

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 M – Targeted financial sanctions.

AMs covered: 875, 274

SECTION 6A

COMPETENCES ON TARGETED FINANCIAL SANCTIONS

Article -38

Cooperation with the authorities responsible for targeted financial sanctions

1. **The Authority shall be responsible for the effective and consistent supervision of obliged entities and competent authorities relating to the implementation and enforcement of targeted financial sanctions.**
2. **The Authority and the authorities competent for the implementation and enforcement of targeted financial sanctions shall cooperate in good faith and exchange information.**

Article -38a

Powers on targeted financial sanctions

For the purposes of carrying out its tasks referred to in Article 5 (5a), the Authority shall:

- (a) **ensure outreach and communicate to obliged entities information relating to targeted financial sanctions for the purposes of improving compliance, including by managing a consolidated list of persons, groups and entities subject to targeted financial sanctions;**
- (b) **monitor the implementation and enforcement of targeted financial sanctions across Member States, supporting competent authorities in their efforts to apply**

targeted financial sanctions, including by acting as a central contact point for competent authorities for sharing information on designated persons, their assets and controlled legal entities;

- (c) **provide guidance and assistance in the application of targeted financial sanctions-related obligations.**

Article -38b

Exchange of information

1. **The Authority and the authorities competent for the implementation and enforcement of targeted financial sanctions shall exchange, spontaneously or upon request, any information that may be relevant for the purposes of preparing, adopting, supervising or enforcing targeted financial sanctions.**

A request shall contain the relevant facts, background information, reasons for the request and how the information sought will be used. All the information transmitted or obtained shall be covered by the strictest confidentiality.

2. **By [2 years after the date of entry into force of this Regulation], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the procedures to be put in place when forwarding and receiving the information referred to in paragraph 1, as well as the format to be used for its exchange.**
3. **The Commission is empowered to adopt the implementing technical standards referred to in paragraph 2 of this Article in accordance with Article 42.**
4. **Where the Authority or an authority competent for the implementation and enforcement of targeted financial sanctions is requested to provide information pursuant to paragraph 1, it shall respond to the request as soon as possible.**

Article -38c

Statistics

1. **The Authority shall maintain comprehensive statistics on matters relevant to the effectiveness of targeted financial sanctions in order to review the effectiveness of those frameworks.**
2. **The statistics referred to in paragraph 1 shall include:**

- (a) **data measuring the reporting, investigation and judicial phases of the targeted financial sanctions, including the number of cases investigated, the number of persons prosecuted, the number of persons convicted for non-implementation, circumvention or other predicated offences related to targeted financial sanctions, as well as the value in euro of property that has been frozen, seized or confiscated in relation to persons designated by targeted financial sanctions;**
- (b) **the number of accounts, amounts and economic resources frozen resulting from targeted financial sanctions;**

- (c) **data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the authorities competent for the implementation and enforcement of targeted financial sanctions, broken down by counterpart country, including third countries;**
 - (d) **human and financial resources allocated to the authorities competent for the implementation and enforcement of targeted financial sanctions;**
 - (e) **the number of on-site and off-site supervisory actions, the number of breaches identified on the basis of supervisory actions and sanctions or administrative measures applied by supervisory authorities and self-regulatory bodies pursuant to Section 4 of Chapter IV [please insert reference to the AMLD - COM(2021)423] and related to targeted financial sanctions;**
 - (f) **the number and type of detected instances of breaches, circumvention and attempts at breach or circumvention in relation to targeted financial sanctions, and sanctions or administrative measures applied in relation to those breaches, as well as the number of inspections carried out by the entity in charge of the central register pursuant to Article 10(8) of [please insert reference to the AMLD - COM(2021)423].**
3. **The authorities competent for the implementation and enforcement of targeted financial sanctions shall ensure that the statistics referred to in paragraph 2 are collected and transmitted to the Commission and the Authority on an annual basis. The Authority shall store those statistics in the database referred to in Article 11.**
 4. **By [2 years after the date of entry into force of this Regulation], the Authority develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall develop the methodology for the collection of the statistics referred to in paragraph 2.**
 5. **The Commission is empowered to adopt the implementing technical standards referred to in paragraph 4 of this Article in accordance with Article 42.**

RECITALS

- (36a) The Authority should be responsible for the effective and consistent supervision of obliged entities and competent authorities relating to the implementation and enforcement of targeted financial sanctions and act as a central contact point ensuring outreach and seamless communication with obliged entities for the purpose of improving compliance. In that regard, the Authority should monitor the implementation and enforcement of targeted financial sanctions across Member States, supporting competent authorities in their efforts to apply targeted financial sanctions, including by acting as a central contact point for competent authorities for sharing information on designated persons, their assets and controlled legal entities. The Authority should furthermore provide guidance and assistance in the application of targeted financial sanctions.**

(36b) An inconsistent enforcement of restrictive measures undermines the Union's ability to speak with one voice. It is therefore paramount that EU restrictive measures are fully implemented and the violation of those measures must not be allowed to pay off. It must be ensured that the assets of individuals and entities that violate the restrictive measures can be effectively confiscated in the future. The Authority can play an important role in this regard. The Authority should also cooperate with Asset Recovery Offices in Member States and contribute towards attaining the goals set in [please insert reference –Proposal for a Directive on asset recovery and confiscation, COM(2022) 245 final]. (AM274, Strugariu et al.)

COMP N – RTS, ITS, guidelines, opinions and recommendations.

AMs covered: 880, 881, 885, 886, 887, 888, 889, 894, 893,

AMs falling: CONT 60, 882, CONT 61, 883, 884, CONT 62, AFCO 63, 149, 890, 891, CONT 63, AFCO 65, CONT 64, AFCO 66, CONT 65, 150, AFCO 67, CONT 66, 151

SECTION 7

COMMON INSTRUMENTS

Article 38

Regulatory technical standards

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

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

Before submitting them to the Commission, the Authority shall conduct open public consultations, **including with civil society**, on draft regulatory technical standards and shall analyse the potential related costs and benefits, unless those consultations and analyses are highly disproportionate in relation to the scope and impact of the draft regulatory technical standards concerned or in relation to the particular urgency of the matter.

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

Where the Commission intends not to adopt a draft regulatory technical standard or to adopt it in part or with amendments, it shall send the draft regulatory technical standard back to the Authority, explaining why it does not adopt it or explaining the reasons for its amendments.

The Commission shall send a copy of its letter to the European Parliament and to the Council. Within a period of six weeks, the Authority may amend the draft regulatory technical standard on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

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

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

2. Where the Authority has not submitted a draft regulatory technical standard within the time limit set out in the legislative acts referred to in Article 1(2), the Commission may request such a draft within a new time limit. The Authority shall inform the European Parliament, the Council and the Commission, in due time, that it will not comply with the new time limit.
3. Only where the Authority does not submit a draft regulatory technical standard to the Commission within the time limits in accordance with paragraph 2, may the Commission adopt a regulatory technical standard by means of a delegated act without a draft from the Authority.

The Commission shall conduct open public consultations, **including with civil society**, on draft regulatory technical standards and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the draft regulatory technical standards concerned or in relation to the particular urgency of the matter.

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

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

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

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

4. The regulatory technical standards shall be adopted by means of regulations or decisions. The words 'regulatory technical standard' shall appear in the title of such

regulations or decisions. Those standards shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

Article 39

Exercise of the delegation

1. The power to adopt regulatory technical standards referred to in Article 38 shall be conferred on the Commission for a period of four years from [OP please insert the date = from the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegated power not later than 6 months before the end of the 4-year period. The delegation of power shall be automatically extended for periods of an identical duration. .
2. As soon as it adopts a regulatory technical standard, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The power to adopt regulatory technical standards is conferred on the Commission subject to the conditions laid down in Articles 38, 40 and 41.

Article 40

AM880.

Objections to regulatory technical standards

1. The European Parliament or the Council may object to a regulatory technical standard within a period of three months from the date of notification of the regulatory technical standard adopted by the Commission. At the initiative of the European Parliament or the Council that period shall be extended by three months.
2. If, on the expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the regulatory technical standard, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

The regulatory technical standard may be published in the *Official Journal of the European Union* and enter into force before the expiry of **the period referred to in paragraph 1** (AM880, Urtasun et al.) if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

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

Article 41

AM881.

Non-endorsement or amendment of draft regulatory technical standards

1. In the event that the Commission does not endorse a draft regulatory technical standard or amends it as provided for in Article 38, (AM881, Urtasun et al.) the Commission shall inform the Authority, the European Parliament and the Council, stating its reasons.
2. Where appropriate, the European Parliament or the Council may invite the responsible Commissioner, together with the Chairperson of the Authority, within one month of the notice referred to in paragraph 1, for an ad hoc meeting of the competent committee of the European Parliament or the Council to present and explain their differences.

Article 42

Implementing technical standards

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

Before submitting draft implementing technical standards to the Commission, the Authority shall conduct open public consultations, **including with civil society**, and shall analyse the potential related costs and benefits, unless such consultations and analyses are highly disproportionate in relation to the scope and impact of the draft implementing technical standards concerned or in relation to the particular urgency of the matter.

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

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

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

submitted a draft implementing technical standard that is not amended in a way consistent with the Commission's proposed amendments, the Commission may adopt the implementing technical standard with the amendments it considers relevant or reject it.

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

2. Where the Authority has not submitted a draft implementing technical standard within the time limit set out in the legislative acts referred to in Article 1(2), the Commission may request such a draft within a new time limit. The Authority shall inform the European Parliament, the Council and the Commission, in due time, that it will not comply with the new time limit.
3. Only where the Authority does not submit a draft implementing technical standard to the Commission within the time limits in accordance with paragraph 2, may the Commission adopt an implementing technical standard by means of an implementing act without a draft from the Authority.

The Commission shall conduct open public consultations, **including with civil society**, on draft implementing technical standards and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the draft implementing technical standards concerned or in relation to the particular urgency of the matter.

The Commission shall immediately forward the draft implementing technical standard to the European Parliament and the Council **for consultation**. (AM885, Daly)

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

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

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

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

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

Article 43

AM887, 888, 889, 894.

Guidelines and recommendations

1. The Authority shall, with a view to establishing consistent, efficient and effective supervisory and FIU-related practices, and to ensuring the common, uniform and consistent application of Union law, issue guidelines addressed to all supervisory authorities, FIUs, or all obliged entities and issue recommendations to one or more supervisory authorities or to one or more obliged entities.
2. The Authority shall, where appropriate, conduct open public consultations, **including with civil society**, regarding the guidelines and recommendations and analyse the related potential costs and benefits. Those consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines or recommendations. Where the Authority does not conduct open public consultations, the Authority shall provide its reasons **and make them public**. (AM886, Urtasun et al.)
3. The supervisory authorities, **FIUs** (AM888, Chinnici; AM889, Urtasun et al.) and obliged entities shall make every effort to comply with those guidelines and recommendations.

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

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

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

In the report referred to in Article 53(4)(c) the Authority shall inform the European Parliament, the Council and the Commission of the guidelines and recommendations that have been issued and outlining how the Authority intends to ensure that the supervisory authority or obliged entity concerned follow its recommendations and guidelines in the future (AM 893, Urtasun et al.).

- 3a. The guidelines and recommendations issued by the Authority shall replace the guidelines and recommendations previously issued by the EBA or the competent authorities on the same subject. The guidelines and recommendations issued by the EBA or the competent authorities shall remain applicable until **new guidelines and recommendations issued by the Authority enter into force** . The Authority shall provide for a suitable transition period for obliged entities to comply with the new guidelines and recommendations. (AM887, Marques et al.; AM894, Benjumea)

Article 44

Opinions

1. The Authority may, upon a request from the European Parliament, from the Council or from the Commission, or on its own initiative, provide opinions to the European Parliament, to the Council and to the Commission on all issues related to its area of competence.
2. The request referred to in paragraph 1 may include a public consultation, **including with civil society**, or a technical analysis. **It may also include a consultation of other Union bodies involved in the AML/CFT framework, including Europol, Eurojust, EPPO, OLAF, the European Central Bank, the Single Resolution Board, the European Supervisory Authorities, the European Data Protection Supervisor and the European Data Protection Board.**
3. The Authority may, upon a request from the European Parliament, from the Council or from the Commission provide technical advice to the European Parliament, the Council and the Commission in the areas set out in the legislative acts referred to in Article 1(2).

Article 44a

Rules governing the format of information exchanges

The Authority shall develop templates, common reporting formats or any other relevant measure **to be used for the purposes of requesting, collecting or exchanging information**, including in respect of **at least** the following situations:

- (a) the Authority or **supervisory authorities** request, collect or exchange information from other **supervisory authorities**, FIUs, or obliged entities in the context of the tasks set out in this Regulation and **other** applicable Union law;
- (b) the Authority, FIUs or competent authorities request, collect or exchange information related to money laundering, its predicate offences, or terrorist financing, from other competent authorities, FIUs or obliged entities in the context of the tasks set out in this Regulation and **other** applicable Union law.

The Authority and the relevant competent authorities shall make use of the formats **developed** by the Authority pursuant to this Article. The **procedure for the adoption** of those formats shall follow the applicable procedure depending on the type of act provided for under applicable Union law.

The formats issued by the Authority shall replace the formats previously issued by the EBA or the competent authorities on the same subject. The formats **previously** issued by the EBA or the competent authorities shall remain applicable until **new formats issued by the Authority enter into force**. The Authority shall provide for a suitable transition period for obliged entities, competent supervisors, FIUs and other competent authorities to comply with the new formats.

RECITALS

(36a) The Authority should specify the format to be used to request, collect or exchange information with the purpose of enhancing the comparability of the information and ensuring the efficiency of reporting.

COMP O – General Board.

AMs covered: 906, 907, 908, 911, 912, BUDG 22, 917, 921, 922, 923,

AMs falling: 895, 896, 152, 897, 898, 899, 903, 904, 900, 902, 905, 906, BUDG 22, AFCO 70, 907, 908, BUDG 23, 153, 909, 910, AFCO 71, 911, 912, 913, 916, 917, 155, AFCO 72, CONT 67, AFCO 73, 156, AFCO 74, 919, 918, CONT 68, CONT 69, CONT 70, 920, 922, 923, 277, AFCO 11, BUDG 6, 278, 279, BUDG 7, 280, 281, BUDG 8, 282, 38, AFCO 13, BUDG 9, 283

CHAPTER III

ORGANISATION OF THE AUTHORITY

Article 45

Administrative and management structure

The Authority's structure shall comprise:

- (1) a General Board, which shall exercise the tasks set out in Article 49;
- (2) an Executive Board, which shall exercise the tasks set out in Article 53;
- (3) a Chair of the Authority, who shall exercise the tasks set out in Article 57;
- (4) an Executive Director, who shall exercise the tasks set out in Article 59;
- (5) an Administrative Board of ~~Review~~ **Appeal** which shall exercise the functions listed in Article 62.

SECTION 1

GENERAL BOARD

Article 46

AM906, 907, 908, 911, 912, BUDG 22.

Composition of the General Board

1. The General Board shall have, alternatively, the supervisory composition as laid down in paragraph 2, the FIU composition as laid down in paragraph 3.
2. The General Board in supervisory composition shall be composed of:
 - (a) the Chair of the Authority with a right to vote;

- (b) the heads of supervisory authorities of obliged entities in each Member State with a right to vote;
- (c) one representative of the Commission, without the right to vote.

The heads of the supervisory authorities referred to in the first subparagraph, point (b) in each Member State shall share a single vote and shall **appoint** a single common representative, **which shall be either a permanent representative or an ad-hoc voting representative**, for the purposes of **each specific** meeting or voting procedure. Where items to be discussed by the General Board in supervisory composition concern the competence of several public authorities, the **single common representative** may be accompanied by a representative from up to two other public authorities, who shall be non-voting. (BUDG AM22) **When agreeing on their single common representative to the General Board, the supervisory authorities in each Member State shall take into account the principle of gender balance.** (AM906, Urtasun et al.; AM907, Schirdewan; AM908, Chinnici)

Each public authority that has a voting member under ad-hoc or permanent agreement shall be responsible for nominating a high-level alternate from its authority, who may replace the voting member of the General Board referred to in the second subparagraph where that person is prevented from attending.

3. The General Board in FIU composition shall be composed of:
 - (a) the Chair of the Authority with a right to vote;
 - (b) the heads of FIUs with the right to vote;
 - (c) one representative of the Commission, without the right to vote-;

(ca)

4. The General Board may decide to admit observers. ~~In particular,~~ The General Board in FIU composition shall **permanently** admit ~~as an observer~~ **at least** a representative of OLAF, of Europol, of Eurojust and of the EPPO **as observers to meetings when matters fall under their respective mandates.** (AM912, Strugariu et al.) The General Board in supervisory composition shall **permanently** admit **at least** a representative nominated by the Supervisory Board of the European Central Bank and a representative of each of the European Supervisory Authorities **as observers. Other observers may be admitted on an ad hoc basis if approved by a two-thirds majority of the voting members of the General Board in the relevant composition.** (AM917, Marques et al.)
5. The members of the Executive Board may participate in the meetings of the General Board in both compositions, without the right to vote, where the items covered by their areas of responsibility as determined by the Chair of the Authority and referred to in Article 55(2), are discussed.

Article 47

Internal committees of the General Board

The General Board, on its own initiative or at the request of the Chair of the Authority, may establish internal committees for specific tasks attributed to it. The General Board may provide for the delegation of certain clearly defined tasks ~~and decisions~~ to internal committees, to the

Executive Board or to the Chair. The General Board may revoke such delegation at any time. **The General Board shall remain responsible for, and exercise ultimate control over, all of its decisions. The members of the Executive Board may participate in the meetings of internal committees in accordance with Article 46(5).**

Article 48

Independence of the General Board

1. When carrying out the tasks conferred upon them by this Regulation, the members of the General Board in both compositions referred to in Article 46(2) points (a) and (b) and (3) points (a) and (b) 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, bodies, offices nor agencies from any government or any other public or private body.
2. Member States, Union institutions, agencies, offices or bodies, and any other public or private body, shall not seek to influence the members of the General Board in the performance of its tasks.
3. The General Board shall lay down, in its Rules of Procedure, the practical arrangements for the prevention and the management of conflict of interest.

Article 49

AM921.

Tasks of the General Board

1. The General Board in supervisory composition shall take the decisions relating to tasks referred to in Articles 7 to 10 as well as any decisions explicitly provided by this Regulation for the General Board in supervisory composition.
2. The General Board in supervisory composition may provide its advice and opinion on any draft decisions prepared by the Executive Board towards selected obliged entities in accordance with Section 3 of Chapter II.
3. The General Board in FIU composition shall perform the tasks and adopt the decisions pursuant to Section 6 of Chapter II.
4. The General Board shall adopt the draft regulatory and implementing technical standards, opinions, recommendations, guidelines and decisions of the Authority referred to in Section 7 of Chapter II, in an appropriate composition, depending on the subject-matter of the instrument. Where a given instrument concerns both FIU and supervision-related matters, adoption shall be required by both compositions of the General Board independently. The draft regulatory and implementing technical standards, opinions, recommendations, and guidelines shall be adopted based on a proposal of the relevant internal committee.
5. The General Board in either composition shall be consulted on the draft decisions to be taken by the Executive Board pursuant to Article **53 (3)**, (AM921, Hansen et al.) 53(4), points (a), (c), (e) and (m). Where the subsequent decision taken by the

Executive Board deviates from the opinion of the General Board, the Executive Board shall provide the reasons thereof in writing.

6. The General Board shall adopt and make public its Rules of Procedure.
7. Without prejudice to Articles 52 (3) and (4) and Article 56 (1) and (2), the appointing authority powers over the Chair and the five permanent members of the Executive Board throughout their mandate shall be exercised by the General Board.

Article 50

AM922.

Voting rules of the General Board

1. Decisions of the General Board shall be taken by a simple majority of its members. Each voting member as determined by Article 46(2) shall have one vote. In case of a tied vote, the Chair of the Authority shall have a casting vote. (AM922, Urtasun et al.)
2. With regard to the acts referred to in Articles 38, 42, 43 and 44 of this Regulation, and by way of derogation from paragraph 1, the General Board shall take decisions on the basis of a qualified majority of its members, as defined in Article 16(4) TEU.

The Chair of the Authority shall not vote on the decisions referred to in the first subparagraph and the decisions related to the evaluation of the performance of the Executive Board referred to in Article 52 (4).
3. The non-voting members and the observers shall not attend any discussions within the General Board in supervisory composition relating to individual obliged entities, unless otherwise provided for in the legislative acts referred to in Article 1(2).
4. Paragraph 3 shall not apply to the Executive Board members and the European Central Bank representative nominated by its Supervisory Board.
5. The Chair of the Authority 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 General Board shall strive for consensus when taking its decisions.

Article 51

Meetings of the General Board

1. The Chair of the Authority shall convene the meetings of the General Board.
2. The General Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chair, at the request of the Commission, or at the request of at least one-third of its members.
3. The General Board may invite any person whose opinion may be of interest to attend its meetings as an observer.
4. The members of the General Board and their alternates may, subject to its Rules of Procedure, be assisted at the meetings by advisers or experts.
5. The Authority shall provide the secretariat for the General Board.

6. *The Chair of the Authority and the permanent five members of the Executive Board shall not attend those meetings of the General Board where matters concerning the performance of their mandate are discussed or decided upon.* Article 51a

Transparency of decisions adopted by the General Board

Within six weeks of each meeting of the General Board, 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 General Board relating to individual entities, unless otherwise provided for in the legislative acts referred to in Article 1(2). (AM923, Urtasun et al.)

RECITALS

- (37) The establishment of a solid governance structure within the Authority is essential for ensuring effective exercise of the tasks granted to the Authority, and for an efficient and objective decision-making process. Due to the complexity and variety of the tasks conferred on the Authority in both the supervision and FIU areas, the decisions cannot be taken by a single governing body, as is often the case in decentralised agencies. Whereas certain types of decisions, such as decisions on adoption of common instruments, need to be taken by representatives of appropriate authorities or FIUs, and respect voting rules of the TFEU, certain other decisions, such as the decisions towards individual selected obliged entities, or individual authorities, require a smaller decision-making body, whose members should be subject to appropriate accountability arrangements. Therefore, the Authority should comprise a General Board, and an Executive Board composed of five full-time independent members and of the Chair of the Authority.
- (38) In order to ensure the relevant expertise, the General Board should have two compositions. For all the decisions on the adoption of acts of general application such as the regulatory and implementing technical standards, guidelines, recommendations, and opinions relating to FIUs, it should be composed of the heads of FIUs of Member States ('General Board in FIU composition'). For the same types of acts related to direct or indirect supervision of financial and non-financial obliged entities, it should be composed of the heads of AML/CFT supervisors which are public authorities ('General Board in supervisory composition'). All parties represented in the General Board should make efforts to limit the turnover of their representatives, in order to ensure continuity of the Board's work. All parties should aim to achieve a balanced representation between men and women on the General Board.
- (39) For a smooth decision making process, the tasks should be clearly divided: the General Board in FIU composition should decide on the relevant measures for FIUs, the General Board in supervisory composition should decide on delegated acts, guidelines and similar measures for obliged entities. The General Board in supervisory composition should also be able to provide its opinion and advice to the Executive Board on all draft decisions towards individual selected obliged entities proposed by the Joint Supervisory Teams. In absence of such opinion or advice, the decisions should be taken by the Executive Board. Whenever the Executive Board deviates from the advice provided by

the General Board in supervisory composition in the final decision, it should explain the reasons thereof in writing.

- (40) For the purposes of voting and taking decisions, each Member State should have one voting representative. Therefore, the heads of public authorities should appoint a permanent representative as the voting member of the General Board in supervisory composition. Alternatively, depending on the subject-matter of the decision or agenda of a given General board meeting, public authorities of a Member State may decide on an ad-hoc representative. The practical arrangements related to decision-making and voting by the General Board members in supervisory composition should be laid down in the Rules of Procedure of the General Board, to be developed by the Authority.
- (41) The Chair of the Authority should chair the General Board meetings and have a right to vote when decisions are taken by simple majority. The Commission should be a non-voting member on the General Board. To establish good cooperation with other relevant institutions, the General Board should also be able to admit other non-voting observers, such as a representative of the Single Supervisory Mechanism and of each of the three European Supervisory Authorities (EBA, EIOPA and ESMA) for the General Board in its Supervisory Composition and Europol, the EPPO and Eurojust for the General Board in its FIU composition, where matters that fall under their respective mandates are discussed or decided upon. To allow a smooth decision making process, decisions of the General Board should be taken by a simple majority, except for decisions concerning draft regulatory and implementing technical standards, guidelines and recommendations which should be taken by a qualified majority of Member State representatives in accordance with voting rules of the TFEU.

COMP P – Executive Board.

AMs covered: 928, 929, 934, 935, 937, BUDG 25, 933, 932, 939, BUDG 26, BUDG 27, 943, 944, BUDG 28, BUDG 10, 285, BUDG 11, 287,

AMs falling: 924, 926, 925, 927, 157, CONT 71, 930, BUDG 24, 931, AFCO 77, 158, 932, 936, CONT 72, 159, 938, 939, 160, 940, 941, 942, 945, 284, 39, AFCO 14, CONT 11, 40, 286, AFCO 15, BUDG 12, 288, CONT 12, AFCO 16, 289

SECTION 2

EXECUTIVE BOARD

Article 52

AM928, 929, 934, 935, 937.

Composition and appointment of the Executive Board

1. The Executive Board shall be composed of:
 - (a) the Chair of the Authority;
 - (b) five full-time members, **including the Vice-Chair**;
 - (c) a representative of the Commission where the Executive Board carries out the tasks referred to in Article 53(4) point (a) to (l). The representative of the Commission shall be entitled to participate in the debates and shall have access to the documents pertaining to these tasks only.
2. The Executive Director shall participate in meetings of the Executive Board without the right to vote.
3. The five members of the Executive Board referred to in paragraph 1, point (b), shall be selected following an open selection procedure which shall be published in the Official Journal of the European Union. ~~They~~ **The Commission shall be appointed by the General draw up a shortlist of qualified candidates for the position of the five full-time members of the Executive Board based on and shall provide the competent committee of the European Parliament with that shortlist drawn by. The competent committee of the European Parliament may conduct hearings of the candidates on that shortlist. Following the outcome in the European Parliament, the Commission shall submit a proposal for the appointment of the five full-time members of the Executive Board to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council shall adopt an implementing decision to appoint the five full-time members of the Executive Board. The Council shall act by qualified majority.**

The selection shall **take into account** the principles of **gender balance**, experience, qualification, and, to the extent possible, ~~gender and~~ geographical balance. (AM928, Chinnici; AM929, Urtasun et al.) Benjumea's AM. 930

4. The term of office of the five members of the Executive Board shall be four years. In the course of the 12 months preceding the end of the four-year term of office of the Chair of the Authority and five members of the Executive Board, **the Commission, taking into account the opinion of** the General Board in both compositions or a smaller committee selected among General Board members including a Commission representative, shall carry out an assessment of performance of the Executive Board. The assessment shall take into account an evaluation of the Executive Board members' performance and the Authority's future tasks and challenges. Based on the assessment, **the Commission may propose to the European Parliament to extend their term of office once. The competent committee of the European Parliament may conduct hearings of the Executive Board members. Following the European Parliament's approval of the Commission's proposal, the Council shall adopt an implementing decision to extend the term of office of the those Executive Board members. The Council shall act by qualified majority.**
5. The Executive Board members referred to in paragraph 1, point (a) and (b) shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union institutions, Union decentralised agencies and other Union bodies from any government or from any other public or private body. The institutions, bodies, offices and agencies of the Union and the governments of the Member States and any other bodies shall respect that independence.
6. If one or more of the members of the Executive Board, except for the Chair of the Authority, no longer fulfil the conditions required for the performance of his or her duties or has been guilty of serious misconduct, the General Board may, following a proposal by the Commission, remove any of the members of the Executive Board from office.
7. During a period of ~~one year~~ **two years** (AM25 BUDG; AM933, Ferber et al. AM934, Urtasun et al.; : AM935, Chinnici) after ceasing to hold office, the former members of the Executive Board, including the Chair **and the Vice-Chair** of the Authority, are prohibited from engaging in a gainful occupational activity with (AM932, Daly; AM934, Urtasun et al.)
 - (a) a selected obliged entity;
 - (b) any other entity **related to the Authority's tasks, powers and objectives**, where a conflict of interest **or an excessive risk thereof** exists (AM937, Benjumea)

In its rules for the prevention and management of conflicts of interest in respect of its members referred to in Article 53 (4) point (e), the Executive Board shall specify the circumstances under which such a conflict of interest exists or could be perceived to exist.

Article 53

AM939.

Tasks of the Executive Board

1. The Executive Board shall be responsible for the overall planning and the execution of the tasks conferred on the Authority pursuant to Article 5. The Executive Board

shall adopt all the decisions of the Authority with the exception of the decisions that shall be taken by the General Board in accordance with Article 49.

2. The Executive Board shall adopt all the **decisions addressed to selected obliged entities 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 Executive Board shall adopt** decisions addressed to selected obliged entities following the proposal of the selected obliged entity's Joint Supervisory Team referred to in Article 15, and taking into account the opinion provided by the General Board on that proposed decision. Where the Executive Board **decides to deviate** (AM939, Benjumea) from such an opinion, it shall provide the reasons thereof in writing.

The Executive Board shall adopt all the decisions addressed to obliged entities referred to in Article 30c.

3. The Executive Board shall adopt all the decisions addressed to individual public authorities pursuant to Articles 28, **30, 30a, 30b, 30c**, 31, and 32.
4. In addition, the Executive Board shall have the following tasks:
 - (a) adopt, by 30 November of each year, on the basis of a proposal by the Executive Director, the draft Single Programming Document **in accordance with Article 54** (BUDG AM26), and shall transmit it for information to the European Parliament, the Council and the Commission by 31 January the following year, as well as any other updated version of the document;
 - (b) adopt the draft annual budget of the Authority and exercise other functions in respect of the Authority's budget;
 - (c) assess and adopt a consolidated annual activity report on the Authority's activities, including an overview of the fulfilment of its tasks and send it, by 1 July each year, to the European Parliament, the Council, the Commission and the Court of Auditors and make the consolidated annual activity report public;
 - (d) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
 - (e) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as the members of the Administrative Board of **Appeal**;
 - (f) adopt its rules of procedure;
 - (g) exercise, with respect to the staff of the Authority, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ("the appointing authority powers");
 - (h) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110(2) of the Staff Regulations;
 - (i) appoint the Executive Director and remove him/her from office, in accordance with Article 58;
 - (j) appoint an Accounting Officer, who may be the Commission's Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of

- other servants, who shall be totally independent in the performance of his/her duties;
- (k) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF;
 - (l) adopt the financial rules applicable to the Authority;
 - (m) take all decisions on the establishment of the Authority's internal structures and, where necessary, their modification.
5. The Executive Board shall select a Vice-Chair of the Authority among its voting members. The Vice-Chair shall automatically replace the Chair, if the latter is prevented from attending to his/her duties.
 6. With respect to the powers mentioned in paragraph 4 point (h), the Executive Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Executive Director. The Executive Director shall be authorised to sub-delegate those powers.
 7. In exceptional circumstances, the Executive Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any sub-delegation by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 54

BUDG 27.

Annual and multiannual programming

1. By 30 November each year the Executive Board shall adopt a Single Programming Document containing multiannual and annual programming, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and in relation to multiannual programming after consulting the European Parliament. **If the Executive Board decides not to take into account any elements of the opinion of the Commission, it shall provide a thorough justification or such decision. The obligation to provide a thorough justification shall also apply to any elements raised by the European Parliament when it is consulted. The Executive Board shall forward the Single Programming Document (BUDG AM27) to the European Parliament, the Council and the Commission.**

The programming document shall become final after final adoption of the general budget and if necessary shall be adjusted accordingly.
2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year.

3. The Executive Board shall amend the adopted annual work programme when a new task is given to the Authority.

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Executive Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

4. The multiannual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multiannual budget and staff.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate.

Article 55

AM943, 944, BUDG 28.

Voting rules of the Executive Board

1. The Executive Board shall take decisions by simple majority of its members. Each member of the Executive Board, **in accordance with Article 52(1)**, shall have one vote. The Chair of the Authority, **or the Vice-Chair when replacing the Chair**, shall have a casting vote in case of a tie. (AM943, Urtasun et al.)
2. A representative of the Commission shall have a right to vote whenever matters pertaining to Article 53(4) points (a) to (l) are discussed and decided upon. (BUDG AM28, AM944, Urtasun et al.)
3. The Executive Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

Article 55a

Fundamental Rights Officer

1. **The Executive Board shall, upon a proposal of the Executive Director, designate a Fundamental Rights Officer. The Fundamental Rights Officer may be a member of the existing staff of the Authority who received special training in fundamental rights law and practice.**
2. **The Fundamental Rights Officer shall perform the following tasks:**
 - (a) **advise the Authority where he or she deems it necessary or where requested on any activity of the Authority without impeding or delaying those activities;**
 - (b) **monitor the Authority's compliance with fundamental rights;**
 - (c) **provide non-binding opinions on working arrangements;**
 - (d) **inform the Executive Director about possible violations of fundamental rights in the course of the Authority's activities;**

- (e) **promote the Authority's respect of fundamental rights in the performance of its tasks and activities;**
 - (f) **any other tasks where provided for by this Regulation.**
3. **The Authority shall ensure that the Fundamental Rights Officer does not receive any instructions regarding the exercise of his or her tasks.**
 4. **The Fundamental Rights Officer shall report directly to the Executive Director and prepare annual reports on his or her activities, including the extent to which the activities of the Authority respect fundamental rights. Those reports shall be made available to the Executive Board.**

RECITALS

- (42) The governing body of the Authority should be the Executive Board composed of the Chair of the Authority and of five full time members, appointed by the ~~General Board~~ **European Parliament and the Council** based on the shortlist **of qualified candidates drawn up** by the Commission. With the aim of ensuring a speedy and efficient decision making process, the Executive Board should be in charge of planning and execution of all the tasks of the Authority except where specific decisions are explicitly allocated to the General Board. In order to ensure objectivity and appropriate rapidity of the decision-making process in the area of direct supervision of the selected obliged entities, the Executive Board should take all binding decisions addressed to selected obliged entities. In addition, together with a representative of the Commission the Executive Board should be collectively responsible for the administrative and budgetary decisions of the Authority. (BUDG AM10; AM285, Strugariu et al.)
- (43) To allow for swift decisions, all decisions of the Executive Board, including the decision where the Commission has a right to vote, should be taken by simple majority, with the Chair holding a casting vote in case of a tied vote. (BUDG AM11; AM287, Strugariu et al.) ~~The voting members of the Executive Board other than the Chair should be selected by the General Board, based on a short list established by the Commission.~~
- (44) To ensure the independent functioning of the Authority the five Members of the Executive Board and the Chair of the Authority should act independently and in the interest of the Union as a whole. They should behave, both during and after their term of office, with integrity and discretion as regards the acceptance of certain appointments or benefits. To avoid giving any impression that a Member of the Executive Board might use its position as a Member of the Executive Board of the Authority to get a high-ranking appointment in the private sector after his term of office and to prevent any post-public employment conflicts of interests, a cooling-off period for the five Members of the Executive Board, including the Chair of the Authority, should be introduced.

COMP Q – Chair and Executive Director.

AMs covered: 49, 950, 951, 952, 953, 954, BUDG 29, 961, 962, 963, 964, 965, 966, 967, 969, 970, BUDG 30, 972, BUDG 31, 32, 33, 291, 292, 293

AMs falling: 947, 949, AFCO 81, 161, BUDG 29, CONT 73, 955, 959, 958, CONT 74, 957, AFCO 83, 960, AFCO 84, 966, AFCO 85, 961, BUDG 30, 162, 962, 963, 965, AFCO 86, CONT 75, 967, AFCO 87, 968, 969, 971, CONT 76, 972, AFCO 89, CONT 77, BUDG 31, BUDG 32, BUDG 33, AFCO 90, 973, 291, 41, BUDG 13, 293, 292, 294, CONT 13, AFCO 17, 290, AFCO 88, 163

SECTION 3

THE CHAIR OF THE AUTHORITY

Article 56

AM949, 950, 951, 952, 953, 954, BUDG 29.

Appointment of the Chair of the Authority

1. The Chair of the Authority shall be selected on the basis of merit, skills, knowledge, **integrity**, (AM951, Marques et al.) recognised standing and experience in the area of anti-money laundering and countering the financing of terrorism and other relevant qualification, following an open selection procedure which shall **take into account the principle of gender balance and (AM952, Schirdewan; AM953, Strugariu et al.)** shall be published in the Official Journal of the European Union. The Commission shall ~~draw up~~ **provide to the European Parliament a** shortlist of qualified candidates (AM954, Ferber et al.) for the position of **Chair of the Authority and inform the Council of the shortlist. The European Parliament may conduct hearings of the candidates on that shortlist. Following the outcome in the European Parliament, the Commission shall submit a proposal for the appointment of the Chair of the Authority. The Council, after approval by to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council shall adopt an implementing decision to appoint the Chair of the Authority. The Council shall act by qualified majority. Where the European Parliament considers that none of the shortlisted candidates sufficiently fulfils the criteria set out in this paragraph, the open selection procedure shall recommence** (BUDG AM29; AM949, Urtasun et al.; AM950, Daly; AM951, Marques et al.).
2. If the Chair of the Authority no longer fulfils the conditions required for the performance of his or her duties or has been guilty of serious misconduct, the Council may, **on its own initiative or** following a proposal by the **European Parliament or the General Board** in either composition, adopt an implementing decision to remove the Chair of the Authority from office. The Council shall act by qualified majority.
3. Should the Chair resign or be unable to attend to his or her duties for any other reason, the functions of the Chair shall be performed by the Vice-Chair.

Article 57

Responsibilities of the Chair of the Authority

1. The Chair of the Authority shall represent the Authority and shall be responsible for preparing the work of the General Board and the Executive Board, including setting the agenda, convening and chairing all the meetings and tabling items for decision.
2. The Chair shall assign to the five members of the Executive Board specific areas of responsibility within the scope of tasks of the Authority for the duration of their mandate.

SECTION 4

THE EXECUTIVE DIRECTOR

Article 58

AM961, 962, 963, 964, 965, 966, 967, 969, 970, BUDG 30.

Appointment of the Executive Director

1. The Executive Director shall be engaged as a temporary agent of the Authority under Article 2(a) of the Conditions of Employment of Other Servants.
2. The Executive Director shall perform his **or her** (AM961, Urtasun et al., BUDG AM 30) duties in the interests of the Union, and independently of any specific interests.
3. The Executive Director shall manage the Authority. The Executive Director shall be accountable to the Executive Board. Without prejudice to the powers of the Commission and of the Executive Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.
4. The Executive Director shall be selected on the grounds of merit and documented high-level administrative, budgetary and management skills, following an open selection procedure which **shall take into account the principle of gender balance and (AM967, Schirdewan)** shall be published in the Official Journal of the European Union, and, as appropriate, other press or internet sites. The Commission shall draw up a shortlist of **(AM966, Ferber et al.)** qualified candidates for the position of the Executive Director **and shall provide that shortlist to the European Parliament. The European Parliament may conduct hearings of the candidates on that shortlist. Following the outcome in the European Parliament, the Executive Board shall appoint the Executive Director, after approval by the European Parliament. Where the European Parliament considers that none of the shortlisted candidates sufficiently fulfils the criteria set out in this paragraph, the open selection procedure shall recommence (AM962, Urtastun et al.; AM963, Daly; AM964, Marques et al.; AM965, Strugariu et al.; AM966, Ferber et al.)**
5. The term of office of the Executive Director shall be five years. In the course of the nine months preceding the end of the Executive Director's term of office, the Executive Board shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

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

The Executive Director may be removed from office by the Executive Board on proposal by the Commission, **the European Parliament or the Council**. (AM969, Schirdewan; AM970, Urtasun et al.)

6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the extended term of office.

Article 59

AM972, BUDG 31, 32, 33.

Tasks of the Executive Director

1. The Executive Director shall be in charge of the day-to-day management of the Authority and shall aim to **uphold the highest professional standards and** (AM972, Benjumea) ensure gender balance within the Authority. In particular, the Executive Director shall be responsible for:
 - (a) implementing decisions adopted by the Executive Board;
 - (b) preparing the draft Single Programming Document and submitting it to the Executive Board after consulting the Commission;
 - (c) implementing the Single Programming Document and reporting to the Executive Board on its implementation;
 - (d) preparing the draft consolidated annual report on the Authority's activities and presenting it to the Executive Board for assessment and adoption;
 - (e) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by the European Anti-fraud Office (OLAF) and reporting on progress twice a year to the Commission and regularly to the General Boards and the Executive Board;
 - (f) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative, including financial penalties;
 - (g) preparing an anti-fraud strategy for the Authority and presenting it to the Executive Board for approval;
 - (h) preparing draft financial rules applicable to the Authority;
 - (i) preparing the Authority's draft statement of estimates of revenue and expenditure **as part of the draft Single Programming Document pursuant to Article 66 and** and implementing its budget **pursuant to article 67** (BUDG AM31);

- (j) preparing and implementing an IT security strategy, ensuring appropriate risk management for all IT infrastructure, systems and services, which are developed or procured by the Authority as well as sufficient IT security funding.
 - (k) implementing the annual work programme of the Authority under the control of the Executive Board;
- (BUDG AM32)
- (l) preparing a draft report describing all activities of the Authority with a section on financial and administrative matters.
2. The Executive Director shall take other 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.
 3. The Executive Director shall decide whether it is necessary to locate one or more staff in one or more Member States for the purpose of carrying out the Authority's tasks in an efficient and effective manner. Before deciding to establish a local office, the Executive Director shall obtain the prior consent of the Commission, the Executive Board and the Member State(s) concerned. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Authority. **An** agreement with the Member State(s) concerned shall be concluded **accordingly** (BUDG AM33).

RECITALS

- (45) The Chair of the Authority should be appointed based on objective criteria by the Council after approval by the European Parliament. He or she should represent the Authority externally and should report on the execution of Authority's tasks.
- (46) The Executive Director of the Authority should be appointed ~~by the Executive Board based on a shortlist from the Commission~~ **objective criteria by the Council after approval by the European Parliament.** (AM291, Urtasun et al.; AM292, Ferber et al.; AM293, Strugariu et al.) The Executive Director of the Authority should be a senior administrative official of the Authority, in charge of the day-to-day management of the Authority, and responsible for budget administration, procurement, and recruitment and staffing.

COMP R – Administrative Board of Appeal.

AMs covered: 975, 977

AMs falling: 164, 975, 165, 163, 975, 165, 976, 166, 167, 168, 169, 170, 171, 172, 977, 173, 174, 175, 979, 978, 176, 177, 178, 179, 42

SECTION 5

ADMINISTRATIVE BOARD OF ~~REVIEW~~ **APPEAL**

Article 60

AM975.

*Creation and Composition of the Administrative Board of ~~Review~~ **Appeal***

1. The Authority shall establish an Administrative Board of ~~Review~~ **Appeal** for the purposes of carrying out an internal administrative review of the decisions taken by the Authority in the exercise of the powers listed in Articles 20, 21, 22 **and 65**. (AM975, De Lange) The scope of the internal administrative review shall pertain to the procedural and substantive conformity with this Regulation of such decisions.
2. The Administrative Board of ~~Review~~ **Appeal** shall be composed of five individuals of high repute, having a proven record of relevant knowledge and professional experience, including supervisory experience in the area of anti-money laundering and countering the financing of terrorism, excluding current staff of the Authority, as well as current staff of AML/CFT supervisory authorities and FIUs or other national or Union institutions, bodies, offices and agencies who are involved in the carrying out of the tasks conferred on the Authority by this Regulation. The Administrative Board of ~~Review~~ **Appeal** shall have sufficient resources and expertise to assess the exercise of the powers of the Authority under this Regulation.
3. The Administrative Board of ~~Review~~ **Appeal** shall decide on the basis of a majority of at least three of its five members.

Article 61

*Members of the Administrative Board of ~~Review~~ **Appeal***

1. The members of the Administrative Board of Appeal and two alternates shall be appointed by the General Board in supervisory composition for a term of five years, which may be extended once, following a public call for expressions of interest published in the Official Journal of the European Union. They shall not be bound by any instructions.

The selection shall take into account the principles of gender balance, experience, qualification, and, to the extent possible, geographical balance.

2. The members of the Administrative Board of ~~Review~~ **Appeal** shall act independently and in the public interest and shall not perform any other duties within the Authority. For that purpose, they shall make a public declaration of commitments and a public declaration of interests indicating any direct or indirect interest which might be considered prejudicial to their independence or the absence of any such interest.
3. The members of the Administrative Board of ~~Review~~ **Appeal** shall not be removed from office or from the list of qualified candidates during their term of office, unless there are serious grounds for such removal

Article 62

AM977.

Decisions subject to ~~review~~ appeal

1. A request for ~~review~~ **appeal** may be brought before the Administrative Board of ~~Review~~ **Appeal** against decisions taken by the Authority pursuant to Articles 6(1), 20, 21, 22 **and 65** (AM977, De Lange) by any natural or legal person to whom the decision is addressed, or to whom it is of a direct and individual concern. **The filing of the appeal shall have suspensive effect.**
2. Any request for ~~review~~ **appeal** shall be made in writing, including a statement of grounds, and shall be lodged at the Authority within one month of the date of notification of the decision to the person requesting the **appeal**, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.
3. After ruling on the admissibility of the ~~review~~ **appeal**, the Administrative Board of ~~Review~~ **Appeal** shall express an opinion within a period appropriate to the urgency of the matter and no later than two months from the receipt of the request and remit the case for preparation of a new draft decision to the Executive Board. The Executive Board shall take into account the opinion of the Administrative Board of ~~Review~~ **Appeal** and shall promptly adopt a new decision. The new decision shall abrogate the initial decision **of the Executive Board**, replace it with a decision of identical content, or replace it with an amended decision.
54. The opinion expressed by the Administrative Board of ~~Review~~ **Appeal**, and the new decision adopted by the Executive Board pursuant to this Article, shall be reasoned and notified to the parties.
56. The Authority shall adopt a decision establishing the Administrative Board of ~~Review's~~ **Appeal's** operating Rules of Procedure.

Article 62a

Actions before the Court of Justice

1. **Actions for the annulment of the Authority's decisions taken pursuant to Article 6(1) and Articles 20, 21 and 22 may be brought before the Court of Justice of the European Union only after the appeal procedure within the Authority in accordance with Article 62 has been exhausted.**

2. An action taken pursuant to paragraph 1 may be brought on grounds of lack of competence, **an** incorrect or irregular decision, infringement of an essential procedural requirement, infringement of the Treaties, of this Regulation or of any legal rule relating to **their application** or misuse of power.
3. The Authority shall take the necessary measures to comply with the judgment of the General Court or, in the event of an appeal against that judgment, the Court of Justice.

Article 63

Exclusion and objection

1. The members of the Administrative Board of **Appeal** shall not take part in any **appeal** proceedings if they have any personal interest in the proceedings, if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the adoption of the decision under **appeal**.
2. If, for one of the reasons listed in paragraph 1 or for any other reason, a member of the Administrative Board of **Appeal** considers that he/she should not take part in any **appeal** proceeding, he/she shall inform the Administrative Board of **Appeal** accordingly.
3. Any party to the **appeal** proceedings may object to any member of the Administrative Board of **Appeal** on any of the grounds listed in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the **appeal** proceedings has taken a procedural step. No objection may be based on the nationality of members.
4. The Administrative Board of **Appeal** shall decide as to the action to be taken in the cases referred to in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking that decision, the member concerned shall be replaced on the Administrative Board of **Appeal** by his/her alternate.

RECITALS

- (47) To protect effectively the rights of parties concerned, for reasons of procedural economy and to reduce the burden on the Court of Justice of the European Union, the Authority should provide natural and legal persons with the possibility to request ~~a review~~ **an appeal** of decisions taken under the powers related to direct supervision and conferred on the Authority by this Regulation and addressed to them, or which are of direct and individual concern to them. The independence and objectivity of the decisions taken by the Administrative Board of ~~Review~~ **Appeal** should be, among others, ensured by its composition of five independent and suitably qualified persons. Decisions of the Administrative Board of ~~Review~~ **Appeal** should be in turn appealable before the Court of Justice of the European Union.

COMP S – Budget, staff and cooperation with other authorities.

AMs covered: BUDG 34, BUDG 35, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1009, 1010, 1011, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1033, 1034, 1035, 1039, 1040, 295, 296, 297, BUDG 14, BUDG 15, 298, 299, 301, 304, 305,

AMs falling: 980, 982, 983, 981, 984, 985, 181, 988, 986, 987, 989, 990, 992, 993, 995, CONT 78, CONT 79, CONT 80, 998, CONT 81, 999, AFCO 91, 182, CONT 82, 183, 1006, 1007, 1008, 184, 185, 186, 1012, 187, CONT 84, 188, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 189, 1029, 190, 1030, 191, 1031, 1033, 192, AFCO 93, CONT 85, 1032, 193, 1034, 194, 1035, AFCO 94, CONT 86, 195, AFCO 95, 1036, CONT 87, 1037, 196, AFCO 96, 1038, 1039, 1040, 1041, 1042, 1043, BUDG 14, 296, 43, 295, 297, 298, CONT 15, BUDG 17, AFCO 21, 299, 301, 300, CONT 16, 302, 303, CONT 17, AFCO 22, 304, 305, 45, 306, AFCO 23, 307, 308, 46

CHAPTER IV

FINANCIAL PROVISIONS

Article 64

BUDG 34.

Budget

1. Estimates of all revenue and expenditure for the Authority shall be prepared each financial year, corresponding to the calendar year, and shall be shown in the Authority's budget.
2. The Authority's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, the Authority's revenue shall consist of a combination of the following:
 - (a) a contribution from the Union entered in the general budget of the European Union;
 - (b) the fees paid by the selected and non-selected obliged entities in accordance with Article 65, for tasks mentioned in Article 5(1), points (b) and (c).
 - (c) any voluntary financial contribution from the Member States, **including from the Member State where the Authority's seat is located;**
 - (ca) **agreed charges for publications, training and for any other services provided by the Authority where they have been specifically requested by an obliged entity or non-obliged entity.**

The amount and origin of any revenue referred to in points (b), (c) and (ca) of the first sub-paragraph of this paragraph shall be included in the annual accounts of

the Authority and clearly detailed in the annual report on the Authority's budgetary and financial management referred to in Article 68(2). (BUDG AM34)

4. The expenditure of the Authority shall include staff remuneration, administrative and infrastructure expenses and operating costs.

Article 65

BUDG 35.

Fees levied on selected and non-selected obliged entities

1. The Authority shall levy an annual supervisory fee on all selected obliged entities referred to in Article 13 and on the non-selected obliged entities that meet the criteria of Article 12(1) and do not meet the criteria in Article 13(1) by one Member State. The fees shall cover expenditure incurred by the Authority in relation to the tasks related to supervision and referred to in Sections 3 and 4 of Chapter II. Those fees shall not exceed the expenditure relating to these tasks. Where these criteria are not fully respected in any given year, the necessary adjustments shall be made when calculating the fees for the two following years.
 - 1a. **The fees to be levied shall be calculated in such a way as to ensure sufficient and stable revenue for the Authority. (BUDG AM35)**
2. The amount of the fee levied on each obliged entity referred to in paragraph 1 shall be calculated in accordance with the arrangements established in the delegated act referred to in paragraph 6.
3. The fees shall be calculated at the highest level of consolidation in the Union.
4. The basis for calculating the annual supervisory fee for a given calendar year shall be the expenditure relating to the direct and indirect supervision of the selected and non-selected obliged entities subject to fees in that year. The Authority may require advance payments in respect of the annual supervisory fee, which shall be based on a reasonable estimate. The Authority shall communicate with the relevant financial supervisor before deciding on the final fee level so as to ensure that supervision remains cost-effective and reasonable for all financial sector obliged entities. The Authority shall communicate to respective financial sector obliged entities the basis for the calculation of the annual supervisory fee. Member States shall ensure that the obligation to pay the fees specified in this Article is enforceable under national law, and that due fees are fully paid.
5. This Article is without prejudice to the right of financial supervisors to levy fees in accordance with national law, to the extent supervisory tasks have not been conferred on the Authority, or in respect of costs of cooperating with and assisting the Authority and acting on its instructions, in accordance with relevant Union law.
6. The Commission is empowered to adopt a delegated act in accordance with Article 86 to supplement this Regulation by specifying the methodology for calculating the amount of the fee levied on each selected and non-selected obliged entity subject to fees in accordance with paragraph 1, and the procedure for collecting these fees. When

developing the methodology for determining the individual amount of fees the Commission shall take into account the following:

- (a) the total annual turnover or the corresponding type of income of the obliged entities at the highest level of consolidation in the Union in accordance with the relevant accounting standards;
- (b) the inherent AML/CFT risk profile classification of the obliged entities in accordance with the methodology referred to in Article 12(5);
- (c) the importance of the obliged entity to the stability of the financial system or economy of one or more Member States or of the Union;
- (d) the amount of fee to be collected from any non-selected obliged entity in proportion to its income or turnover referred to in point (a) , which shall not exceed 1/5 of the amount of fee to be collected from any selected obliged entity relative to same level of income or turnover.

The Commission shall adopt the delegated acts referred to in the first subparagraph by 1 January 2025.

Article 66

Establishment of the budget

1. Each year, the Executive Director shall draw up a draft statement of estimates of the Authority's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Executive Board.
2. The Executive Board shall, on the basis of that draft, adopt a provisional draft estimate of the Authority's revenue and expenditure for the following financial year.
3. The final draft estimate of the Authority's revenue and expenditure shall be sent to the Commission by 31 January each year.
4. The Commission shall send the statement of estimates to the budgetary authority together with the draft general budget of the European Union.
5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the Union the estimates it considers necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 TFEU.
6. The budgetary authority shall authorise the appropriations for the contribution to the Authority.
7. The budgetary authority shall adopt the Authority's establishment plan.
8. The Authority's budget shall be adopted by the Executive Board. It shall become final following final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.

Article 67

Implementation of the budget

1. The Executive Director shall implement the Authority's budget respecting the principles of economy, efficiency, effectiveness and sound financial management.
2. Each year, the Executive Director shall send to the budgetary authority all information relevant to the findings of evaluation procedures.

Article 68

Presentation of accounts and discharge

1. By 1 March of the following financial year (year N+1) the Authority's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's Accounting Officer and to the Court of Auditors.
2. By 31 March of the following financial year, the Authority shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

By 31 March of the following financial year, the Commission's accounting officer shall send the Authority's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.
3. On receipt of the Court of Auditors' observations on the Authority's provisional accounts pursuant to Article 246 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council¹, the Executive Board shall deliver an opinion on the Authority's final accounts.
4. The accounting officer shall, by 1 July of year N+1, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Executive Board's opinion.
5. A link to the pages of the website containing the final accounts of the Authority shall be published in the Official Journal of the European Union by 15 November of year N + 1.
6. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September of year N+1. The Executive Director shall also send this reply to the Executive Board.
7. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year N, in accordance with Article 261(3) of Regulation (EU, Euratom) 2018/1046.

¹ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

8. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 69

Financial rules

The financial rules applicable to the Authority shall be adopted by the Executive Board after consulting the Commission. They shall not depart from Commission Delegated Regulation (EU) 2019/715 unless such a departure is specifically required for the Authority's operation and the Commission has given its prior consent.

Article 70

Anti-fraud measures

1. For the purposes of combating fraud, corruption and any other illegal activity, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council as well as Article 86 of Regulation (EU) 2019/715 shall apply to the Authority without any restriction.
2. The Authority shall accede to the Interinstitutional Agreement concerning internal investigations by OLAF and shall immediately adopt appropriate provisions for all staff of the Authority.
3. The funding decisions, the agreements and the implementing instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may, where necessary, carry out on-the-spot checks on the beneficiaries of monies disbursed by the Authority.

Article 71

AM999.

IT Security

1. The Authority shall establish an internal IT governance at the level of the Executive Director which establishes and manages the IT budget and ensures regular reporting to the Executive Board on the compliance with applicable IT security rules and standards.
2. The **Authority** (AM999, Urtasun et al.) shall ensure that at least 10% of its IT expenditure is transparently allocated to direct IT security. The contribution to the Computer Emergency Response Team of the European Institutions, Bodies and Agencies (CERT-EU) may be counted in this minimum expenditure requirement.
3. An adequate IT security monitoring, detection and response service shall be established, using the services of CERT-EU. Major Incidents must be reported to CERT-EU as well as to the Commission within 24 hours of detection.

Article 72

AM1000, 1001, 1002, 1003, 1004, 1005, 1009, 1010, 1011.

Accountability and reporting

1. The Authority shall be accountable to the European Parliament and to the Council for the implementation of this Regulation. **The Authority shall also be financially accountable to the European Court of Auditors.** (AM1010, De Lange)
2. The Authority shall submit **and publish** (AM1002, Urtasun et al.) on an annual basis to the European Parliament, to the Council, and to the Commission a report on the execution of the tasks conferred on it by this Regulation, including information on the planned evolution of the structure and amount of the supervisory fees referred to in Article 66 **as well as on guidelines and recommendations it has issued in accordance with Article 43.** (AM1000, Daly; AM1001, Pereira) **The report shall be made public and shall include any relevant information requested by the European Parliament on an ad hoc basis.** The Chair of the Authority shall present that report in public to the European Parliament.
3. At the request of the European Parliament, the Chair of the Authority shall participate in a hearing on the execution of its tasks by the competent committees of the European Parliament. **A hearing shall take place at least annually.** (AM1004, Urtasun et al.) **At the request of the European Parliament,** (AM1003, Ferber et al.) **the Chair of the Authority shall make a statement before the relevant committees of the European Parliament and answer any questions from their members, whenever so requested.**
4. The Authority shall reply orally or in writing to questions put to it by the European Parliament **within four weeks of their receipt.** (AM1005, Ferber et al.)
 - 4a. Upon request, the Chair **of the Authority** shall hold confidential oral discussions behind closed doors with the **Members** of the competent committees of the European Parliament, **where such discussions are required for the exercise of the European Parliament's powers under the Treaties.** All participants shall respect the requirements of professional secrecy. (AM1009, Marques et al.)
 - 4b. Without prejudice to its confidentiality obligations stemming from participation in international fora, the Authority shall inform the European Parliament upon request about its contribution to a united, common, consistent and effective representation of the Union's interests in such international fora.

CHAPTER V

GENERAL AND FINAL PROVISIONS

SECTION 1

STAFF

Article 73

General provision

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Authority for all matters not covered by this Regulation.²

By way of derogation from paragraph 1, the Chair of the Authority, and the five members of the Executive Board referred to in Article 53 shall, respectively, be on a par with a Member and the Registrar of the General Court regarding emoluments and pensionable age, as defined in Council Regulation (EU) 2016/300². For aspects not covered by this Regulation or by Regulation (EU) 2016/300, the Staff Regulations and the Conditions of Employment shall apply by analogy.
3. The Executive Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations.
4. The Authority may make use of seconded national experts or other staff not employed by the Authority including FIU delegates.
5. The Executive Board shall adopt rules related to staff from Member States to be seconded to the Authority and update them as necessary. Those rules shall include, in particular, the financial arrangements related to those secondments, including insurance and training. Those rules shall take into account the fact that the staff is seconded and to be deployed as staff of the Authority. They shall include provisions on the conditions of deployment. Where relevant, the Executive Board shall aim to ensure consistency with the rules applicable to reimbursement of the mission expenses of the statutory staff.

Article 73a

Transitional provisions concerning staff

1. All members of staff under contract in the EBA carrying out tasks in the field of anti-money laundering and countering **the financing of terrorism** shall be offered the possibility of concluding temporary agent contracts pursuant to Article 2(a) of the

² Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L 58, 4.3.2016, p. 1).

Conditions of Employment of Other Servants at the various grades as set out in the Authority's establishment plan.

2. An internal selection limited to members of staff under contract in the EBA shall be carried out after the entry into force of this Regulation by the authority authorised to conclude contracts in order to check the ability, efficiency and integrity of **the applicants**. The internal selection procedure shall take full account of the skills and experience of **each** individual.
3. Depending on the type and level of functions to be performed, successful applicants shall be offered temporary agent contracts **ending at the same date as** their prior contract **or ending at a later date**.

Article 74

Privileges and immunities

Protocol (No 7) on the privileges and immunities of the TEU and to the TFEU shall apply to the Authority and its staff.

Article 75

Obligation of professional secrecy

1. Members of the General Board and the Executive Board, and all members of the staff of the Authority, including officials seconded by Member States on a temporary basis, and all other persons carrying out tasks for the Authority on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and Article 50 [OP please insert the next number to the AMLD, COM(2021)423], even after their duties have ceased.
2. The Executive Board shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, relating to the tasks of the Authority, including officials and other persons authorised by the Executive Board or appointed by the public authorities and FIUs for that purpose, are subject to requirements of professional secrecy equivalent to those in paragraph 1.
3. For the purpose of carrying out the tasks conferred on it by this Regulation, the Authority shall be authorised, within the limits and under the conditions set out in the acts referred to in Article 1(2), to exchange information with national or Union authorities and bodies in the cases where these acts allow financial supervisors to disclose information to those entities or where Member States may provide for such disclosure under the relevant Union law.
4. The Authority shall establish practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.
5. The Authority shall apply Commission Decision (EU, Euratom) 2015/444³.

³ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Article 76

Security rules on the protection of classified and sensitive non-classified information

1. The Authority shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in Commission Decisions (EU, Euratom) 2015/443⁴ and (EU, Euratom) 2015/444. The security rules of the Authority shall cover, inter alia, provisions for the exchange, processing and storage of such information. The Executive Board shall adopt the Authority's security rules following approval by the Commission.
2. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad-hoc release of EUCI to those authorities, shall be subject to the Commission's prior approval.

Article 76a

AM1013, 1014.

Protection of whistleblowers

1. **For the purpose of enhancing enforcement of [Funds transfer Regulation, AMLD 6 and AMLR], the Authority shall adopt rules establishing effective and reliable mechanisms ensuring a high level of protection of persons reporting breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420final] or Regulation [please insert reference to Funds Transfer Regulation] by obliged entities, or breaches of the national provisions transposing [please insert reference – proposal for 6th Anti-Money Laundering Directive -COM/2021/423 final] by competent authorities.**
The mechanisms referred to in the first subparagraph shall provide a level of protection of persons reporting breaches of [the Funds transfer Regulation, AMLD 6 or AMLR] equivalent to the level of protection of persons reporting breaches of Union law provided by Directive (EU) 2019/1937.
2. **Member States shall provide for effective, proportionate and dissuasive penalties applicable to natural or legal persons that:**
 - (a) **hinder or attempt to hinder reporting;**
 - (b) **retaliate against reporting persons referred to in the first subparagraph;**
 - (c) **bring vexatious proceedings against reporting persons referred to in the first subparagraph;**
 - (d) **breach the duty of maintaining the confidentiality of the identity of reporting persons.**
3. **Member States shall provide for effective, proportionate and dissuasive penalties applicable in respect of reporting persons where it is established that they knowingly reported or publicly disclosed false information. Member States shall**

⁴ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41)

also provide for measures for compensating damage resulting from such reporting or public disclosures in accordance with national law.

SECTION 2

COOPERATION

Article 77

AM1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024.

Cooperation with European Supervisory Authorities, the European Data Protection Supervisor and the European Data Protection Board

1. The Authority shall establish and maintain a close cooperation with the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority, **in particular when drafting regulatory technical standards, implementing technical standards, guidelines or recommendations within the remit of their respective tasks.** (AM1016, De Lange; AM1017, Urtasun et al.; AM1019, Marques et al.)
 - 1a. **By ... [12 months after the date of entry into force of this Regulation], the Authority shall conclude a memorandum of understanding with the authorities referred to in paragraph 1 setting out in general terms how they will cooperate and exchange information in the performance of their supervisory tasks under Union law in relation to selected obliged entities and non-selected obliged entities.** (AM1018, Marques et al.)
2. When drafting **regulatory technical standards, implementing technical standards, guidelines and recommendations** (AM1023, Marques et al.) having an impact (AM1024, Daly) on the protection of personal data, the Authority shall closely cooperate with the European Data Protection Board established by Regulation (EU) 2016/679 **and the European Data Protection Supervisor established by Regulation (EU) 2018/1725** (AM1022, Urtasun et al.) to avoid duplication, inconsistencies and legal uncertainty in the sphere of data protection.

Article 78

AM1025, 1026, 1027, 1028, 1029.

Cooperation with non-AML/CFT authorities

1. The Authority shall cooperate **and exchange information,** with the non-AML/CFT authorities **and, on a need-to-know and confidential basis, with other national authorities and bodies competent for ensuring compliance with Directive 2014/17/EU [consumer credit directive], Directive (EU) 2015/2366 [PSD], Directive 2009/110/EC [e-money Directive], Directive 2009/138/EC [Solvency II], Directive 2014/65/EU [Mifid II], and Regulation [MiCA] and the European**

Supervisory Authorities, within the boundaries of their respective mandates. (AM1025, Marques et al.; AM1026, Urtasun et al.; AM1027, Seekatz et al.)

2. The Authority (AM1028, Seekatz et al.) shall conclude a memorandum of understanding with the **non-AML/CFT** authorities, **the European Supervisory Authorities and the other national authorities and bodies competent for ensuring compliance with Regulation [MiCA]**, setting out in general terms how they will cooperate and exchange information in the performance of their supervisory tasks under Union law in relation to selected **and non-selected obliged entities**.

Where necessary, the Authority may conclude a memorandum of understanding with the other authorities referred to in paragraph 1 setting out in general terms how they will cooperate and exchange information in the performance of their supervisory tasks under Union law in relation to selected and non-selected obliged entities.

- 2a. By ... [12 months after the date of entry into force of this Regulation], the Authority and the European Central Bank shall conclude a memorandum of understanding setting out the practical modalities for cooperation and for exchanging information in the performance of their respective tasks under Union law. (AM1028, Seekatz et al.; AM1029, Marques et al.)
3. The Authority shall ensure effective cooperation and information exchange between all ~~financial supervisors~~ **supervisory authorities** in the AML/CFT supervisory system and the relevant authorities referred to in paragraph 1, including with regard to access to any information and data in central AML/CFT database referred to in Article 11.

Article 79

AM1033, 1034, 1035.

Cooperation in the context of **partnerships for information sharing in the field of AML/CFT**

- 1 Where relevant for the fulfilment of the tasks referred to in Sections 3 and 6 of Chapter II, the Authority may set up cooperation arrangements with selected obliged entities as well as **with** other obliged entities in the financial and non-financial sector. Those cooperation arrangements may also provide for the participation of supervisory authorities, FIUs, Europol, data protection authorities at national and Union level, as appropriate, **and, upon the unanimous consent of the participating parties, other relevant stakeholders**. The Authority shall ensure that those cooperation arrangements comply with the applicable data protection rules. (AM1033, Marques et al.)
 1. Where relevant for the fulfilment of the tasks referred to in Sections 3 and 6 of Chapter II, the Authority may **set up or** participate in existing cooperation arrangements established in one or across several Member States by supervisory authorities or FIUs, where such arrangements involve, inter alia, cooperation and information exchange between the aforementioned authorities and selected obliged entities. Participation of the Authority shall be subject to consent of the relevant authority that has established such arrangement **and in line with the applicable data protection rules**.
 - 1a. Where relevant for the fulfilment of the tasks referred to in Sections 3 and 6 of Chapter II, the Authority may participate in similar cooperation arrangements established by

other Union bodies, **including Europol, Eurojust, EPPO, OLAF, the European Central Bank, the Single Resolution Board, the European Supervisory Authorities, the European Data Protection Supervisor and the European Data Protection Board, with a view to preventing and fighting against money laundering, predicate offences and terrorist financing.**

Article 80

Cooperation with OLAF, Europol, Eurojust and the EPPO

1. The Authority may conclude working arrangements with Union institutions, Union decentralised agencies and other Union bodies, acting in the field of law enforcement and judicial cooperation. Those working arrangements may be of a strategic or technical nature, and shall in particular aim to facilitate cooperation and the exchange of information between the parties thereto. The working arrangements shall neither form the basis for allowing the exchange of personal data nor shall bind the Union or its Member States.
2. The Authority shall establish and maintain a close relationship with OLAF, Europol, Eurojust, and the EPPO. To that end, the Authority shall conclude separate working arrangements with OLAF, Europol, Eurojust, and the EPPO setting out the details of their cooperation. The relationship shall aim in particular to ensure the exchange of strategic information and trends in relation to money laundering and terrorist financing threats facing the Union.

To that end, Europol, Eurojust and the EPPO should have liaison officers based in the Authority's premises in order to ensure a smooth cooperation.

Article 81

AM1039, 1040.

Cooperation with third countries and international organisations

1. In order to achieve the objectives set out in this Regulation, and without prejudice to the respective competences of the Member States and the Union institutions, the Authority may develop contacts and enter into administrative arrangements with AML/CFT authorities in third countries that have regulatory, supervisory and FIU-related competences in the field of anti-money laundering and counter terrorism financing as well as with international organisations and third-country administrations. Those arrangements shall not create legal obligations in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral **or multilateral** arrangements with those third countries.
2. The Authority **shall** (AM1039, Marques et al.) develop model administrative arrangements, with a view to establishing consistent, efficient and effective practices within the Union and to strengthening international coordination and cooperation in the fight against money laundering and terrorist financing. The public authorities and FIUs shall make every effort to follow such model arrangements.

3. In cases where the interaction of several Union public authorities and FIUs with third country authorities concerns matters falling within the scope of the Authority's tasks as defined in Article 5, the Authority shall have a leading role in facilitating such interaction where necessary. This role of the Authority shall be without prejudice to the regular interactions by competent authorities **and FIUs** with third-country authorities. (AM1040, Pereira)
4. The Authority shall, within its powers pursuant to this Regulation and to the legislative acts referred to in Article 1(2), contribute to the united, common, consistent and effective representation of the Union's interests in international fora, including by assisting the Commission in its tasks relating to Commission's membership of the Financial Action Task Force and by supporting the work and objectives of the Egmont Group of Financial Intelligence Units.

RECITALS

- (48) **It is necessary to provide the Authority with the requisite human and financial resources so that it can fulfil its objectives, tasks and responsibilities under this Regulation. (AM295, Urtasun et al.; AM296, Strugariu et al.; AM297, Chinnici; BUDG AM14) In order to ensure that the Authority can respond flexibly to human resource needs, it is in particular appropriate that it has autonomy regarding the recruitment of contract agents, (BUDG AM14)** To guarantee the proper functioning of the Authority, funding should be provided, **depending on the tasks and functions**, by a combination of fees levied on certain obliged entities and a contribution from the Union budget; ~~depending on the tasks and functions~~. The budget of the Authority should be part of the Union budget. **The contribution from the Union budget is to be decided** by the Budgetary Authority **through the budgetary procedure. To that end**, the Authority should **submit to the Commission a statement of estimates. It should also adopt financial rules after consulting the Commission.** (BUDG AM14).
- (49) To ensure that the Authority can also fulfil its tasks as direct and indirect supervisor of obliged entities, an adequate mechanism for the determination and the collection of the fees should be introduced. As regards the fees levied on selected obliged entities and certain non-selected obliged entities, the methodology for their calculation and the process of collection of fees should be developed in a delegated act of the Commission. The methodology should be based on the risk of the directly and indirectly supervised entities as well as their turnover or revenue. **The methodology established should ensure sufficient and stable revenue for the Authority, ensuring the predictability of the contribution from the Union budget, in order to enable the Authority with the duties it is entrusted to.** (BUDG AM15; AM298, Urtasun et al.)
- (50) The rules on establishment and implementation of the budget of the Authority, as well as the presentation of annual accounts of the Authority, should follow the provisions of Commission Delegated Regulation (EU) 2019/715⁵ as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations.

⁵ Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

- (51) In order to prevent and effectively combat internal fraud, corruption or any other illegal activity within the Authority, it should be subject to Regulation (EU, Euratom) No 883/2013 as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations. The Authority should accede to Interinstitutional Agreement concerning internal investigations by OLAF, which should be able, to carry out on-the-spot checks within the area of its competence.
- (52) As stated in the Cybersecurity Strategy for the European Union⁶, it is essential to ensure a high level of cyber resilience in all EU institutions, bodies and agencies due to the increasingly hostile threat environment. The Executive Director must thus ensure appropriate IT risk management, a strong internal IT governance and sufficient IT security funding. The Authority shall work closely with the Computer Emergency Response Team of the European Union Institutions, Bodies and Agencies and report major incidents with 24 hours to CERT EU as well as to the Commission.
- (53) The Authority should be accountable to both the European Parliament and the Council for the execution of its tasks and implementation of this Regulation. The Chair of the Authority should present a respective report to the European Parliament, the Council and the Commission on a yearly basis.
- (54) The staff of the Authority should be composed of temporary agents, contractual agents and seconded national experts as well as national delegates placed at the disposition of the Authority by Union FIUs. The Authority, in agreement with the Commission, should adopt the relevant implementing measures in accordance with the arrangements provided for in Article 110 of the Staff Regulations⁷.
- (55) To ensure that confidential information is treated accordingly, all members of the governing bodies of the Authority, all staff of the Authority, including seconded staff and staff placed at the disposition of the Authority, as well as any persons carrying out tasks for the Authority on a contractual basis, should be subject to obligation of professional secrecy, including any confidentiality restrictions and obligations stemming from the relevant provisions of Union legislation, and related to the specific tasks of the Authority. However, confidentiality and professional secrecy obligations should not prevent the Authority from cooperating with, exchanging or disclosing information to other relevant national or Union authorities or bodies, where it is necessary for the performance of their respective tasks and where such cooperation and exchange of information obligations are envisaged in Union law.
- (56) Without prejudice to the confidentiality obligations that apply to the Authority's staff and representatives in accordance with the relevant provisions in Union law, the Authority should be subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council.⁸ In line with the confidentiality and professional secrecy restrictions related to supervisory and FIU support and coordination tasks of the Authority, such access should not be extended to confidential information handled by the staff of the Authority. In particular, any operational data or information related to such operational data of the Authority and of the EU FIUs that is in the possession of

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52013JC0001>.

⁷ Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385).

⁸ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

the Authority due to carrying out the tasks and activities related to support and coordination of FIUs should be deemed as confidential. With regard to supervisory tasks, access to information or data of the Authority, the financial supervisors, or the obliged entities obtained in the process of carrying out the tasks and activities related to direct supervision should in principle also be treated as confidential and not subject to any disclosure. However, confidential information listed that relates to a supervisory procedure can be fully or partially disclosed to the obliged entities which are parties to such supervisory procedure, subject to the legitimate interest of legal and natural persons other than the relevant party, in the protection of their business secrets.

- (57) Without prejudice to any specific language arrangements that could be adopted within AML supervisory system and with selected obliged entities, Council Regulation No 1⁹ should apply to the Authority and any translation services which may be required for the functioning of the Authority should be provided by the Translation Centre for the Bodies of the European Union.
- (58) Without prejudice to the obligations of the Member States and their authorities, the processing of personal data on the basis of this Regulation for the purposes of the prevention of money laundering and terrorist financing should be considered necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Authority under Article 5(1)(a) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁰ and Article 6(1)(b) of Regulation (EU) 2016/679 of the European Parliament and of the Council¹¹, or when necessary for complying with a legal obligation to which the controller is subject pursuant to Article 5(1)(b) of Regulation (EU) 2018/1725 or Article 6(1)(c) of Regulation (EU) 2016/679. When developing any instruments or taking any decisions that may have an impact on the protection of personal data, the Authority should consult (AM299, Chinnici; AM301, Daly) the European Data Protection Board established by Regulation (EU) 2016/679 and with the European Data Protection Supervisor established by Regulation (EU) 2018/1725 to avoid duplication.
- (58a) **The Authority should put in place effective and reliable mechanisms to encourage the reporting of potential and actual breaches of Regulation [please insert reference to Funds Transfer Regulation], Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] by obliged entities or breaches of [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] by obliged entities, supervisory authorities, FIUs and authorities competent for the implementation of targeted financial sanctions. For that purpose, the Authority should ensure a a high level of protection of the persons reporting those breaches, at least equivalent to the level of protection of persons reporting breaches of Union law provided by Directive (EU) 2019/1937.** (58b) **Member States should ensure that individuals,**

⁹ Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ L 7, 6.10.1958, p. 385).

¹⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

¹¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

including employees and representatives of the obliged entity, supervisory authorities, FIUs or authorities competent for the implementation of targeted financial sanctions who report to the Authority actual or potential breaches of Regulation [please insert reference to Funds Transfer Regulation], Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420final] or breaches of [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], are legally protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions. Member States should also ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting to the Authority actual or potential breaches of Regulation [please insert reference to Funds Transfer Regulation], Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420final] or breaches of [please insert reference – proposal for 6th Anti-Money Laundering Directive -COM/2021/423 final], are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States should ensure that such individuals have the right to an effective remedy to safeguard their rights in accordance with the Union law. In accordance with Article 23 of the Directive (EU) 2019/1937 of the European Parliament and of the Council Member States should also provide for proportionate and dissuasive penalties applicable in respect of reporting persons where it is established that they knowingly reported or publicly disclosed false information.

- (59) The Authority should establish cooperative relations with the relevant Union agencies and bodies, including Europol, Eurojust, the EPPO, and the European Supervisory Authorities, namely the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority. To improve cross-sectoral supervision and a better cooperation between prudential and AML/CFT supervisors the Authority should also establish cooperative relations with the authorities competent for prudential supervision of financial sector obliged entities, including the European Central Bank with regard to matters relating to the tasks conferred on it by Council Regulation (EU) No 1024/2013¹², as well as with resolution authorities as defined in Article 3 of Directive (EU) 2014/59/EU of the European Parliament and the Council¹³ and designated Deposit Guarantee Schemes authorities as defined in Article 2 (1), point 18 of Directive 2014/49/EU of the European Parliament and the Council¹⁴. To this end, the Authority should be able to conclude agreements or memoranda of understanding with such bodies, including with regard to any information exchange which is necessary for the fulfilment of the respective tasks of the Authority and these bodies. The Authority should make its best efforts to share information with

¹² Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

¹³ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

¹⁴ Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

such bodies on their request, within the limits posed by legal constraints, including data protection legislation. In addition, the Authority should enable effective information exchange between all financial supervisors in the AML/CFT supervisory system and the aforementioned authorities, such cooperation and information exchanges should take place in a structured and efficient way.

- (60) Public-private partnerships ('PPPs') have become increasingly important cooperation and information exchange fora between FIUs, various national supervisory and law enforcement authorities and obliged entities in some Member States. Where the Authority would act as direct supervisor of selected obliged entities which are part of a PPP in any Member State, it could be beneficial for the Authority to also participate therein, on conditions determined by the relevant national public authority or authorities that set up such PPP, and with their explicit agreement.
- (60a) **The Authority should be able to set up cooperation arrangements with FIUs, selected obliged entities as well as other obliged entities in the financial and non-financial sector. Those cooperation arrangements should also be able to provide for the participation of supervisory authorities, FIUs, Europol and data protection authorities at national and Union level. (AM304, Strugariu et al.; AM305, Beck)**
- (61) Considering that cooperation between supervisory, administrative and law enforcement authorities is crucial for successful combatting of money laundering and terrorism financing, and certain Union authorities and bodies have specific tasks or mandates in that area, the Authority should make sure that it is able to cooperate with such authorities and bodies, in particular OLAF, Europol, Eurojust, and the EPPO. If there is a need to establish specific working arrangements or conclude Memoranda of Understanding between the Authority and these bodies and authorities, the Authority should be able to do so. The arrangement should be of strategic and technical nature, should not imply sharing of any confidential or operational information in possession of the Authority and should account for tasks already carried out by the other Union institutions, bodies, offices or agencies as regards the prevention of and fight against money laundering and terrorist financing.
- (62) Since both predicate offenses as well as the crime of money laundering itself often are of global nature, and given that the Union obliged entities also operate with and in third countries, effective cooperation with all the relevant third country authorities in the areas of both supervision and functioning of FIUs are crucial for strengthening the Union AML/CFT framework. Given the Authority's unique combination of direct and indirect supervision and FIU cooperation-related tasks and powers, it should be able to take an active role in such external cooperation arrangements. Specifically, the Authority should be empowered to develop contacts and enter into administrative arrangements with authorities in third countries that have regulatory, supervisory and FIU-related competences. The Authority's role could be particularly beneficial in cases where the interaction of several Union public authorities and FIUs with third country authorities concerns matters within the scope of the Authority's tasks. In such cases, the Authority should have a leading role in facilitating this interaction.
- (62a) **It is essential that the Union joins global efforts in fighting money laundering and terrorist financing, notably the work carried out by international organisations active in the field of AML/CFT such as the Financial Action Task Force (FATF). The Commission endorsed, on behalf of the Union, the Ministerial Declaration of the FATF, as well as the revised FATF Mandate at the 12 April 2019 FATF Ministerial Meeting.**

As a member of FATF, the Commission should ensure a united, common, consistent and effective representation of the Union's interests in FATF. Given its tasks and powers in the field of AML/CFT, the Authority should contribute to the representation of the Union and defence of its interests in international fora, including by assisting the Commission in its tasks relating to the Union membership of the FATF and by supporting the work and objectives of the Egmont Group of FIUs and of MONEYVAL, among others.

COMP T – Final provisions.

AMs covered: 1044, 1045, 1046, 1048, 1052, 1053, 1056, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1066, BUDG 36

AMs falling: 1056, 1057, AFCO 98, CONT 90, 1058, 1059, 199, AFCO 99, CONT 91, CONT 92, 1060, 1061, 1062, 1063, CONT 93, 1064, 1065, 1066, BUDG 36, CONT 95, 1067, 1068, 1069, 1070, CONT 18, CONT 19, 310, AFCO 24, BUDG 18, 311, 312, AFCO 25

SECTION 3

GENERAL AND FINAL PROVISIONS

Article 82

Access to documents

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Authority.
2. Decisions taken by the Authority under Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 TFEU, respectively.
3. The right of access to documents shall not apply to confidential information comprising:
 - (a) information or data of the Authority, the financial supervisors, or the obliged entities obtained in the process of carrying out the tasks and activities referred to in Article 5(2) and Section 3 of Chapter II;
 - (b) any operational data or information related to such operational data of the Authority and of the FIUs that is in the possession of the Authority due to carrying out the tasks and activities referred to in Article 5(5) and Section 6 of Chapter II.
4. The confidential information referred to in paragraph 3, point (a), that relates to a supervisory procedure can be fully or partially disclosed to the obliged entities which are parties to that supervisory procedure, subject to the legitimate interest of natural and legal persons other than the relevant party, in the protection of their business secrets. This access shall not extend to internal documents of the Authority, financial supervisors, or correspondence between them.
5. The Executive Board shall adopt practical measures for applying Regulation (EC) No 1049/2001 and the rules regarding disclosure of information relating to supervisory procedures.

Article 83

General language arrangements

1. Council Regulation No 1 shall apply to the Authority.
2. The Executive Board shall decide on the internal language arrangements for the Authority, which shall be consistent with the language arrangements in direct supervision, adopted pursuant to Article 27.
3. The translation services required for the functioning of the Authority shall be provided by the Translation Centre for the Bodies of the European Union, as established by Council Regulation (EC) No 2965/94¹⁵.

Article 84

AM1044, 1045, 1046, 1048.

Data protection

1. The processing of personal data on the basis of this Regulation for the purposes of the prevention of money laundering and terrorist financing as referred to in Article 53 [OP please insert the next number to the AMLD, COM(2021)423] and Article 55 of [OP please insert the next number to the AMLR, COM(2021)420] shall be considered necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Authority under Article 5 of Regulation (EU) 2018/1725 and Article 6 of Regulation (EU) 2016/679.

When **carrying out its activities under this Regulation and other applicable Union law** having an impact on the protection of personal data, the Authority shall consult (AM1044, Daly; AM1045, Chinnici; AM1046, Urtasun et al.) the European Data Protection Supervisor. The Authority may also invite **the European Data Protection Board and individual** (AM1044, Daly) national data protection authorities as observers in the process of drafting guidelines and recommendations **in accordance with Article 43**. (AM1046, Urtasun et al.)

2. In accordance with Article 25 of Regulation (EU) 2018/1725, the Authority **may** (AM1048, Daly) adopt internal rules which may restrict the application of the rights of the data subjects where such restrictions are necessary to the performance of the tasks referred in Article 53 [AMLD] and Article 55 of [AMLR].

Article 85

Liability of the Authority

1. In the case of non-contractual liability, the Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its staff in the performance of their duties. The Court of Justice of

¹⁵ Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1).

the European Union shall have jurisdiction in any dispute over the remedying of such damage.

2. The personal financial liability and disciplinary liability of Authority staff towards the Authority shall be governed by the relevant provisions applying to the staff of the Authority.

Article 86

AM1052.

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 25 and Article 65 shall be conferred on the Commission for an indeterminate period of time from [OP please insert the date = 6 months after the date of entry into force of this Regulation].
3. The power to adopt delegated acts referred to in Article 25 and Article 65 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 25 and Article 65 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ~~one month~~ **three months** of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ~~one month~~ **three months** at the initiative of the European Parliament or of the Council. (AM1052, Ferber)

Article 87

AM1053

Headquarters Agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the Authority in the Member State where its seat is located and the facilities to be made available by that Member State, as well as the specific rules applicable in that Member State to the staff of the Authority and members of their families, shall be laid down in

a Headquarters Agreement **to be concluded** between the Authority and that Member State after obtaining the approval of the Executive Board. (AM1053, Urtasun et al.)

2. The Authority's host Member State shall provide the best possible conditions to ensure the proper functioning of the Authority, including multilingual, European-oriented schooling and appropriate transport connections.

Article 88

AM1056, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1066, BUDG 36.

Evaluation and review

1. By 31 December 2029, and every five years thereafter, the Commission shall assess the Authority's performance in relation to its objectives, mandate **and** tasks, **based on objective criteria to be included in an evaluation**. (AM1056, Urtasun et al.) The evaluation shall, in particular, address:
 - (a) the possible need to amend the mandate of the Authority, and the financial implications of any such modification;
 - (b) the impact of all supervisory activities and tasks of the Authority on the interests of the Union as a whole, and specifically the effectiveness of:
 - (i) supervisory tasks and activities related to direct supervision of selected obliged entities;
 - (ii) indirect supervision of non-selected obliged entities;
 - (iii) indirect oversight of other obliged entities;
 - (c) the impact of the activities **and technologies** (AM1059, Urtasun et al.) related to support and coordination of FIUs **on preventing ML/TF**, and in particular the coordination of the joint analyses of cross-border activities and transactions conducted by FIUs **and the successful follow-up to those joint analyses in preventing and combatting ML/TF**;
 - (ca) **the appropriateness of enlarging the scope of the oversight of the non-financial sector, particularly of the procedures and thresholds for the AML colleges in the non-financial sector and the establishment of a step-in procedure for the non-financial entities similar to those laid down in Articles 30 and 30a**; (d) the impartiality, objectivity and autonomy of the Authority;
 - (e) the appropriateness of governance arrangements, including the composition of, and voting arrangements in, the Executive Board and its relation with the General Board,
 - (f) the cost effectiveness of the Authority, if appropriate, separately in relation to its distinct sources of funding;
 - (g) the effectiveness of the recourse mechanism against decisions of the Authority and the independence and accountability arrangements applicable to the Authority;

- (h) the effectiveness of cooperation and information sharing arrangements between the Authority and non-AML authorities;
 - (i) the interaction between the Authority and the other Union supervisory authorities and bodies, including the EBA, the Europol, Eurojust, OLAF and the EPPO;
 - (ia) **the scope of direct supervision and the criteria, including the appropriateness of the procedures and thresholds, for the direct selection of supervised obliged entities;** (AM1058, Urtasun et al.; AM1060, Ferber et al.; AM1061, Marques et al.)
 - (j) the effectiveness of the Authority's supervisory and sanctioning powers;
 - (k) effectiveness and convergence in supervisory practices reached by supervisory authorities and the role of the Authority therein.
2. The report referred to in paragraph 1 shall also examine whether:
- (a) the resources of the Authority are adequate to carry out its responsibilities;
 - (b) it is appropriate to confer additional supervisory tasks regarding non-financial sector obliged entities, specifying, the types of entities that should be subject to additional supervisory tasks; (AM1062, Ferber et al.)
 - (c) it is appropriate to confer additional tasks in the area of support and coordination of the work of FIUs, **including the mandate for further developing a one-stop-shop platform within FIU.net to be used by obliged entities to submit suspicious transaction and activity reports to FIUs concerned;** (AM1063, Marques et al.; AM1064, Urtasun et al.)
 - (d) it is appropriate to confer on the Authority additional sanctioning powers.
3. On the occasion of every second evaluation, **the Commission shall conduct a thorough review** of the results achieved by the Authority having regard to its objectives, mandate, tasks **and powers.** (AM1065, Urtasun et al.) **The review shall have due regard to the effectiveness of the Union's AML/CFT framework as a whole and to the Authority's cooperation with other bodies and agencies (AM1066, Chinnici; BUDG AM36).**
4. The report and any accompanying proposals, as appropriate, shall be forwarded to the European Parliament and to the Council.

Article 89

Amendments to Regulation (EU) No 1093/2010

Regulation (EU) No 1093/2010 is amended as follows:

- (1) Article 1 is amended as follows:
 - (a) in paragraph 2, the second subparagraph is deleted;
 - (b) in paragraph 5, point (h) is deleted;
- (2) Article 4 is amended as follows:
 - (a) point (1a) is deleted;

- (b) In point (2), point (iii) is deleted;
- (3) In Article 8(1), point (1) is deleted;
- (4) Articles 9a and 9b are deleted;
- (5) in Article 17, paragraph 6 is replaced by the following:

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

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

- (6) in Article 19, paragraph 4 is replaced by the following:

‘4. Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the decision of the Authority, and thereby fails to ensure that a financial institution complies with requirements directly applicable to it by virtue of the legislative acts referred to in Article 1(2) of this Regulation, the Authority may adopt an individual decision addressed to that financial institution requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice.’;

- (7) in Article 33(1), the second subparagraph is deleted;
- (8) in Article 40(1), the following point (g) is added:

‘(g) one representative of the Authority for Anti-Money Laundering and Countering the Financing of Terrorism, who shall be non-voting.’;

- (9) in Article 81, paragraph 2b is deleted.

Article 90

Amendments to Regulation (EU) No 1094/2010

Regulation (EU) No 1094/2010 is amended as follows:

- (1) in Article 1(2), the second subparagraph is deleted;
- (2) in Article 40(1), the following point is added:

‘(f) one representative of the Authority for Anti-Money Laundering and Countering the Financing of Terrorism, who shall be non-voting.’;

- (3) In Article 54, paragraph 2a is deleted.

Article 91

Amendments to Regulation (EU) No 1095/2010

Regulation (EU) No 1095/2010 is amended as follows:

- (1) in Article 1(2), the second subparagraph is deleted;
- (2) in Article 40(1), the following point is added:
'(f) one representative of the Authority for Anti-Money Laundering and Countering the Financing of Terrorism, who shall be non-voting.'
- (3) In Article 54, paragraph 2a is deleted.

Article 92

Commencement of the Authority's activities

The Commission shall be responsible for the establishment and initial operation of the Authority until the date on which the Authority becomes operational, which shall be 1 January 2024 in accordance with Article 93. For that purpose:

- (a) the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director until the Authority has the capacity to implement its own budget and the Executive Director has taken up his or her duties following his or her appointment by the Executive Board in accordance with Article 58;
- (b) by derogation from Article 53(4) and until the adoption of a decision as referred to in Article 58, the interim Executive Director shall exercise the appointing authority power;
- (c) the Commission may offer assistance to the Authority, in particular by seconding Commission officials to carry out the activities of the Authority under the responsibility of the interim Executive Director or the Executive Director;
- (d) the interim Executive Director may authorise all payments covered by appropriations entered in the Authority's budget after approval by the Executive Board and may conclude contracts, including staff contracts, following the adoption of the Authority's establishment plan.

Article 93

Entry into force and application

This Regulation shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2025.

However, Articles 1, 4, 38, 42, 43, 44, 46, 56, 58, 86 and 87 shall apply from 1 January 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

RECITALS

- (63) Since the Authority will have a full range of powers and tasks related to direct and indirect supervision and oversight of all obliged entities, it is necessary that these powers remain consolidated within one Union body, and do not give rise to conflicting competences with other Union bodies. Therefore, the European Banking Authority should not retain its tasks and powers related to anti-money laundering and countering the financing of terrorism, and the respective articles in Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁶ should be deleted. The resources allocated to the European Banking Authority for the fulfilment of those tasks should be transferred to the Authority. Considering that all three European Supervisory Authorities (EBA, ESMA and EIOPA) will be cooperating with the Authority, and may attend the meetings of the General Board in supervisory composition as observers, the same possibility should be afforded to the Authority in respect of meetings of the Board of Supervisors of the European Supervisory Authorities. In cases where the respective Boards of Supervisors discuss or decide on matters that are relevant for the execution of the Authority's tasks and powers, the Authority should be able to participate in their meetings as an observer. The articles on the compositions of the Board of Supervisors in Regulation (EU) No 1093/2010, Regulation (EU) 1094/2010 of the European Parliament and the Council¹⁷, and Regulation (EU) 1095/2010 of the European Parliament and the Council¹⁸ should therefore be amended accordingly.
- (64) The Authority should be fully operation by the beginning of 2024. This should give the Authority sufficient time to establish its headquarter in the Member State as determined by this Regulation.
- (65) The European Data Protection Supervisor has been consulted in accordance with Article 42 of Regulation (EU) 2018/1725 [and delivered an opinion on ...],

¹⁶ 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 (OJ L 331, 15.12.2010, p. 12).

¹⁷ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

¹⁸ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).