **such** 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 non-selected obliged entity; and
 - (b) consider imposing sanctions in accordance with directly applicable Union law or national law transposing Directives on that entity in respect of such breaches.

Where necessary, the Authority may also request a financial supervisor to adopt an individual decision addressed to that entity requiring it to undertake all necessary actions 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.

- 2a. **The Authority may initiate such requests where it has indications of serious, repeated or systematic breaches following information provided by financial supervisors pursuant to paragraph 1, by the reporting mechanism pursuant to Article 76a[], by the Union institutions and bodies, through its own collection of information under Article 11, 11(a) or 28, or by any other credible information sources.**

For the purpose of this paragraph, the Commission shall establish a procedure for defining the conditions and arrangements for the Commission to request the Authority

to exercise its powers under this Article **in light of** information in the possession of the Commission.

3. The financial supervisor concerned shall comply with any request addressed to it in accordance with paragraph 2 and shall inform the Authority, as soon as possible and within **five** working days from the day of the notification of such request at the latest, of the steps it has taken or intends to take to comply with that request.
4. Where the financial supervisor concerned does not comply with the request referred to in paragraph 2 and does not inform the Authority of the steps it has taken or intends to take to comply with the request within **five** days from the day of the notification of the request, the Authority may request the Commission to grant permission to transfer the relevant tasks and powers referred to in Article 5(2) and Article 6(1) related to direct supervision of the non-selected obliged entity from the financial supervisor concerned to the Authority.
5. The request from the Authority **to the Commission pursuant to paragraph 3** shall contain:
 - (a) a description of the **serious, repeated or systematic** breaches of the directly applicable requirements by an identified non-selected obliged entity and a justification that such breaches fall within the scope of competence of the Authority, pursuant to paragraph 2;
 - (b) a justification why the request to the financial supervisor referred to in paragraph 2 did not result in any action taken within the time-limit set in paragraph 3;
 - (c) a time limit, which shall not exceed three years, for the requested transfer of the relevant tasks and powers;
 - (d) a description of the measures that the Authority intends to take in relation to the non-selected obliged entity upon the transfer of the relevant tasks and powers to address the material breaches referred to in paragraph 2.
6. The Commission shall have **ten working days** from the date of receipt of the request from the Authority to adopt a decision whether to authorise the transfer of the relevant tasks and powers or to oppose it. **A decision to oppose the request by the Authority, as well as a decision to authorise the transfer, shall be duly justified by the Commission** AM785, Ferber et al.; AM786, De Lange; AM787, Strugariu et al.). The decision shall be notified to the Authority, which shall immediately inform the financial supervisor and the non-selected obliged entity thereof. **The decision shall also be communicated to the European Parliament and to the Council.** (AM767, Castaldo et al.; AM786, De Lange; AM787, Strugariu et al.; AM788, Tardino et al.) **A decision authorising the transfer of the relevant tasks and powers from the financial supervisor to the Authority shall be made public.** (AM785, Ferber et al.)
7. **24 hours** after the notification of the decision authorising the transfer of tasks and powers in relation to the non-selected obliged entity, the non-selected obliged entity referred to in paragraph 2 shall be deemed a selected obliged entity for the purposes of the exercise of the tasks referred to in Article 5(2) and the powers referred to in Article 6(1) and Articles 16 to 22. The Commission decision shall set a time-limit for the exercise of these tasks and powers, upon the expiry of which they shall be automatically transferred back to the financial supervisor concerned.

Article 30a

AM754, 773.

Requests to act in exceptional circumstances following a request from a financial supervisor

1. The Authority shall, at the request of a financial supervisor, assess whether or not it is necessary to exercise direct supervision of **non-selected obliged entities** in accordance with this Regulation **for the purposes of ensuring** the consistent application of high supervisory standards.
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 market participants or groups.
2. The financial supervisor's request shall:
 - (a) identify the non-selected obliged entity in respect of which the financial supervisor is of the view that the Authority should assume direct supervision;
 - (b) state why AML/CFT direct supervision of the non-selected obliged entity is necessary **for the purposes of ensuring** the consistent application of high supervisory standards;
 - (c) identify the proposed duration of the requested transfer of the relevant tasks and powers.
3. The financial supervisor's request shall be accompanied by a report indicating the supervisory history and risk profile of the non-selected obliged entity **that has been identified in the financial supervisor's request.**
4. If the Authority does not agree with the financial supervisor's request, it shall consult with **that** financial supervisor prior to its final assessment as to whether AML/CFT supervision by the Authority of the non-selected obliged entity is necessary **for the purposes of ensuring** the consistent application of high supervisory standards.

Article 30b

AM750, 752, 753.

Settlement of disagreements between competent authorities in cross-border situations

1. Without prejudice to the powers laid down in Section III **and those specified in Directive [please insert reference to the 6th Anti-money Laundering Directive]**, the Authority may assist **financial supervisors** in reaching an agreement (AM750, Benjumea; AM752, Marques et al.) in accordance with the procedure set out in paragraphs 2 to 4 of this Article (AM752, Marques et al.; AM753, Delbos-Corfield et al.) at the request of one or more **financial supervisors** where a **financial supervisor**

disagrees with the procedure or content of an action, proposed action, or inactivity of another **financial supervisor**. (AM752, Marques et al.; AM753, Delbos-Corfield et al.)

2. The **financial supervisors** shall notify the Authority without undue delay that an agreement has not been reached in the following cases:
 - (a) where a time limit for reaching an agreement between **the financial supervisors** has been provided for in Union law, and either of the following occurs:
 - (i) the time limit has expired; or
 - (ii) **a financial supervisor** concludes that a disagreement exists, on the basis of objective reasons;
 - (b) where no time limit for reaching an agreement between **the financial supervisor** has been provided for in the **Union** legislative acts referred to in Article 1(2), and either of the following occurs:
 - (i) **a financial supervisor** concludes that a disagreement exists on the basis of objective reasons; or
 - (ii) two months have elapsed from the date of receipt by a **financial supervisor** of a request from another **financial supervisor** to take certain action in order to comply with those **legislative** acts and the requested **supervisor** has not adopted a decision that satisfies the request. (AM752, Marques et al.)
3. The Executive Board shall assess whether the Authority should act in accordance with paragraph 1.
(AM752, Marques et al.)
4. The Authority shall set a time limit for conciliation between the **financial supervisors** taking into account any relevant time periods specified in Union law and the complexity and urgency of the matter. **For the purposes of the conciliation phase**, the Authority shall act as a mediator. (AM752, Marques et al.; AM753, Delbos-Corfield et al.)
5. Where the **financial supervisors** fail to reach an agreement **during** the conciliation phase referred to in paragraph 4, the Authority may take a decision requiring those **supervisors** 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 **financial supervisors**. The Authority's decision may require **financial supervisors** 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.

The Authority shall notify the **financial supervisors** of the conclusion of the procedures under paragraphs 4 and 5 together with, where applicable, its decision taken under paragraph 5. (AM752, Marques et al.; AM753, Delbos-Corfield et al.)
6. Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a **financial supervisor** 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 relevant Union law, the Authority may adopt an individual decision addressed to that

financial institution or financial sector operator requiring it to take necessary action to comply with its obligations under Union law, including the cessation of any practice.

The Authority may also adopt a decision in accordance with the first subparagraph of this paragraph where the relevant requirements of the relevant Union law are not directly applicable to financial sector operators. To that effect, the Authority shall apply relevant Union 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 **expressly** grant options for Member States, the Authority shall apply also national law to the extent that such options have been exercised. (AM752, Marques et al.; AM753, Delbos-Corfield et al.)

7. Decisions adopted under paragraph 6 shall prevail over any previous decision adopted by the **financial supervisors** on the same matter. Any action by the **financial supervisors** in relation to facts which are subject to a decision pursuant to paragraph 5 or 6 shall be compatible with those decisions. (AM752, Marques et al.; AM753, Delbos-Corfield et al.)
8. **In the report referred to in Article 72**, the Chair of the Authority shall set out the nature and type of disagreements between **financial supervisors**, the agreements reached and the decisions taken to settle such disagreements. (AM753, Delbos-Corfield)

Article 30c

AM792.

Breach of Union law

1. **Where a supervisory authority has not applied measures laid down in Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] or the provisions of national law transposing that Directive, or has applied measures in a way which appears to be a breach of Union law, in particular by failing to ensure that an entity under its supervision satisfies the requirements laid down in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], the Authority shall act in accordance with the powers set out in paragraphs 2, 3, 4, 6 and 7 of this Article.**
2. **Upon request from one or more supervisory authorities, or the European Parliament, the Council, the Commission, or on its own initiative, including where based on well-substantiated information from natural or legal persons, and after having informed the supervisory 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.**

The supervisory authority shall, without delay, provide the Authority with all information which the Authority considers necessary for its investigation including with regard to how the acts referred to paragraph 1 are applied in accordance with Union law.

Whenever requesting information from the supervisory authority has proven, or is deemed to be, insufficient to obtain the information that is deemed necessary for the purposes of investigating an alleged breach or non-application of Union law, the Authority may, after having informed the supervisory authority, address a

duly justified and reasoned request for information directly to other supervisory authorities. The addressees of such a request shall, without undue delay, provide the Authority with clear, accurate and complete information.

- 3. The Authority may, no later than six months from the date of initiating its investigation, address a recommendation to the supervisory authority subject to investigation setting out the action necessary to comply with Union law.**

Before issuing such a recommendation, the Authority shall engage with the supervisory authority, where it considers such engagement appropriate in order to resolve a breach of Union law, in an attempt to reach agreement on the actions necessary for compliance with Union law.

The supervisory 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 supervisory authority has not complied with Union law within one month of the date of receipt of the Authority's recommendation, the Commission may, after having been informed of that fact by the Authority, or on its own initiative, issue a formal opinion requiring the supervisory authority 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 formal opinion within three months of the date of adoption of the recommendation. The Commission may extend that period by one month.

The Authority and the supervisory authority shall provide the Commission with all necessary information.

- 5. The supervisory 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.**

- 6. Where a supervisory authority does not comply with the formal opinion within the period specified therein, and where it is necessary to remedy, in a timely manner, such non-compliance in order to attain or restore the integrity, stability and reputation of the financial system, the Authority may adopt an individual decision addressed to a non-selected obliged entity requiring it to take all necessary action to comply with its obligations under Union law. 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 expressly 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 supervisory authority on the same matter.**

When taking action in relation to issues which are subject to a formal opinion pursuant to paragraph 5 or to a decision pursuant to paragraph 6, supervisory authorities shall comply with the formal opinion or the decision, as applicable.

RECITALS

- (28) Certain obliged entities in the financial sector that do not meet the requirements for regular selection might still have a high **residual risk** profile (AM261, Benjumea) from the money laundering and terrorism financing perspective, or might take on, change or expand activities that entail high risk, not mitigated with a commensurate level of internal controls, thus leading to **serious, repeated or systematic** breaches of its AML/CFT requirements. If there are indications of possible **serious, repeated or systematic** breaches of applicable AML/CFT requirements, they may be a sign of gross negligence on part of the obliged entity. The supervisory authority should ~~in most cases~~ (AM262, Delbos-Corfield et al.) be able to adequately respond to any possible breaches and prevent the risks from materialising and leading to gross negligence of AML/CFT requirements. However, in certain cases a national level response might not be sufficient or timely, especially when there are indications that **serious, repeated or systematic** breaches at the level of the entity have already occurred. In those cases, the Authority should ~~be able to~~ request the local supervisor to take specific measures to remedy the situation, including requesting to issue financial sanctions **or other coercive measures**. (AM261, Benjumea) To prevent money laundering and terrorism risks from materialising, the deadline for action at national level should be sufficiently short.
- (28a) **In the case of possible serious, repeated or systematic breaches, the Authority should be notified where the situation of any non-selected obliged entity with regard to its compliance with applicable requirements and its exposure to money laundering and terrorism financing risks deteriorates rapidly and significantly, especially where such deterioration could lead to significant harm to the reputation of several Member States or of the Union as a whole.**
- (29) The Authority should have the opportunity to request a transfer of supervisory tasks and powers relating to a specific obliged entity on its own initiative in case of inaction or failure to follow its instructions within the provided deadline. Since the transfer of tasks and powers over an obliged entity without the specific request of the financial supervisor to the Authority would require a discretionary decision on the part of the Authority, the Authority should address a specific request to that end to the Commission. In order for the Commission to be able to take a decision coherent with the framework of the tasks allocated to the Authority within the AML/CFT framework, the request of the Authority should enclose an appropriate justification, and should indicate a precise duration of the reallocation of tasks and powers towards the Authority. The timeframe for the reallocation of powers should correspond to the time the Authority requires to deal with the risks at entity level, and should not exceed three years. The Commission should adopt a decision transferring powers and tasks for supervising the entity to the Authority swiftly, and in any case **without undue delay. That decision should be communicated to the European Parliament and to the Council.** (AM264, Urtasun et al.; AM265, Tardino et al.)
- (29a) **In specific cases, following a request from a financial supervisor, the Authority should assess whether or not it is necessary to exercise direct supervision in accordance with this Regulation in respect of non-selected obliged entities in order to ensure the consistent application of high supervisory standards. Member States could 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 could limit the scope of delegation to what is necessary for the effective supervision of cross-border financial market participants or groups. The financial supervisor's request should be accompanied by a report indicating the supervisory history and risk profile of the relevant non-selected obliged entity. In cases where the Authority does not agree with the financial supervisor's request, it should consult with that financial supervisor prior to its final assessment as to whether AML/CFT supervision by the Authority of the non-selected obliged entity is necessary. If the Authority agrees with the financial supervisor's request, the Authority should **take over the** relevant tasks and powers related to direct supervision of the non-selected obliged entity from the financial supervisor concerned to the Authority. That decision should also be communicated to the European Parliament and to the Council.

- (29b) The Authority should play an important role in the settlement of disagreements between **financial supervisors** in cross-border situations in relation to this Regulation, by assisting **financial supervisors** in reaching an agreement. Such assistance **should** occur at the request of one or more of the **financial supervisors** concerned, where on the basis of objective reasons, disagreement can be determined between **financial supervisors**. The **financial supervisors** concerned should notify the Authority without undue delay that an agreement has not been reached.
- (29c) The Executive Board should assess whether the Authority is able to act at the request of the **financial supervisors** concerned. The Authority should set a time limit for conciliation between the **financial supervisor** taking into account any relevant time periods specified in Union law and the complexity and urgency of the matter. At that stage the Authority should act as a mediator. In cases where **financial supervisors** concerned fail to reach an agreement during the conciliation phase, the Authority should be able to take a decision requiring those **supervisors** 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 should be binding on the **financial supervisors** concerned. The Authority's decision should be able to require **financial supervisors** 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. The Authority should notify the **financial supervisors** concerned of the conclusion of the procedure. The Chair of the Authority should set out the nature and type of disagreements between **financial supervisors**, the agreements reached and the decisions taken to settle such disagreements in the annual report of the Authority.

COMP K – The FIU Support and Coordination Mechanism and joint analysis.

AMs covered: 834, 849, 873, 835, 848, 918, 919, 836, 837, 840, 841, 843, 846, 850, 851, 852, 267, 269

AMs falling: 121, 122, AFCO 54, 123, 838, CONT 48, 839, 124, 125, AFCO 55, 126, 842, AFCO 56, 127, AFCO 57, 128, 129, 844, 130, 845, 843, 846, CONT 49, AFCO 58, 847, 131, 848, CONT 50, AFCO 59, 835, 132, 133, AFCO 60, CONT 51, 31, CONT 6, 268, 32, AFCO 6, CONT 7, 33, CONT 8, 34, AFCO 7

SECTION 6

FIUS SUPPORT AND COORDINATION MECHANISM

Article -33

AM834, 849, 873.

The FIUs Support and Coordination Mechanism

1. **The Authority and FIUs shall constitute a FIUs Support and Coordination Mechanism. The Authority and FIUs shall work together and cooperate with each other to the greatest extent possible to prevent, detect and effectively combat money laundering and terrorist financing in the internal market (AM849 Benjumea)**

The FIUs and the Authority shall perform their tasks and carry out their activities in accordance with this Regulation and applicable Union and national law.

2. FIUs shall participate in, and contribute to, the activities of the FIUs Support and Coordination Mechanism in accordance with this Regulation and **other** applicable Union law. They shall in particular:
 - (a) be able to participate in joint analyses as an integral part of their tasks, as well as in other activities undertaken by the Authority pursuant to its mandate;
 - (b) provide the Authority with the relevant data and information required to fulfil **its** tasks, as well as to implement the Authority's indications in accordance with this Regulation and **other** applicable Union law.

All information obtained through participation in the activities of the Authority shall be covered by the strictest confidentiality. (AM834, Strugariu et al.; AM849, Benjumea)

3. **The Authority shall promote cooperation between FIUs by means of guidelines and recommendations pursuant to Article 43, or practical arrangements, where appropriate.**

A FIU may inform the Authority in the case of a disagreement with another FIU. In that case, the Authority shall act as a mediator. (AM873, Urtasun et al.)

Article -33a

AM835, 848, 918, 919.

Cooperation within the FIUs Support and Coordination Mechanism

1. **The Authority shall support FIUs in relation to the following tasks:**
 - (a) to support, coordinate and, where necessary, direct, joint analyses to be performed with the relevant FIUs pursuant to Article 33 and Article 5(5), points (a) to (d), as well as to develop methods and procedures to coordinate and facilitate their planning, organisation and conduct;
 - (b) to support cooperation among FIUs, pursuant to Article 5(5), point (a), and Article 36 of this Regulation and Article 24 of the [OP please insert the next number to the AMLD, COM(2021)423] particularly by developing best practices, methods, formats;
 - (c) to develop expert knowledge on detection analysis and dissemination methods, pursuant to Article 5(5), point (f);
 - (d) to develop criteria for the identification of cross-border cases that FIUs are required to share, pursuant to article 24 of the [OP please insert the next number to the AMLD, COM(2021)423];
 - (e) to prepare indicators, formats, contents for the detection and reporting of STRs pursuant to article 50 of Regulation [OP please insert the next number of the AMLR, COM(2021)420] and other disclosures received by FIUs;
 - (f) to follow the management, maintenance and update of FIU.net and the development of IT and artificial intelligence services and tools for secure information sharing, pursuant to Articles 5(5), point (e), and Article 37;
 - (g) to follow the work of international and European fora on FIU-related matters.
2. **In performing the tasks referred to in paragraph 1, the Authority shall have dedicated human, financial and IT resources, and shall guarantee their independence from the supervisory functions provided for in Chapter II, Section 2 to 6. They shall be supported by national FIU delegates, pursuant to Article 35. (AM835, Strugariu et al.; AM848, Tardino et al.; AM918, Chinnici; AM919, Urtasun et al.)**

Article 33

AM836, 837, 840, 841, 843, 846, 850, 851.

Conduct of joint analyses

- 1. **The Authority shall adopt internal procedures defining methods and criteria for the **identification**, selection and prioritisation of cases relevant for joint analyses. (AM850, Urtasun et al., AM836, Chinnici)**

1. Where, pursuant to Article 25 of [OP please insert the next number to the AMLD, COM(2021)423], **and with respect to the criteria listed in paragraph 1a of this Article**, a FIU of a Member State identifies a potential need to conduct a joint analysis with one or several FIUs in other Member States, it shall notify the Authority thereof. (AM851, Benjumea)

The notification of the need for a joint analysis as provided for in the first subparagraph shall be registered by the Authority. The Authority shall assess the relevance of the registered cases with regard to the criteria **listed in paragraph 1a. To that end, the Authority shall establish and regularly update a list of cases that could be the subject of joint analysis.** (AM836, Chinnici) **Based on the level of priority, the urgency of cases and available resources, the Authority shall establish a work plan and launch the joint analysis.** (AM851, Benjumea)

When launching a joint analysis, the Authority shall inform the FIUs in all the relevant Member States and invite them to take part in the joint analysis within five days of the initial **assessment**. (AM837, Urtasun et al.) To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis. (AM851, Benjumea)

If at least one other FIU agrees to join the joint analysis, the Authority shall ensure that the joint analysis is **instituted** within 20 days of the initial **assessment**, (AM837, Urtasun et al.) **unless the urgency of the case justifies the imposition of a shorter deadline in accordance with the criteria listed in paragraph 1a.** (AM851, Benjumea)

If no FIU agrees to join the joint analysis, the Authority may, on its own initiative, choose to institute a joint analysis. (AM839, Schirdewan)

- 1a. **Where a FIU has not submitted a request to establish a joint analysis, the Authority may, on its own initiative, institute a joint analysis where it identifies cases in which:**

- (a) **a FIU's operational analyses require difficult and demanding analyses having links with other Member States;**
- (b) **a number of FIUs are conducting operational analyses in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved;**
- (c) **it directly received information indicating a suspicion of money laundering or financing of terrorism that could affect the internal market or relate to cross-border activities.** (AM840, Marques et al.; AM851, Benjumea)

The Authority shall be responsible for the establishment and composition of the joint analysis team and its coordination. (AM841, Urtasun et al.)

- 1b. Europol may take part in the joint analysis, subject to the agreement of **any participating FIUs.**, where relevant, **and within the limits of the responsibilities of Europol and for the performance of its tasks.**

Paragraphs 1b, 2b and 2c will enter into force only after their transposition into the appropriate legal act.

- 1c. Eurojust may take part in the joint analysis, subject to the agreement of **any participating FIUs, where relevant.**

2. ~~Any FIU that declines~~ FIUs that are concerned by a joint analysis shall have a duty to participate in the conduct of the joint analysis. Exceptionally, a FIU may decline to participate in the conduct of the joint analysis ~~shall provide the reasons thereof in writing~~ by duly explaining and justifying it to the Authority, in writing within five days of the receipt of the invitation. The Authority shall provide such explanation without delay to the ~~FIU having identified the need for a joint analysis~~ other FIUs that are concerned by a joint analysis.

2a. In order to bring together all relevant information at an early stage of the joint analysis and with the aim of better detecting suspicious activities or transactions, the joint analysis may encompass by default the anonymous matching of subject-matter data with that of other FIUs.

2b. In order to bring together all relevant information at an early stage of the joint analysis and with the aim of carrying out financial analysis at cross-border level, Europol shall take all appropriate measures to enable the Authority to have indirect access on the basis of a hit/no hit system to data related to offences within the Authority's mandate. That hit/no hit system shall notify only Europol in the case of a hit and without prejudice to any restrictions indicated by the Member State, Union body or international organisation providing the information in question, in accordance with [please insert reference to Regulation 2016/794 (Recast)].

In the case of a hit, Europol shall initiate the procedure by which the information that generated the hit is permitted to be shared, in accordance with the decision of the provider of the information to Europol, and only to the extent that the data generating the hit are necessary for the performance of the Authority's tasks.

2c. In order to bring together all relevant information with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, the Authority shall take all appropriate measures to enable Europol to have indirect access to data related to financial information and financial analysis within the limits of [please insert reference to Europol's Regulation], on the basis of a hit/no hit system, in accordance with the Authority's mandate. That hit/no hit system shall notify only the Authority in the case of a hit and without prejudice to any restrictions indicated by the FIU, Member State, Union body or international organisation providing the information in question.

In the case of a hit, the Authority shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the Authority's mandate, and only to the extent that the data generating the hit are necessary for the performance of Europol's tasks.

3. The joint analysis shall be supported by the participating FIU's delegates pursuant to Article 35 of this Regulation. FIU delegates supporting the joint analysis shall be granted access, directly or indirectly, to all data pertaining to the subject-matter of the joint analysis and shall be able to process those data for the purposes of conducting the joint analysis in accordance with the applicable data protection rules, in particular in respect of receiving and analysing suspicious transactions and other information in accordance with Article 17 of [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

Upon explicit consent of the FIUs participating in the joint analysis, (AM846, Marques et al.) the staff of the Authority supporting the joint analysis shall be granted access to

all the data pertaining to the subject-matter of the joint analysis and shall be able to process those data **for the purpose of conducting the joint analysis in accordance with the applicable data protection rules. If unanimous consent is not obtained, the staff of the Authority may provide other types of support to the joint analysis. FIUs shall remain the sole owners of the operational information they exchange with other FIUs, the Authority, Europol, EPPO and Eurojust.** (AM843, Moźdzanowska)

3a. **The Authority may request any information from the participating FIUs with the purpose of ensuring a better conduct of the joint analysis. If the Authority's request is denied by a participating FIU, that FIU shall provide its reasoning to the Authority.** (AM847, Marques et al.)

3aa. **The Authority shall be granted direct, immediate, unrestricted and free access to the information available in the registers, data retrieval systems and mechanisms referred to in Chapter II of [please insert reference to AMLD] for the purpose of conducting joint analyses under this Article.**

3b. The Authority may transmit the results of a joint analysis initiated on request by an FIU or on its own initiative, as well as any additional information relating to this joint analysis, upon consent of participating FIUs, to Europol, law enforcement, **and** customs authorities where there are grounds to suspect money laundering, its predicate offences or terrorist financing.

The Authority and the competent authorities shall conclude a memorandum of understanding setting out the practical modalities for cooperation in the performance of their respective tasks under Union law.

4. The Authority shall provide all the necessary tools and operational support required for the conduct of the particular joint analysis, in accordance with the developed methods and procedures. In particular, the Authority shall set up a dedicated, secured channel of communication for the performance of the joint analysis, and shall provide the appropriate technical coordination, including IT support, budgetary and logistical support.

Article 34

AM852.

Review of the methods, procedures and conduct of the joint analyses

1. The Authority shall ensure that the methods and procedures established for the conduct of the joint analyses **referred to in Article 33** are periodically reviewed and updated where necessary.
2. The FIUs that participated or were otherwise involved in one or more joint analyses may provide their feedback **to the Authority** on the conduct of the analysis, including feedback on the operational support provided by the Authority in the process of the joint analysis, as well as feedback on the outcome of the analysis working methods and arrangements in place, the tools available and the coordination between the participating FIUs. The feedback may be labelled as confidential, in which case it will not be shared with other FIUs.
3. On the basis of the feedback referred to in paragraph 2, or on its own initiative, the Authority may issue follow-up reports relating to the conduct of joint analyses,

including specific suggestions on adjustments regarding the methods and procedures for the conduct of the joint analyses, and conclusions on the outcome of the joint analyses. The procedural and operational aspects of the follow-up report shall be shared with all FIUs, without disclosing confidential or restricted information on the case. The conclusions and recommendations relating to the conduct of the joint analyses shall be shared with the FIUs that participated in the relevant joint analyses, and with all the other FIUs insofar as these conclusions do not contain confidential or restricted information.

RECITALS

- (31a) Taking into account the cross-border nature of money laundering and terrorist financing, coordination and cooperation between FIUs are extremely important. In order to improve such coordination and cooperation, and, in particular, to ensure that subjects of the FIU's interest in other Member States are identified, along with their proceeds, and funds, the Authority and FIUs should constitute the FIU Support and Coordination Mechanism. Its aim should be preventing, detecting and effectively combating money laundering and terrorism financing in the internal market, facilitating cooperation among FIUs, supporting and, in some cases, initiating joint analyses in order to bring together all relevant information, identifying trends and factors relevant in assessing the risks of money laundering and terrorist financing at national and Union level, as well as exchanging views on cooperation-related issues such as effective cooperation among FIUs and between FIUs and third-country financial intelligence units. (AM267, Tardino et al.) **To that end, Europol, Eurojust and EPPO should have liaison officers based in the Authority's premises in order to ensure a smooth cooperation.**
- (31b) **The Authority should support FIUs in relation to the following tasks: to support, coordinate and, where necessary, direct, joint analyses to be performed with the relevant FIUs as well as to develop methods and procedures to coordinate and facilitate their planning, organisation and conduct; to support cooperation among FIUs, particularly by developing best practices, methods, formats; to develop expert knowledge on detection analysis and dissemination methods; to develop criteria for the identification of cross-border cases that FIUs are required to share; to prepare indicators, formats, contents for the detection and reporting of STRs and other disclosures received by FIUs; to follow the management, maintenance and update of FIU.net and the development of IT and artificial intelligence tools for secure information sharing; to follow the work of international and European fora on FIU-related matters. In performing these tasks, the Authority should have dedicated human, financial and IT resources, and should guarantee their independence from the supervisory functions provided for in Chapter II, Section 2 to 6.**
- (32) In order to analyse suspicious activity affecting multiple jurisdictions, the relevant FIUs that received linked reports should be able to efficiently conduct joint analyses of cases of common interest. To this end, the Authority should be able to **initiate**, propose, coordinate and support with all appropriate means the joint analyses of cross-border suspicious transactions or activities. ~~The joint analyses should be triggered where there is a need to conduct just such,~~ **as well as to adopt internal procedures on the methods**

and criteria for the selection and prioritisation of cases relevant for joint analyses. pursuant to The relevant provisions in Union law. Upon the explicit consent of the FIUs participating in FIUs should participate in the conduct of the joint analyses, the staff of the Authority supporting analysis. Exceptionally, a FIU could decline to participate in the conduct of the joint analyses should be able to receive and process all necessary data and information, including the data and information pertaining by duly explaining and justifying it to the analysed cases Authority in writing. The Authority should provide such explanations and justifications to the other FIUs involved without delay.

- (32a) The joint analyses should be triggered with the aim of establishing cross-border links between suspicious transactions and underlying possible criminal activity in order to prevent and combat money laundering and terrorist financing. When conducting the analyses, the Authority and FIUs should disseminate their results as well as additional information to the competent authorities, including, where relevant, Europol, where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. The FIU delegates of the FIUs participating in the joint analysis should be granted access, directly or indirectly, to all data pertaining to the subject-matter of the joint analysis and should be able to process those data for the purposes of conducting the joint analysis in accordance with the applicable data protection rules, in particular in respect of receiving and analysing suspicious transactions and other information in accordance with Article 17 [please insert reference to the proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]. Upon the explicit consent of the FIUs participating in the joint analyses, the staff of the Authority supporting the conduct of joint analyses should be able to receive and process the necessary data pertaining to the analysed cases. With the aim of facilitating cooperation with Europol, where relevant, Europol should be able to take part in the joint analysis, subject to the agreement of participating FIUs, when such joint analysis is requested by an FIU. Europol should be given access to a part or all of the data with the explicit consent of the participating FIUs and Europol data should be processed in accordance with [please insert reference to Regulation 2016/794 (Recast)].
- (33) In order to improve the effectiveness of the joint analyses, the Authority should be able to ~~initiate reviews of~~ **establish and review the** methods, procedures and ~~the~~ conduct of the joint analyses, (AM269, Delbos-Corfield et al.) with the aim of determining the lessons learnt and of improving and promoting these analyses. The feedback on the joint analysis should enable the authority to issue conclusions and recommendations which would ultimately lead to the regular refinement and improvement of the methods and procedures for the conduct of joint analyses.

COMP L – FIU delegates, FIU.net and peer reviews.

AMs covered: 853, 854, 856, 857, 862, 863, 864, 865, 867
860, 869, 870, 871, 872, 270, 271, 275

AMs falling: 134, AFCO 61, CONT 52, 135, 136, 855, 858, 859, 138, 139, CONT 53, 140, 141, 142, CONT 54, 860, 861, 143, 862, 863, AFCO 62, 864, CONT 55, 144, 145, 865, 146, CONT 56, 866, CONT 57, 147, 867, 868, 148, 873, 874, 35, AFCO 8, CONT 9, AFCO 9, 270, 271, 272, 36, CONT 10, 273, AFCO 10, 275, 37, 276

Article 35

AM853, 854, 856, 857.

National FIU delegates

1. The FIU of each Member State ~~may~~ **shall** delegate one **or more** staff ~~member~~ **members** to the Authority. The national FIU delegate shall have his or her regular place of work at the seat of the Authority. (AM853, Marques et al.; AM854, Pereira)
2. FIU delegates shall have the status of staff personnel of the delegating FIU at the time of their appointment and for the entire duration of their delegation. **The delegating FIU shall facilitate the exercise of the functions of the FIU delegate and refrain from any action or policy that could adversely affect the FIU delegate's career or status in the national system. In particular, the delegating FIU shall provide the FIU delegate with the resources and equipment necessary to exercise its functions under this Regulation, and shall ensure that the FIU delegate remains fully integrated into its FIU.**

Member States shall appoint their FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. **The independence of FIU delegates shall be beyond doubt and shall not seek nor take instructions from Union institutions, bodies, offices or agencies, nor from any government or any other public or private body.** The salaries and emoluments of the FIU delegate shall be borne by the delegating FIU.

3. **The General Board in FIU composition may reject a person who has been appointed as FIU delegate if that person does not fulfil the criteria referred to in paragraph 2.** The term of office of the FIU delegates shall be three years, renewable once with consent of the delegating FIU.
4. FIU delegates shall support the Authority in carrying out the tasks set out in Article 5(5). To that end, the national FIU delegates shall be granted access to the Authority's data and information necessary for the performance of their tasks for the duration of the delegation.
5. FIU delegates ~~may~~ **shall** be granted access to any data accessible by their delegating FIU for the purposes of carrying out the tasks referred to in paragraph 4., ~~subject to consent of their delegating FIU.~~ (AM856, Marques et al; AM857, Pereira)

6. The Executive Board shall determine the rights and obligations of the FIU delegates in relation to the Authority. **Adequate arrangements shall be in place to ensure that the FIU delegate's rights relating to social security, pension and insurance coverage under the national scheme are maintained. The total remuneration of the FIU delegate shall not be lower than what it would be if that FIU delegate had only remained a member of staff of the delegating FIU.**

Article 36

Mutual assistance in the area of cooperation between FIUs

1. In the context of promoting cooperation and support of the work of the FIUs, **taking into account the needs of FIUs**, the Authority shall organise and facilitate at least the following activities:
 - (a) training programmes, including with respect to technological innovation;
 - (b) personnel exchanges and secondment schemes, including secondment of FIU staff from a Member State to the Authority;
 - (c) exchanges of practices between FIUs, including sharing expertise in a specific area.
 - (ca) access to operational analysis tools and commercially held data and training the Authority's and FIUs' staff on how to use them;**
 - (cb) development or procurement of IT tools and services to enhance the analysis methods of FIUs.**
2. Any FIU may submit to the Authority a request for assistance related to the tasks of the FIU, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more than one FIU, or a combination thereof. The FIU requesting assistance shall ensure the access to any information and data necessary for the provision of such assistance. The Authority shall keep and regularly update information on specific areas of expertise and capacity of FIUs to provide mutual assistance **related to the tasks of FIUs**.
3. The Authority shall make every effort to provide the requested assistance, including by considering the support to be provided with its own human resources as well as coordinating and facilitating the provision of any form of assistance by other FIUs on a voluntary basis.
4. At the beginning of each year, the Chair of the Authority shall inform the General Board in FIU composition of the human resources that the Authority can allocate to providing the assistance referred to in the previous paragraph. When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(5), the Chair of the Authority shall inform the General Board in FIU composition thereof.

Article 37

AM864, 865, 867.

FIU.net

1. The Authority shall ensure adequate ~~and~~, uninterrupted **and secure** hosting, management, maintenance, and development of the FIU.net. **Taking into account the needs of FIUs**, the Authority shall, in cooperation with the Member States, ensure that the most advanced **and secure** available technology is used for the FIU.net ~~subject to a cost-benefit analysis~~.
2. The Authority shall ensure uninterrupted functioning of the FIU.net and keep it up to date. Where necessary to support or strengthen the exchange of information and cooperation between the FIUs and based on the needs of FIUs, the Authority shall, **after consulting the EDPS**, (AM864, Urtasun et al.) design and implement, or otherwise make available, upgraded or additional functionalities of FIU.net.
3. The Authority shall **also** be responsible for the following tasks relating to the FIU.net:
 - (a) ~~ensure the required level of security of the system, including the implementation of the~~ **implement** appropriate technical and organizational measures to ~~address and mitigate~~ (AM865, Urtasun et al.) **ensure a level of security appropriate to the data protection risks with a view to ensuring data subject rights, including the keeping of appropriate information, access records and logs;**
 - (b) **plan**, coordinate, manage and support any testing activities;
 - (c) ensure adequate financial resources;
 - (d) provide training on the technical use of FIU.net by end-users.
4. For the purposes of carrying out the tasks referred to in paragraphs 1, 2 and 3, the Authority shall be empowered to conclude or enter into legally binding contracts or agreements with third party service providers, **after appropriate audits of their security standards**.
5. The Authority shall adopt and implement the measures necessary for fulfilment of the tasks referred to in this Article, including a security plan, a business continuity plan and a disaster recovery plan for the FIU.net.
- 5a. The General Board in FIU composition may unanimously decide to suspend access to FIU.net of a specific FIU where the report of the peer review in accordance with Article 36a concludes that requirements relating to the independence, integrity, professionalism, confidentiality or security of the FIU, as set out in Article 17 of the [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], have not been fulfilled. The affected FIU does not vote. With the decision of suspension, AMLA shall issue an assessment which explains and indicates the follow-up measures necessary to be complied with, in order for the suspension to be lifted. AMLA shall evaluate the actions taken by the FIU concerned no later than 3 months after issuing the decision of suspension. (AM867, Marques et al.)**

Article 37a

AM860, 869, 870, 871, 872.

Peer review

1. The Authority shall periodically conduct peer reviews of **the fulfilment by FIUs of the requirements laid down in Chapter III of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]**. (AM860, Marques et al.; AM871, Benjumea; AM872, Schirdewan) To that end, the Authority shall develop methods to allow for an objective assessment and comparison between FIUs reviewed.
2. The peer reviews shall be carried out by the staff of the Authority in cooperation with the staff of FIUs.
3. The peer review may include an assessment of:
 - (a) the adequacy of powers **and human and technical resources, the governance arrangements and professional standards of the FIU**; (AM860, Marques et al.; AM870, Urtasun et al.; AM871, Benjumea; AM872, Schirdewan)
 - (b) the effectiveness and the degree of convergence reached in the application of Union law and in FIUs practice with regard to the **functions and dissemination of analyses**, and the extent to which the FIUs practice achieves the objectives set out in Union law in that regard;
 - (c) the effectiveness and the degree of convergence reached with regard to the methods and procedures in view of the **functions and dissemination of analyses**;
 - (ca) **the effectiveness and the degree of cooperation and coordination with other FIUs**; (AM869, Strugariu et al.)
 - (d) the application of best practices developed by FIUs whose adoption might be of benefit for other FIUs.
4. The Authority shall produce a report setting out the results of the peer review. That peer review report shall be prepared by the staff of the Authority in cooperation with the staff of FIUs and adopted by the Executive Board, which shall share it in a timely manner with the FIU under review. 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 43 and opinions pursuant to Article 44. The FIU shall make every effort to comply with any guidelines and recommendations issued, in accordance with Article 43. The Authority shall transmit such reports without delay, on a confidential basis, at least to the European Parliament.
5. The Authority shall publish **a summary of** the findings of the peer review on its website and 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 obliged entities or the FIU would be necessary from the Union's perspective.
6. The Authority shall provide a follow-up report two years after the publication of the peer review report. The follow-up report shall be prepared by the staff of the Authority

in cooperation with the staff of FIUs and adopted by the Executive Board, which shall share it in a timely manner with the FIU under review. The follow-up report shall include an assessment of the adequacy and effectiveness of the actions undertaken by the FIUs that were subject to the peer review in response to the follow-up measures of the peer review report. The Authority shall publish the findings of the follow-up report on its website.

7. For the purposes of this Article, the Executive Board shall adopt a peer review workplan every two years, which shall reflect the lessons learnt from the past peer review processes and discussions held in the General Board in FIU composition. The peer review work plan shall constitute a separate part of the annual and multiannual working programme and shall be included in the Single Programming Document. In cases of urgency or unforeseen events, the Authority may decide to carry out additional peer reviews.

RECITALS

- (34) In order to facilitate and improve cooperation between FIUs and the Authority, including for the purposes of conducting joint analyses, the FIUs should be able to delegate one staff member per FIU to the Authority ~~on a voluntary basis~~. The national FIU delegates should support the Authority's staff in carrying out all the tasks relating to FIUs, including the conduct of joint analyses and the preparation of threat assessments and strategic analyses of money laundering and terrorist financing threats, risks and methods. **In that regard, delegating FIUs should facilitate the exercise of the functions of the relevant FIU delegates and refrain from any action or policy that could adversely affect their career or status in the national system. In particular, FIUs should provide the relevant FIU delegates with the resources and equipment necessary for the exercise of their functions, ensuring that they are fully integrated in the delegating FIU and remain able to receive and analyse suspicious transactions and other information in accordance with Article 17 [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].** Apart from the joint analyses, the Authority should encourage and facilitate various forms of mutual assistance between FIUs, including training and staff exchanges in order to improve capacity building and enable the exchange of knowledge and good practices amongst FIUs. **The Authority should also facilitate the development or procurement of IT tools and services to enhance its analysis capabilities and those of the FIUs, for example on blockchain analysis and on commercially held data, where appropriate.**
- (35) The Authority should manage, host, and maintain FIU.net, the dedicated IT system allowing FIUs to cooperate and exchange information amongst each other and, where appropriate, with their counterparts from third countries and third parties. The Authority should, ~~in cooperation with Member States~~, keep the system up-to-date, **taking into account the needs expressed by the FIUs**. To this end, the Authority should, **in consultation with the European Data Protection Supervisor**, (AM270, Delbos-Corfield et al.) ensure that at all times the most advanced available state-of-the-art technology, **including blockchain-based solutions**, (AM271, Pereira) is used for the development of the FIU.net, ~~subject to a cost-benefit analysis~~.
- (36) In order to establish consistent, efficient and effective supervisory and FIU-related practices and ensure common, uniform and coherent application of Union law, the Authority should be able to issue guidelines and recommendations addressed to all or

category of obliged entities and all or a category of supervisory authorities and FIUs. The guidelines and recommendations could be issued pursuant to a specific empowerment in the applicable Union acts, or on the own initiative of the Authority, where there is a need to strengthen the AML/CFT framework at Union level.

- (36a) In order to improve FIU's practices, the Authority should carry out peer reviews and publish reports setting out its findings. Those reports could be accompanied by guidelines or recommendations addressed to the relevant FIUs. (AM275, Delbos-Corfield et al.) FIUs should be able to participate in peer reviews on a case-by-case basis. The Authority should lay down detailed rules on the confidentiality of its exchanges with FIUs and other relevant actors in the context of peer reviews, including of its results.