

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank, (AM201, Marques et al.)

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the European Data Protection Supervisor²,

Acting in accordance with the ordinary legislative procedure,

HAVE ADOPTED THIS REGULATION:

COMP A – establishment, legal status, definitions and seat.

AMs covered: 201, 316,317,318, 319, 320, 321, 325, 327, 328, 329, 330, 332, 333, 334, 335, 336, 344, 345, 346, 347 348, 349, 350, 351, 203, 202, 205, 209, 211, 214, 215, 216, 217, 218

AMs falling: 313, 314, 315, BUDG 19, CONT 21, AFCO 26, 323, 322, 324, 326, CONT 22, AFCO 27, 331, 337, 338, 339, 47, 340, 341, 342, 343, 48

¹ OJ C , , p. .
² [add reference] OJ C , , p. .

CHAPTER I

ESTABLISHMENT, LEGAL STATUS AND DEFINITIONS

Article 1

AM316, 317, 318.

Establishment and scope of action

1. The Authority for Anti-Money Laundering and Countering the Financing of Terrorism ('the Authority') is established as of 1 January 2023.
2. The Authority shall act within the powers conferred by this Regulation, in particular those set out in Article 6, and within the scope of Regulation (EU) 2015/847 of the European Parliament and of the Council³, the Directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU)2015/849 [OP: please insert the next number of COM(2021)423] and the Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [OP: please insert the next number of COM(2021)422], including all directives, regulations and decisions based on those acts, of any further legally binding Union act which confers tasks on the Authority and of national legislation implementing the Anti-Money Laundering Directive [OP: please insert the next number of COM(2021)423] or other Directives conferring tasks on supervisory authorities.
3. The objective of the Authority shall be to protect the public interest, the stability **and integrity** (AM316, Marques et al.) of the Union's financial system and the good functioning of the internal market by:
 - (a) preventing the use of the Union's financial system for the purposes of money laundering and terrorist financing;
 - (b) contributing to identify and assess risks **and threats** (AM318, Chinnici) of money laundering, **especially of the broader and more complex schemes associated with criminal organisations**, (AM317, Schirdewan) and terrorist financing across the internal market, as well as risks and threats originating from outside the Union that are impacting, or have the potential to impact the internal market;
 - (c) ensuring high-quality supervision in the area of anti-money laundering and countering the financing of terrorism ('AML/CFT') across the internal market;
 - (d) contributing to supervisory convergence in the area of anti-money laundering and countering the financing of terrorism across the internal market;

³ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

- (e) contributing to the harmonisation of practices in the detection of cross-border suspicious flows of monies or activities by Financial Intelligence Units ('FIUs');
- (f) supporting and coordinating the exchange of information between FIUs and between FIUs and others competent authorities.

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

Article 2

AM319, 320, 321, 325, 327, 328, 329, 330, 332, 333, 334, 335, 336.

Definitions

1. For the purposes of this Regulation, in addition to the definitions set out in Article 2 of [OP: please insert the reference to Anti-Money Laundering Regulation COM(2021)420] and Article 2 [OP: please insert the reference to 6th Anti-Money Laundering Directive COM(2021)423], the following definitions apply:
 - (1) 'selected obliged entity' means a credit institution, a financial institution, or a group of credit or financial institutions at the highest level of consolidation in the Union, (AM319, Schirdewan; AM320, Castaldo et al.; AM321, Marques et al.), which is under direct supervision by the Authority pursuant to Article 13;
 - (2) 'non-selected obliged entity' means a credit institution, a financial institution, or a group of credit institutions or financial institutions at the highest level of consolidation in the Union, (AM325, Schirdewan; AM327, Marques et al.; AM328, Strugariu et al.), other than a selected obliged entity;
 - (2a) '**obliged entities in the non-financial sector**' means **obliged entities listed in Article 3 [please insert reference to the AMLR], other than credit institution, a financial institutions, or a group of credit institutions or financial institutions at the highest level of consolidation in the Union** (AM329, Marques et al.);
 - (3) 'AML/CFT supervisory system' means the Authority and the supervisory authorities in the Member States;
 - (3a) '**financial supervisor**' means **a supervisor in charge of credit and financial institutions** (AM330, Marques et al.);
 - (4) 'non-financial supervisor' means a supervisor in charge of obliged entities listed in Article 3 of [AMLR], other than credit and financial institutions.
 - (5) 'non-AML/CFT authority' means:
 - (a) a competent authority as defined in Article 4(1), point (40) of Regulation (EU) No 575/2013 of the European Parliament and of the Council

- (b) the European Central Bank when it carries out the tasks conferred on it by Council Regulation (EU) No 1024/2013;
 - (c) a resolution authority designated in accordance with Article 3 of Directive 2014/59/EU of the European Parliament and of the Council;
 - (d) a deposit guarantee schemes ('DGS') designated authority as defined in Article 2(1), point (18) of Directive 2014/49/EU of the European Parliament and of the Council.
- (5a) **'highest level of consolidation in the Union' means the highest level at which a group, including all its subsidiaries and branches within and outside the Union, is consolidated within the Union, as determined in accordance with Part One, Title II, Chapter 2, Section 1 of Regulation (EU) No 575/2013 of the European Parliament and of the Council^{1a}.**

Article 3

Legal Status

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

Article 4

AM344, 345, 346, 347, 348, 349, 350, 351.

Seat

1. The Authority shall have its seat in [...]

The choice of the location of the seat of the Authority **will be made in accordance with the ordinary legislative procedure, based on the following criteria:**

- (a) it shall not affect the Authority's execution of its tasks and powers, the organisation of its governance structure, the operation of its main organisation, or the main financing of its activities; (AM345, Chinnici; AM346, Urtasun et al.; AM348, Simon et al.; AM349, Eroglu et al.)
- (b) it shall ensure that the Authority is able to recruit the high-qualified and specialised staff it requires to perform the tasks and exercise the powers provided by this Regulation; (AM345, Chinnici; AM346, Urtasun et al.; AM348, Simon et al.; AM349, Eroglu et al.; AM350, Tardino et al.)
- (c) it shall ensure that it can be set up on site upon the entry into force of this Regulation; (AM345, Chinnici; AM346, Urtasun et al.; AM348, Simon et al.; AM349, Eroglu et al.; AM350, Tardino et al.)

- (d) it shall ensure appropriate accessibility of the location, the existence of adequate education facilities for the children of staff members, appropriate access to the labour market, social security and medical care for both children and spouses; (AM345, Chinnici; AM346, Urtasun et al.; AM348, Simon et al.; AM349, Eroglu et al.; AM350, Tardino et al.)
- (da) **it shall ensure a balanced geographical distribution of EU institutions, bodies and agencies across the Union;** (AM344, Chinnici; AM346, Urtasun et al.; AM351, Gualmini et al.)
- (db) **it shall ensure its national AML/CFT framework is of a proven quality and repute, and shall benefit from the experience of national authorities;** (AM345, Chinnici; AM346, Urtasun et al.; AM350, Tardino et al.; AM351, Gualmini et al.)
- (dc) **it shall enable adequate training opportunities for AML/CFT activities;** (AM345, Chinnici; AM346, Urtasun et al.)
- (dd) **it shall enable close cooperation with EU institutions, bodies and agencies;** (AM348, Simon et al.; AM349, Eroglu et al.)
- (de) **it shall ensure sustainability and digital security and connectivity with regards to physical and IT infrastructure and working conditions.** (AM345, Chinnici; AM348, Simon et al.; AM349, Eroglu et al.)

RECITALS

- (1) Experience with the current Anti-Money Laundering and Countering the Financing of Terrorism (AML/CTF) framework, which heavily relies on the national implementation of AML/CFT measures, has disclosed weaknesses not only with regard to the efficient functioning of the AML/CFT framework of the Union but also with regards to integrating international recommendations. Those weaknesses lead to the emergence of new obstacles to the proper functioning of internal market both due to the risks within the internal market as well as external threats facing the internal market.
- (2) Cross-border nature of crime, **especially organised crime,** (AM203, Chinnici) and criminal proceeds endanger Union financial system efforts relating to prevention of money laundering and financing of terrorism. Those efforts have to be tackled at Union level through the creation of an Authority responsible for contributing to the implementation of harmonised rules. In addition, the Authority should pursue a harmonised approach to strengthen the Union's existing AML/CFT preventive framework, and specifically AML supervision and cooperation between FIUs. That approach should reduce divergences in national legislation and supervisory practices and introduce structures that benefit the smooth functioning of the internal market in a determined manner and should, consequently, be based on Article 114 TFEU. **Moreover, it should strengthen the financial system's resilience by tackling ML/TF risks, including those originating from third countries.** (AM202, Benjumea)
- (3) Therefore, a European Authority for anti-money laundering and countering the financing of terrorism, the Anti-Money Laundering Authority ('the Authority') should be established. The creation of this new Authority is crucial to ensure efficient and adequate supervision of obliged entities **that pose a high risk with regards to** (AM205, Benjumea) Money Laundering/Terrorist Financing (ML/TF) risk, strengthening

common supervisory approaches for non-selected obliged entities and facilitating joint analyses and cooperation between Financial Investigation Units (FIUs).

- (4) This new instrument is part of a comprehensive package aiming at strengthening the Union's AML/CFT framework. Together, this instrument, Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive], Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847] and Regulation [please insert reference – proposal for the Anti-Money Laundering Regulation] will form the legal framework governing the AML/CFT requirements to be met by obliged entities and underpinning **an EU AML/CFT institutional framework that has been strengthened with a view to tackling internal risks and risks originating from third countries.** (AM209, Benjumea)
- (5) To bring AML/CFT supervision to an efficient and uniform level across the Union, it is necessary to provide the Authority with the following powers: direct supervision of a certain number of selected obliged entities of the financial sector, **including crypto-asset service providers (AM211, Delbos-Corfield et al.);** monitoring, analysis and exchange of information concerning ML/TF risks affecting internal market; coordination and oversight of AML/CFT supervisors of the financial sector; coordination and oversight of AML/CFT supervisors of the non-financial sector, including self-regulatory bodies and the coordination and support of FIUs.
- (6) Combining both direct and indirect supervisory competences over obliged entities, and also functioning as a support and ~~cooperation~~ **coordination (AM214, Tardino et al.)** mechanism for FIUs, is the most appropriate means of bringing about supervision and cooperation between FIUs at Union level. This should be achieved by creating an Authority which should combine independence and a high level of technical expertise and which should be established in line with the Joint Statement and Common Approach of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies⁴.
- (7) **The arrangements concerning the seat of the Authority should be laid down in a headquarters agreement** between the Authority and the host Member State. **The headquarters agreement should** stipulate the conditions of establishment of the seat and the advantages conferred by the Member State on the Authority and its staff. (AM217, Delbos-Corfield et al.) **In line with point 9 of the Common Approach, the Authority should conclude a headquarters agreement with the host Member State in a timely manner before it starts its operational phase. In light of the case-law of the Court of Justice, the choice of the location of the seat should be made in accordance with the ordinary legislative procedure and should comply with the criteria [laid down in this Regulation.** (AM215, Tardino et al.; AM216, Ferber et al.; AM217, Delbos-Corfield; AM218, Gualmini et al.);

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https://europa.eu/european-union/sites/default/files/docs/body/joint_statement_and_common_approach_2012_en.pdf.

COMP B – tasks and powers

AMs covered: 354, 353, 355, 356, 357, 359, 360, 361, 366, 367, 368, 369, 370, 371, 372, 374, 378, 380, 385, 377, 388, 393, 395, 396, 404, 407, 409, 411, 412, 413, 417, 415, 418, 420, 423, 424, 425, 426, 427, 429, 430, 432, 433, 434, 435, 436, 219, 220, 221

AMs falling: 352, 358, 362, 363, 365, 364, CONT 23, AFCO 28, CONT 24, BUDG 20, 49, CONT 25, CONT 26, 373, AFCO 29, 375, 376, 379, 381, 382, 383, 386, 387, 390, 394, 399, 428, 384, 389, 391, 392, CONT 27, 397, 398, 400, 401, 402, 403, 404, 405, 406, CONT 28, 408, 410, 50, AFCO 30, AFCO 31, AFCO 32, 414, AFCO 33, AFCO 34, AFCO 35, 416, BUDG 21, CONT 29, 419, 421, 422, AFCO 36, AFCO 37, AFCO 38, AFCO 39, 431, AFCO 40, 51, 437,

CHAPTER II

TASKS AND POWERS OF THE AUTHORITY

SECTION 1

TASKS AND POWERS

Article 5

AM353, 354, 355, 356, 359, 360, 361, 366, 367, 368, 369, 370, 371, 372, 374, 377, 378, 380, 384, 385, 388, 389, 391, 393, 394, 395, 396, 398, 407, 409, 411, 412, 413, 415, 417, 418.

Tasks

1. The Authority shall perform the following tasks with respect to money laundering/terrorist financing ('ML/TF') risks facing the internal market:
 - (a) monitor **and respond to** (AM354, Marques et al.) developments across the internal market and assess threats, vulnerabilities and risks in relation to ML/TF, **including cross-border transactions** (AM353, Karas et al.);
 - (b) monitor **and respond to** (AM355, Marques et al.) developments in third countries and assess threats, vulnerabilities and risks in relation to their AML/CFT systems;
 - (ba) **contribute to the drawing up of the lists of high risk third countries referred to in [please add reference to AMLR];** (AM356, Urtasun et al.)
 - (c) collect information **from selected and non-selected obliged entities** (AM357, Strugariu et al.), its own supervisory activities and those of the supervisors and supervisory authorities on weaknesses identified in the application of AML/CFT rules by obliged entities, their risk exposure, the sanctions administered and the remedial actions applied;

- (d) establish a central AML/CFT database of information collected from **selected and non-selected obliged entities** (AM359, Benjumea; AM360, Strugariu et al.), supervisors and supervisory authorities and keep it (AM361, Urtasun et al.) up to date;
 - (e) analyse the information collected in the central database and share these analyses with supervisors and supervisory authorities on a need-to-know and confidential basis;
 - (f) monitor and support the implementation of **targeted financial sanctions**, asset freezes **and confiscations** under the Union restrictive measures across the internal market, **as well as publish information on asset freezes, seizures and confiscations** (AM366, Urtasun et al.; AM367, Strugariu et al.; AM368, Schirdewan; AM369, Castaldo et al.; AM370, Daly; AM371, Marques et al.);
 - (g) support, facilitate and strengthen cooperation and exchange of information between obliged entities and public authorities in order to develop a common understanding of ML/TF risks and threats facing the internal market, **including by participating in public-private partnerships or similar collaborative arrangements** (AM372, Karas et al.);
 - (ga) **issue publications and provide training and other services to obliged entities and non-obliged entities in order to raise awareness of, and address, ML/TF risks and targeted financial sanctions related risks.**
 - (gb) **conduct peer reviews of the fulfilment by the entities in charge of central beneficial ownership registers of the requirements laid down in Chapter II Section 1 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive];**
 - (h) undertake any other specific tasks set out in this Regulation and in other legislative acts.
2. The Authority shall perform the following tasks with respect to selected obliged entities:
- (a) ensure group-wide compliance with the requirements applicable to the selected obliged entities pursuant to legislative acts referred to in Article 1(2), and any other legally binding Union acts that impose AML/CFT-related obligations on financial institutions, **including on targeted financial sanctions** (AM374, Strugariu et al.);
 - (b) carry out supervisory reviews and assessments on individual entity and group-wide level in order to determine whether the arrangements, strategies, processes and mechanisms put in place by the selected obliged entities are adequate to mitigate their risks related to money laundering and terrorist financing, **as well as to effectively implement targeted financial sanctions**, (AM378, Strugariu et al.) and on the basis of those supervisory reviews impose specific requirements, supervisory measures and administrative pecuniary sanctions pursuant to Articles 20, 21 and 22;
 - (c) participate in group-wide supervision, in particular in colleges of supervisors, including where a selected obliged entity is part of a group that has headquarters, subsidiaries or branches outside the Union;

- (d) develop and maintain up to date a system to assess the risks and vulnerabilities of the selected obliged entities to inform the supervisory activities of the Authority and supervisory authorities, including through the collection of data from these entities. **This collection of data shall be included in the regular reporting of information within the framework of Article 11** (AM380, Benjumea).
3. The Authority shall perform the following tasks with respect to financial supervisors:
- (a) maintain an up-to-date list of financial supervisors within the Union;
 - (b) carry out periodic reviews to ensure that all financial supervisors have adequate resources and powers necessary for the performance of their tasks in the area of **AML/CFT and targeted financial sanctions**;
 - (ba) **request financial supervisors to investigate possible breaches of the requirements applicable to obliged entities** (AM385, Urtasun et al.);
 - (c) perform assessments of the strategies, capacities and resources of financial supervisors in the area of **AML/CFT and targeted financial sanctions**, and make the results of such assessments available to all financial supervisors;
 - (d) facilitate the functioning of the colleges of financial supervisors in the area of **AML/CFT to ensure a sufficient level of coordination between supervisory authorities** (AM377, Urtasun et al.);
 - (e) contribute, **in collaboration with financial supervisors**, (AM389, Fitzgerald) to **the convergence of supervisory practices and promotion of high supervisory standards in the area of AML/CFT and targeted financial sanctions, including the development and implementation, for selected and non-selected obliged entities, of a common AML/CFT reporting methodology that incorporates common regulatory templates** (AM388, Benjumea);
 - (f) coordinate staff and information exchanges among financial supervisors in the Union;
 - (g) provide assistance to financial supervisors, following their specific requests, including the requests **to mediate between financial supervisors** (AM391, Marques et al.; AM393, Urtasun et al.);
 - (ga) **settle disagreements between financial supervisors with binding effect on the measures to be taken by financial supervisors in relation to an obliged entity, including in the context of the AML supervisory colleges, following a request as referred to in point (g)**; (AM395, Marques et al.);
 - (gb) **report to the Commission instances where the absence of effective and efficient supervisory practices and activities derives from an inadequate or lack of transposition of Union law into national law** (AM396, Marques et al.)
4. The Authority shall perform the following tasks with respect to non-financial supervisors:
- (a) maintain an up-to-date list of non-financial supervisors within the Union;
 - (b) coordinate peer reviews of supervisory standards and practices in the area of AML/CFT;

- (c) request non-financial supervisors to investigate possible breaches of requirements applicable to obliged entities and to consider imposing sanctions or remedial actions in respect of such breaches;
- (d) carry out periodic reviews to ensure that all non-financial supervisors have adequate resources and powers necessary for the performance of their tasks in the area of AML/CFT;
- (e) contribute to convergence of supervisory practices and promotion of high supervisory standards in the area of AML/CFT;
- (ea) **facilitate the functioning of colleges of non-financial supervisors in the area of AML/CFT to ensure a sufficient level of coordination between supervisory authorities;** (AM404, Marques et al.)
- (f) provide assistance to non-financial supervisors, following their specific requests, including the requests to settle any disagreements on the measures to be taken in relation to an obliged entity

Where supervision of specific sectors is delegated at national level to self-regulatory bodies ('SRBs'), the Authority shall exercise the tasks set out in the first subparagraph in relation to supervisory authorities overseeing the activity of SRBs.

4a. **The Authority shall perform the following tasks with respect to obliged entities and competent authorities in charge of the preparation, adoption, supervision and enforcement relating to targeted financial sanctions:**

- (a) **ensure outreach and communicate to obliged entities the information provided on the EU measures on targeted financial sanctions, including by managing a consolidated list of persons, groups and entities subject to EU financial sanctions;**
- (b) **act as a central contact point for Member States' competent authorities on the enforcement of targeted financial sanctions, notably for sharing information on designated persons, assets held by designated persons and legal entities controlled by designated persons;**
- (c) **receive information from whistle-blowers with regard to non-implementation or circumvention of targeted financial sanctions;**
- (d) **provide guidelines and assistance in the application of targeted financial sanctions related obligations;**
- (e) **collect statistics on assets frozen by competent authorities relating to persons subject to targeted financial sanctions.** (AM407, Strugariu et al.)

5. The Authority shall perform the following tasks with respect to FIUs and their activities in the Member States:

- (-a) **maintain an up-to-date list of FIUs within the Union;** (AM408, Chinnici et al.)
- (-aa) **monitor changes in FIUs' legal status and framework, tasks, powers and organisation, focusing on resources and powers for the performance of their tasks;** (AM409, Chinnici et al.)
- (a) support and coordinate the work of FIUs and contribute to improved cooperation between FIUs;

- (b) contribute to the identification and the selection of relevant cases for the conduct of joint analyses by FIUs;
 - (c) develop appropriate methods and procedures for the conduct of such joint analyses (AM411, Chinnici);
 - (ca) **issue guidelines and recommendations in cases where it identifies vulnerabilities or deficiencies that are not sufficiently addressed** (AM412, Urtasun et al.);
 - (d) set up, coordinate, organise and facilitate the conduct of joint analyses carried out by FIUs;
 - (da) **provide assistance to FIUs, following their specific requests, including any requests for mediation in case of disagreement** (AM413, Urtasun et al.);
 - (db) **coordinate peer reviews of the fulfilment by FIUs of the requirements laid down in Chapter III of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive]** (AM417, Marques et al.);
 - (e) develop and make available to FIUs IT and artificial intelligence services and tools for secure information sharing, including by hosting FIU.net;
 - (f) develop, share and promote expert knowledge on detection, analysis, and dissemination methods of suspicious transactions;
 - (g) provide specialised training and assistance to FIUs, including through the provision of financial support, within the scope of its objectives and in accordance with the staffing and budgetary resources at its disposal;
 - (h) support **effective compliance by obliged entities and their interaction with FIUs** (AM415, Chinnici) by providing specialised training to obliged entities, including improving their awareness and procedures to detect suspicious activities and financial operations and their reporting to the FIUs;
 - (i) prepare and coordinate threat assessments, strategic analyses of money laundering and terrorism financing threats, risks and methods identified by FIUs.
 - (ib) report to the Commission instances where the absence of effective and efficient cooperation between FIUs derives from an inadequate or lack of transposition of Union law into national law (AM 418, Marques et al.)**
6. For the purpose of carrying out the tasks conferred on it by this Regulation, the Authority shall apply all relevant Union law, and where this Union law is composed of Directives, the national legislation transposing those Directives. Where the relevant Union law is composed of Regulations and where currently those Regulations explicitly grant options for Member States, the Authority shall apply also the national legislation exercising those options.

Article 6

AM420, 423, 424, 426, 427, 429, 430, 432, 433, 434, 435, 436.

Powers of the Authority

1. With respect to the selected obliged entities, the Authority shall have the supervisory and investigative powers as specified in Articles 16 to 20 and the power to impose administrative pecuniary sanctions and periodic penalty payments as specified in Articles 21 and 22.

For the purposes of exercising those powers, the Authority may issue binding decisions addressed to individual selected entities. The Authority shall have the power to impose administrative pecuniary sanctions for non-compliance with the decisions taken in the exercise of powers laid down in Article 20 in accordance with Article 21.

2. With respect to supervisors and supervisory authorities, the Authority shall have the following powers:
 - (a) to require the submission of any information or document, including written or oral explanations, necessary for the performance of its functions, including statistical information, **common regulatory templates sent by financial obliged entities** (AM420, Benjumea), and information concerning internal processes or arrangements of national authorities;
 - (b) to issue guidelines and recommendations;
 - (c) to issue (AM423, Urtasun et al.) instructions on measures that should be taken towards non-selected obliged entities pursuant to Section 4 of Chapter II;
 - (ca) **to carry out mediation upon a request from a financial supervisor pursuant to Article 5(3) point (g).**
 - (cb) **to settle disagreements between financial supervisors with binding effect upon a request pursuant to Article 5(3), point (ga), including in the context of the AML supervisory colleges;**
 - (cc) **to take supervisory decisions directly applicable to the obliged entities concerned in accordance with this Regulation.** (AM424, Marques et al., 427 Strugariu et al.).
- 2a. **With respect to competent authorities in charge of the preparation, adoption, supervision and enforcement relating to targeted financial sanctions, the Authority shall have the following powers:**
 - (a) **to receive data and analyses from competent authorities, third countries, international organisations and other reliable sources in view of preparing new targeted financial sanctions;**
 - (b) **to collect information and statistics in relation to the tasks and activities of the competent authorities in charge of supervision and enforcement of targeted financial sanctions;**
 - (c) **to receive information on possible violations, circumvention and evasion of targeted financial sanctions;**
 - (d) **to issue guidelines and recommendations, as provided in Article 43.** (AM428, Strugariu et al.)
3. With respect to FIUs in the Member States, the Authority shall have the following powers:

- (a) to **submit requests to FIUs to make available** (AM429, Moźdzanowska et al.) data and analyses from FIUs that are relevant to the assessment of threats, vulnerabilities and risks facing the internal market in relation to money laundering and terrorist financing;
 - (b) to collect information and statistics in relation to the tasks and activities of the FIUs;
 - (c) to obtain and process information and data required for **initiating, instituting and coordinating** (AM430, Urtasun et al.) joint analyses as specified in Article 33;
 - (d) to issue guidelines and recommendations, **as provided for in Article 43** (AM431, Urtasun et al.).
- 3a. **With respect to the entities in charge of central beneficial ownership registers, the Authority shall have the power to conduct peer reviews of the fulfilment of the requirements laid down in Chapter II, Section I of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive];**
4. For the purposes of carrying out the tasks set out in Article 5(1), the Authority shall have the following powers:
- (a) to develop draft regulatory technical standards in the specific cases referred to in Article 38;
 - (b) to develop draft implementing technical standards in the specific cases referred to in Article 42;
 - (c) to issue guidelines and recommendations, as provided in Article 43;
 - (d) to issue opinions to the European Parliament, to the Council, or to the Commission as provided for in Article 44.
- 4a. **When exercising the powers provided for in paragraph 4 of this Article, and in accordance with Article 24 of Council Regulation (EU) 2017/1939, the Authority shall without undue delay inform the EPPO of any criminal conduct in respect of which it is permitted to exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. Pursuant to Article 8 of Regulation (EU, Euratom) No 883/2013^{1a}, the Authority shall transmit to OLAF without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union.**
- After having sent the information referred to in the first subparagraph, the Authority shall, on its own initiative or upon request, provide the EPPO or the competent national judicial or law enforcement authority with any other relevant information, as required by their respective national legal framework. (AM433, Strugariu et al.)**
- 4b. **In cases where it is duly justified in order to to preserve the confidentiality of an ongoing or future criminal investigation, the Authority shall take into account any grounds raised by the EPPO, or the competent national judicial or law enforcement authority, to postpone the opening or the continuation of an investigation or of supervisory measures, the imposition of pecuniary sanctions or penalty payments by the Authority, or the performance of certain acts pertaining**

to them. (AM436, Strugariu et al.) **The modalities shall be laid down in the working agreement with the EPPO under Article 80(2).** (AM435, Strugariu et al.)

RECITALS

- (8) The powers of the Authority should allow it to improve AML/CFT supervision in the Union in various ways. With respect to selected obliged entities, the Authority should ensure group-wide compliance with the requirements laid down in the AML/CFT framework and any other legally binding Union acts that impose AML/CFT-related obligations on financial institutions. Furthermore, the Authority should carry out periodic reviews to ensure that all financial supervisors perform their tasks **adequately** (AM219, Delbos-Corfield et al.). It should facilitate the functioning of the AML supervisory colleges and contribute to convergence of supervisory practices and promotion of high supervisory standards. With respect to non-financial supervisors, including self-regulatory bodies where appropriate, the Authority should coordinate peer reviews of supervisory standards and practices and request non-financial supervisors to ~~investigate possible breaches~~ **ensure the observance** of AML/CFT requirements **in their sphere of competence**. In addition, the Authority should **be able to initiate**, coordinate **and support** (AM220, Fitzgerald) the conduct of joint analyses **by alongside** FIUs and make available to FIUs IT and artificial intelligence services and tools for secure information sharing, including through hosting of FIU.net.
- (9) With the objective to strengthen AML/CFT rules at Union level and to enhance their clarity while ensuring consistency with international standards and other legislation, it is necessary to establish the coordinating role of the Authority at Union level in relation to all types of obliged entities to assist national supervisors and promote supervisory convergence, in order to increase the efficiency of the implementation of AML/CFT measures, also in the non-financial sector. Consequently, the Authority should be mandated to prepare regulatory technical standards, to adopt guidelines, recommendations and opinions with the aim that where supervision remains at national level, the same supervisory practices and standards apply in principle to all comparable entities. The Authority should be entrusted, due to its highly specialised expertise, with the development of a supervisory methodology, in line with a risk-based approach. Certain aspects of the methodology, which can incorporate harmonised quantitative benchmarks, such as approaches for classifying the **residual risk profiles** (AM221, Benjumea) of obliged entities should be detailed in directly applicable binding regulatory measures – regulatory or implementing technical standards. ~~Other aspects, which require wider supervisory discretion, such as approaches to assessing residual risk profile and internal controls in the~~ **drawing a distinction between** obliged entities ~~should be covered by non-binding guidelines, recommendations and opinions of the Authority.~~ **based on the type and nature of money laundering and terrorism financing risks to which they are exposed**. The harmonised supervisory methodology should take due account of, and where appropriate, leverage the existing supervisory methodologies relating to other aspects of supervision of the financial sector obliged entities, especially where there is interaction between AML/CFT supervision and prudential supervision. Specifically, the supervisory methodology to be developed by the Authority should be complementary to guidelines and other instruments developed by the European Banking Authority detailing approaches of prudential supervisory authorities with respect to

factoring ML/TF risks in prudential supervision, in order to ensure effective interaction between prudential and AML/CFT supervision.

- (10) The Authority should be empowered to develop regulatory technical standards in order to complete the harmonised rulebook established in the [please insert references – proposal for 6th Anti-Money Laundering Directive, Anti-money laundering Regulation and proposal for a recast of Regulation (EU) 2015/847]. The Commission should endorse draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU in order to give them binding legal effect. They should be subject to amendment only in very restricted and extraordinary circumstances, since the Authority is the actor in close contact with and knowing best the AML/CFT framework. To ensure a smooth and expeditious adoption process for those standards, the Commission’s decision to endorse draft regulatory technical standards should be subject to a time limit.
- (11) The Commission should also be empowered to adopt implementing technical standards by means of implementing acts pursuant to Article 291 TFEU.

COMP C – Supervisory cooperation, methodology, thematic reviews, mutual assistance.

AMs covered: 439, 442, 444, 445, 446, 448, 449, 450, 452, 453, 454, 455, 456, 447, 458, 459, 460, 462, 463, 461, 208, 222, 223

AMs falling: 438, 52, 440, 441, 443, 53, 54, 55, 56, 451, 57, 58, 457, 59, CONT 30, AFCO 41, CONT 31, 60, 461, CONT 32, 6, CONT 5, 7, 224

SECTION 2

AML/CFT SUPERVISORY SYSTEM

Article 7

AM439, 442.

Cooperation within the AML/CFT supervisory system

1. The Authority shall be responsible for the effective and consistent functioning of the AML/CFT supervisory system.
2. The Authority and supervisory authorities shall be subject to a duty of cooperation in good faith, and to an obligation to exchange information **for the purposes of preventing** (AM439, Pereira) **money laundering and terrorism financing in accordance with this Regulation and other applicable Union law.**

Supervisory authorities shall assist the Authority in taking into account the specificities of their respective national legal framework, including where the Authority acts on matters governed by provisions of national law transposing Union law as referred to in Article 1 (2). (AM442, Marques et al.)

Article 8

AM 444, 445, 446, 447, 448, 449, 450, 452, 453, 454, 455, 456, 457.

AML/CFT supervisory methodology

1. **In cooperation with supervisory authorities, (AM444, Benjumea) the Authority shall develop and maintain an up-to-date and harmonised AML/CFT (AM446, Pereira) supervisory methodology detailing the risk-based approach to supervision of obliged entities in the Union. The methodology shall comprise guidelines, recommendations, opinions (AM445, Marques et al.) and other measures and instruments as appropriate, including in particular draft regulatory and implementing technical standards, on the basis of the empowerments laid down in the acts referred to in Article 1(2).**

2. When developing the supervisory methodology the Authority shall make a distinction between obliged entities based on the sectors in which they operate, **their type and the nature of the money laundering and terrorism financing risks to which they are exposed**. The supervisory methodology shall **be risk-based and** (AM448, 453, Ferber et al.) contain at least the following elements:
 - (a) benchmarks and methodology for classification of obliged entities into risk categories on the basis of their residual risk profile, separately for each category of obliged entities;
 - (b) approaches to supervisory review of money laundering **and terrorism financing** (AM449, Marques et al.; AM450, Pereira) risk self-assessments of obliged entities;
 - (c) approaches to supervisory review of obliged entities' internal policies and procedures of obliged entities, including customer due diligence policies **and procedures** (AM452, Benjumea), **in line with a risk-based approach to the prevention of money laundering and terrorism financing**;
 - (d) approaches to supervisory evaluation of risk factors inherent in, or related to, customers, business relationships, transactions and delivery channels of obliged entities, as well as geographical risk factors-;
 - (da) **the use and type of information contained in the common regulatory templates for financial obliged entities, which shall be based on objective and comparable AML data focused on key indicators of activity for AML/CFT purposes, due diligence, internal controls, and reporting obligations** (AM454, Benjumea; AM455, Beck).
3. The methodology shall reflect high supervisory standards at Union level and shall build on relevant international standards and guidance. The Authority shall periodically review and update its supervisory methodology, taking into account the evolution of risks affecting the internal market **and, to the extent possible, best practices and guidance developed by international standard setters, national law enforcement authorities, and FIUs** (AM456, Daly).

Article 9

AM458

Thematic reviews

1. By 31 October each year, supervisory authorities shall submit to the Authority their annual work programmes for the following year. Where those work programmes include supervisory reviews carried out on a thematic basis with the aim of assessing ML/TF risks or a specific aspect of such risks which multiple obliged entities are exposed to at the same time, the supervisory authorities shall provide the following information:
 - (a) the scope of each planned thematic review in terms of category and number of obliged entities included and the subject matter(s) of the review;
 - (b) the time-frame of each planned thematic review;

- (c) the planned types, nature and frequency of supervisory activities to be performed in relation to each thematic review, including any on-site inspections or other types of direct interaction with obliged entities, where applicable.
2. By the end of each year, the Chair of the Authority shall present to the General Board in supervisory composition as referred to in Article 46(2) a consolidated planning of the thematic reviews that supervisory authorities intend to undertake during the following year.
 3. Where the scope and Union-wide relevance of thematic reviews justify coordination at Union level, they shall be carried out jointly by the relevant supervisory authorities and shall be coordinated by the Authority. **The Executive Board may propose joint thematic reviews based on an analysis of internal risks and vulnerabilities performed by the Authority** (AM458, Urtasun et al.). The General Board in supervisory composition shall draw up a list of joint thematic reviews. The General Board in supervisory composition shall draw up a report relating to the conduct, subject-matter and outcome of each joint thematic review. The Authority shall publish that report on its website.
 4. The Authority shall coordinate the activities of the supervisory authorities and facilitate the planning and execution of the selected joint thematic reviews referred to in paragraph 3. Any direct interaction with non-selected obliged entities in the context of any thematic review shall remain under the exclusive responsibility of the supervisory authority responsible for supervision of the non-selected obliged entities and shall not be construed as a transfer of tasks and powers related to those entities within the AML/CFT supervisory system.
 5. Where planned thematic reviews at national level are not subject to a coordinated approach at the level of the Union, the Authority shall, jointly with the supervisory authorities, explore the need for and the possibility of aligning or synchronising the timeframe of those thematic reviews, and shall facilitate information exchange and mutual assistance between supervisory authorities carrying out those thematic reviews. The Authority shall also facilitate any activities that the relevant supervisory authorities may wish to carry out jointly or in similar manner in the context of their respective thematic reviews.
 6. The Authority shall ensure the sharing with all supervisory authorities of the outcomes and conclusions of thematic reviews conducted at national level by several supervisory authorities, with the exception of confidential information pertaining to individual obliged entities. The sharing of information shall include any common conclusions resulting from exchanges of information or any joint or coordinated activities among several supervisory authorities.

Article 10

AM459, 460, 461, 462, 463.

Mutual assistance in AML/CFT supervisory system

1. The Authority may, as appropriate, develop:
 - (a) new practical instruments and convergence tools to promote common supervisory approaches and best practices;

- (b) practical tools and methods for mutual assistance following:
 - (i) specific requests from supervisory authorities;
 - (ii) referral of disagreements between supervisory authorities on the measures to be taken jointly by several supervisory authorities in relation to an obliged entity.
- 2. The Authority shall facilitate and encourage at least the following activities:
 - (a) sectoral and cross-sectoral training programmes, including with respect to technological innovation;
 - (b) exchanges of staff and the use of secondment schemes, twinning and short-term visits;
 - (c) exchanges of supervisory **best** (AM459, Ferber et al.) practices between supervisory authorities, when one authority has developed expertise in a specific area of AML/CFT supervisory practices.
- 3. Each supervisory authority may submit a request for mutual assistance related to its supervisory tasks to the Authority, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more supervisory authorities, or a combination thereof. If the request concerns activities that relate to the supervision of specific obliged entities, the requesting supervisory authority shall **transmit to the Authority ensure that access to** any information and data necessary for the provision of assistance ~~may be granted~~ **in accordance with this Regulation and other applicable Union law.** (AM460, Pereira) The Authority shall keep and regularly update the information on specific areas of expertise and on the capacities of supervisory authorities to provide mutual assistance.
- 4. Where the Authority is requested to provide assistance for the performance of specific supervisory tasks at national level towards non-selected obliged entities, the requesting supervisory authority shall detail the tasks for which support is sought in its request. The assistance shall not be construed as the transfer of supervisory tasks, powers, or accountability for supervision of the non-selected obliged entities from the requesting supervisory authority to the Authority.
- 5. The Authority shall make every effort to provide the requested assistance **if it deems the request appropriate** (AM462, Marques et al.), including by mobilising **its** (AM463, Urtasun et al.) own human resources as well as by ensuring mobilisation of resources at supervisory authorities on a voluntary basis.
- 6. By the end of each year, the Chair of the Authority shall inform the General Board in supervisory composition of the resources that the Authority will allocate to providing such assistance.
- 7. Any interaction between the staff of the Authority and the obliged entity shall remain under the exclusive responsibility of the supervisory authority responsible for the supervision of that entity, and shall not be construed as a transfer of tasks and powers related to individual obliged entities within the AML/CFT supervisory system.

RECITALS

- (12) Since there are no sufficiently effective arrangements to handle AML/CFT incidents involving cross-border aspects it is necessary to put in place an integrated AML/CFT supervisory system at Union level that ensures consistent high-quality application of the AML/CFT supervisory methodology and promotes efficient cooperation between all relevant competent authorities. For these reasons, the Authority and national AML/CFT supervisory authorities ('supervisory authorities') should constitute an AML/CFT supervisory system **as precisely defined in this Regulation** (AM208, Możdżanowska et al.). This would also benefit supervisory authorities when facing specific challenges, for example vis-à-vis an enhanced AML/CFT risk or due to a lack of resources, as within that system mutual assistance should be possible on request. This could involve exchange and secondments of personnel, training activities and exchanges of best practices, **including on data protection (AM222, Tardino et al.)**. Furthermore, the Commission could provide technical support to Member States under Regulation (EU) 2021/240 of the European Parliament and of the Council to promote reforms aimed at reinforcement of the fight against money laundering.⁵
- (13) Considering the important role of thematic reviews in AML/CFT supervision across the Union as they enable to identify and compare the level of exposure to risks and trends in relation to obliged entities under supervision, and that currently supervisors in different Member States do not benefit from these reviews, it is necessary that the Authority identifies national thematic reviews that have a similar scope and time-frame and ensures their coordination at the level of the Union. To avoid situations of possibly conflicting communications with supervised entities, the coordination role of the Authority should **in principle** be limited to interaction with relevant supervisory authorities, and should not include any direct interaction with non-selected obliged entities, **except in duly justified cases. (AM223, Delbos-Corfield et al.)** For the same reason, the Authority should explore the possibility of aligning or synchronising the timeframe of the national thematic reviews and facilitate any activities that the relevant supervisory authorities may wish to carry out jointly or similarly.

⁵ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

COMP D – Central database, information sharing.

AMs covered: 465, 466, 467, 468, 469, 470, 471, 472, 476, 477, 478, 479, 480, 482, 483, 484, 495, 496, 498, 486, 487, 488, 489, 490, 492, 500, 508, 225, 227, 862, 863, 468, 470, 226, 233, 229, 231, 234, 235, 230

AMs falling: 464, AFCO 42, 61, CONT 34, 489, 490, 473, 474, 475, 485, 486, 488, 491, 493, 494, 495, 496, CONT 35, 497, 498, 499, 62, 492, 500, 481, CONT 33, 63, 502, 501, 505, 506, 504, 503, 64, 508, 507, 509, 228, 8, 9, 232, 11, 12.

Article 11

AM467, 468, 469, 470, 471, 472, 474, 476, 477, 478, 479, 480, 481, 482, 483, 484, 486, 487, 488, 489, 490, 492, 495, 496, 498, 500.

Central AML/CFT database

1. The Authority shall establish and keep up to date a central database of information collected pursuant to **this Article**. The Authority shall analyse the information received and ensure that it is made available to supervisory **authorities and non-AML/CFT** (AM465, Urtasun et al.; AM466, Marques et al.) **as well as 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** on a need-to-know and confidential basis. The Authority may share the results of its analysis **and inspections** on its own initiative with supervisory authorities, **including non-AML/CFT authorities**, (AM467, Benjumea) for the purposes of facilitating their supervisory activities.
2. The supervisory authorities shall transmit to the Authority at least the following information, including the data related to individual obliged entities:
 - (a) a list of all supervisory authorities and self-regulatory bodies entrusted with supervision of obliged entities, including information about their mandate, tasks and powers;
 - (b) statistical information about the type and number of supervised obliged entities in each Member State and basic information about the risk profile;
 - (ba) **the information included in the common regulatory templates submitted by financial obliged entities** (AM468, Benjumea);
 - (c) binding measures and sanctions taken in the course of supervision of individual obliged entities;
 - (ca) **consolidated information from financial obliged institutions and that might be relevant for benchmarking purposes in the risk assessment process referred to in Articles 12 and 13, or for other supervisory purposes** (AM470, Benjumea);

- (d) any advice provided to other(AM472, Marques et al.) authorities in relation to authorisation procedures, withdrawal of authorisation procedures, and fit and proper assessments of shareholders or members of the management body of individual obliged entities;
- (e) reports on outcomes of supervisory activities;
- (f) results from supervisory inspections of files concerning politically exposed persons, their family members and their associates;
- (g) statistical information regarding performed supervisory activities over the past calendar year, including the number of off-site and on-site inspections;
- (h) statistical information about staffing and other resources of public authorities;
- (ha) information from competent authorities relating to weaknesses identified during supervision and authorisation procedures in the processes and procedures, governance arrangements, fitness and propriety, acquisition of qualifying holdings, business models and activities of financial sector operators in **relation to preventing and countering money laundering and terrorist financing (AM469, Marques et al.)**
- (hb) measures taken by competent authorities in response to the following weaknesses affecting one or more requirements of the legislative acts referred to in Article 1(2) of this Regulation, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No1095/2010 and of any national laws transposing them with regard to **preventing or** countering the use of the financial system for the purpose of money laundering or terrorist financing:
 - (a) a breach or a potential breach by a financial sector operator of such requirements,
 - (b) the inappropriate or ineffective application by a financial sector operator of such requirements, or
 - (c) the inappropriate or ineffective application by a financial sector operator of its internal policies and procedures to comply with such requirements; (AM471, Marques et al.)
- (hc) **weaknesses and failures of obliged entities to comply with [AMLR] and with any measures taken by supervisory authorities in response to weaknesses affecting one or more requirements of [AMLR].**

2a. **The Authority shall publish the information collected pursuant to paragraph 2 point (a), (b), (g) and (h). A summary of non-confidential findings regarding the information collected pursuant paragraph 2 point (c), (d), (e), (f), (ha), (hb), (hc) shall be made available to obliged entities (AM476, Urtasun et al.; AM478, Strugariu et al.; AM479, Castaldo et al.; AM480, Schirdewan).**

3. The Authority may request supervisory authorities **and non-AML/CFT authorities** to provide other information in addition to that referred to in paragraph 2. **In response to the Authority's request, the supervisory authorities or the non-AML/CFT authorities shall update any information previously provided by them.**

Non-AML/CFT authorities, as well as other national authorities and bodies competent for ensuring compliance with the requirements of 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, shall transmit to the Authority information relating to weaknesses identified during ongoing supervision and authorisation procedures in the processes and procedures, governance arrangements, fitness and propriety, acquisition of qualifying holdings, business models and activities of credit and financial institutions as defined in Article 2 of [AMLR] in relation to preventing and countering money laundering and terrorist financing as well as measures taken by those authorities, in response to material weaknesses affecting one or more requirements of the legislative acts referred to in Article 1(2) of Regulation EU (No) 1093/2010, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No 1095/2010 and of any national laws transposing them, respectively, with regard to the institution's ability to tackle ML/TF risks effectively, and as such, the integrity and transparency of the financial system of the Union.

Non-AML/CFT authorities may share with the Authority any additional information, within the boundaries of their mandates and tasks, deemed relevant to the prevention and countering of money laundering or terrorist financing (AM477, Marques et al.; AM482, Castaldo et al.; AM483, Urtasun et al.; AM484, Strugariu et al.).

- 3a. **For the purposes of paragraph 1, the Authority shall take over the central AML/CFT database established in accordance with Article 9a of Regulation EU (No) 1093/2010 (EuReCA) and shall become the owner of its content and the technical system operating EuReCA.**

With a view to ensuring a smooth transition until the Authority is operationally in a position to fully take over and keep the EuReCA database up to date, the European Banking Authority shall continue receiving information, analysing it and making it available in accordance with Article 9a of Regulation EU (No) 1093/2010 until {insert date dd.mm.yyyy corresponding to 18months after adoption}.

4. Any supervisory authority, any non-AML authority, as well as other national authorities and bodies competent for ensuring compliance with the requirements of 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], or the European Supervisory Authorities may address to the Authority a reasoned request for information collected pursuant to **this Article** (AM496, Strugariu et al.) that is relevant for its supervisory activities. The Authority shall assess those requests and provide the information requested on a need-to-know basis and confidential basis and in a timely manner. The Authority shall inform the authority that has initially provided the requested information, of the identity of the requesting supervisory or other authority, the identity of an obliged entity concerned, the reason for the information request as well as whether the information has been provided to the requesting authority. **Where the Authority decides not to provide the requested information, it shall provide a reasoned justification for that decision.** (AM495, Marques et al.)

- 4a. **The Authority shall make available to all supervisors consolidated information of obliged entities that might be relevant for supervisory purposes or that might**

inform benchmarks and the methodology for classification in the risk assessment process. (AM498, Strugariu et al.)

- 4b. **The Authority shall develop draft regulatory technical standards specifying the definition of weaknesses as referred to in paragraph 2, points (ha), (hb) and (hc), including the corresponding situations where weaknesses may occur, the materiality of weaknesses and the practical implementation of the information collection by the Authority as well as the type of information that should be provided pursuant to paragraph 2, points (ha), (hb) and (hc). The Authority shall also specify the format, the transmission procedure and information included in the common regulatory templates referred to in paragraph 2, point (ba).**

To that end, the Authority shall consider the volume of the information to be provided and the need to avoid duplication. It shall also set out arrangements to ensure effectiveness, confidentiality and the protection of personal data, specifying the data types and purposes for which personal data is processed and collected.

The Authority shall submit the draft regulatory technical standards to the Commission by 18 months after the entry into force of this Regulation.

The Commission is empowered to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 38 of this Regulation.

- 4c. **Personal data collected in accordance with this Article may be kept on an identifiable form for a period of up to ten years after the date of collection of the data by the Authority, at the end of which personal data shall be deleted. Based on a regular assessment of their necessity, personal data may be deleted before the expiry of that period on a case-by-case basis.**

Article 11a

Information requests directly to obliged entities

1. **The supervisory authorities and the Authority shall provide each other with all necessary information regarding selected and non-selected obliged entities in order to carry out their respective duties, powers and legal mandate, provided that the supervisory authorities and the Authority have legal access to the relevant information.**
2. **Where information is not available or is not made available under paragraph 1 in a timely manner, the Authority may address a request directly to the relevant obliged entities or associations of obliged entities. The request shall be duly justified, include the legal basis of the request, specify the information required and fix a reasonable time limit within which the information is to be provided. The supervisory authority shall receive a copy of the request.**

The addressees of such a request shall provide the Authority, within the time limit specified in the request, with clear, accurate and complete information, provided that they have legal access to the relevant information. Upon a duly justified request to the Authority, the addressees may ask for a single extension of the deadline.

The request shall be sent in accordance with the language arrangements established, mutatis mutandis, in Article 27.

3. The Authority **shall** use confidential information received pursuant to this Article only for the purposes of carrying out the duties assigned to it under this Regulation and **other** applicable Union law.
4. The Authority shall develop draft regulatory technical standards setting out the modalities with regard to information requests addressed to obliged entities as provided in paragraph 1.

The Authority shall submit the draft regulatory technical standards to the Commission by [1 January 2025]. The Commission is empowered to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Article 38.

Article 11b

AM508.

Information sharing with FIUs and Europol

Where **the Authority**, in the course of its supervisory activities **in relation to** obliged entities under Sections 3, 4 and 5 of this Chapter, **suspects that** facts that **it has examined in the framework of those supervisory activities** could be related to money laundering, to a predicate offence or to terrorist financing, it shall **promptly transmit such** information to the competent FIUs.

Moreover, where the facts referred to in the first subparagraph have a cross-border relevance, **the Authority** shall promptly **transmit the information** to Europol.

Without prejudice to [GDPR, LED and Regulation (EU) 2018/1725], to the extent that information referred to in the first and second subparagraphs contain personal data within the meaning of any of those legal acts, the Authority may transmit those personal data to the relevant FIUs and Europol exclusively where such transmission is strictly necessary for the relevant FIUs to perform their respective mandates in accordance with applicable Union and national law, or for Europol to perform its mandate in accordance with [the Europol regulation].

For the purposes of the second subparagraph, AMLA may rely on cooperation agreements concluded with Europol in accordance with Article 80 of this Regulation. (AM508, Strugariu et al.)

RECITALS

- (14) The efficient usage of data leads to better monitoring and compliance of firms. Therefore, both direct and indirect supervision by the Authority and supervisory authorities of all obliged entities across the system should rely on expedient access to relevant data and information about the obliged entities themselves and the supervisory actions and measures taken towards them, **subject to limited retention periods in accordance with the applicable data protection framework.** To that end, **and taking into account the confidential and sensitive nature of the information,** (AM227, Ferber et al.) the Authority should establish a central AML/CFT database with information collected from all supervisory authorities, and should make such information **selectively**

available to any supervisory authority within the system **when necessary, on a confidential and need-to-know basis. To that end, the Authority should use innovative technological solutions, including block-chain.** (AM225, 862, Pereira; AM863, Beck) This data should also cover withdrawal of authorisation procedures, fit and proper assessments of shareholders and members of individual obliged entities as this will enable relevant authorities to duly consider possible shortcomings of specific entities and individuals that might have materialised in other Member States. The database should also include **the information included in the common regulatory templates submitted by selected and non-selected obliged entities, consolidated information from selected and non-selected obliged entities and that might be relevant for benchmarking purposes in the risk assessment process for the selection of directly supervised obliged entities,** (AM468, 470, Benjumea) **risk indicators of obliged entities, qualitative information regarding supervisory plans,** (AM226, Delbos-Corfield et al.) statistical information about supervisory and other public authorities involved in AML/CFT supervision **as well as information pertaining to weaknesses identified during supervision and authorisation procedures.** Such information would enable effective oversight by the Authority of the proper functioning and effectiveness of the AML/CFT supervisory system. The information from the database would enable the Authority to react in a timely manner to potential weaknesses and cases of non-compliance by non-selected obliged entities. Pursuant to Article 24 of Council Regulation (EU) 2017/1939⁶, the Authority will without undue delay report to the EPPO any criminal conduct in respect of which it could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. Pursuant to Article 8 of Regulation 883/2013⁷, the Authority will transmit to OLAF without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union.

- (14aa) **The Authority should establish and keep up-to-date a central database of information relevant for the AML/CFT supervisory system. This database should include in particular information regarding the fit-and-proper assessment, obliged entities' weaknesses in complying with AML/CFT requirements, sanctions and supervisory responses to those weaknesses, results of inspections, outcomes of supervisory activities, results from supervisory inspections and other relevant information for risk assessment purposes. The personal data processed should be retained for a period of up to ten years after the date of collection of the data by the Authority. This period is strictly necessary and proportionate for the purpose of supervisory activities carried out by the Authority and supervisory authorities. The length of the data retention period ensures that the Authority and supervisory authorities retain access to the necessary information on the risk assessment, business activities, controls in place and breaches of individual obliged entities in order to carry out their duties, which requires them to access case-related information over a longer period of time. This period is notably necessary since supervisory authorities should take into account, among other factors, the gravity, the duration and the repetitiveness of the breach to determine the level of sanctions**

⁶ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁷ Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1073/1999 (OJ L 248, 18.9.2013, p. 1).

or measures to be applied, which requires to analyse case-related information regarding a longer period of reference. Similarly, this duration is necessary with regard to information from fit-and-proper assessment of shareholders or members of the management in order to ensure that supervisory authorities have sufficient information to assess whether they are of good repute, act with honesty and integrity and possesses knowledge and expertise necessary to carry out their functions, and to ensure ongoing monitoring of those conditions as required by [AMLD]. **Personal data should be deleted where it is no longer necessary.** On a case-by-case basis, and based on a regular assessment of their necessity, personal data may be deleted before the expiry of that period.

- (14a) To enable the Authority to carry out its duties, the supervisory authorities should provide the Authority with all the necessary information regarding selected and non-selected obliged entities, provided that they have legal access to the relevant information. (AM233, Tardino et al.) In exceptional and duly justified cases, the Authority should be able to address a request directly to the relevant obliged entities or associations of obliged entities in order to conduct its tasks related to AML/CFT supervision. (AM229, Beck; AM231, Benjumea; AM234, Delbos-Corfield et al.)
- (14b) To bring AML/CFT supervision to an effective and consistent level across the Union, and to carry out their duties, supervisory authorities and the Authority should cooperate and exchange all the necessary information regarding selected and non-selected obliged entities. (AM235, Tardino et al.) The Authority should ensure that adequate and effective cooperation mechanisms are put in place and implemented so that it can exchange information with supervisors, including non-AML/CFT authorities, and other stakeholders.
- (14c) The Authority should also promote exchanges between supervisory authorities and obliged entities in a structured and efficient manner. To that end, the Authority should develop a structured system, including questionnaires and **the common regulatory** templates, available to all supervisors, that enables the collection of information while avoiding double reporting.
- (14d) In the context of its supervisory tasks, the Authority should also actively cooperate with competent FIUs and Europol. Where the Authority, in the course of its supervisory and oversight activities, discovers facts, that could be related to money laundering, to a predicate offence or to terrorist financing, it should ensure that the information is promptly made available to the competent FIUs and, **where the facts have a cross-border relevance**, to Europol within their respective areas of competence. (AM230, Strugariu et al.)

COMP E – Direct supervision assessments, selection.

AMs covered: 510, 512, 513, 514, 515, 516, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 549, 550, 551, 552, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 569, 570, 571, 572, 573, 575, 578, 579, 580, 583, 585, 587, 588, 618, 592, 593, 494, 595, 596, 610, 611, 612, 617, 619, 620, 600, 603, 604, 605, 606, 613, 614, 616, 238, 241, 242, 243, 250, 251,

AMs falling: 511, 517, 65, 532, 533, 535, 68, 542, 70, 71, 546, 544, 545, 547, 549, CONT 36, 548, 553, 554, 555, 556, 73, 566, 74, CONT 37, 568, 570, 579, 581, 582, 583, 584, 586, 587, 589, 75, 590, 591, 594, 76, 593, 592, 595, 596, 601, 607, 608, 612, 611, 610, 616, 615, 617, 619, 620, 236, 237, 238, 240, 13, 239, 241, 242, 244, 245, 247, 248, 249, 252, 16, 253, 254, 255, 17

SECTION 3

DIRECT SUPERVISION OF SELECTED OBLIGED ENTITIES

Article 12

AM510, 512, 513, 514, 515, 516, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 549, 550, 551, 552, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 569, 570, 571, 572, 573, 575, 578, 579, 580, 583, 585, 587, 588, 618.

Assessment of financial sector obliged entities for the purposes of selection for direct supervision

1. For the purposes of carrying out the tasks listed in Article 5(2), the Authority, **with the collaboration of financial supervisors in accordance with paragraph 1b**, (AM512, Marques et al.) shall carry out a periodic assessment **of the obliged entities listed in paragraph 3** (AM512, Marques et al.; AM516, Delbos-Corfield et al.) ~~of the following obliged entities~~, based on criteria and following the process specified in paragraphs 2 to 6 of this Article and in Article 13: **where they operate establishments as defined in Article 2(8) of [proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], or under the freedom to provide services, in at least four Member States, including the Member State of establishment.** (AM512, Marques et al.; AM513, Strugariu et al.; AM514, Schirdewan; AM515, Benjumea; AM523, Delbos-Corfield; AM524, Daly; AM525, Ferber; AM526, Seekatz)
 - (a) ~~credit institutions that are established in at least seven Member States, including the Member State of establishment and the Member States where they are operating via subsidiaries or branches;~~ (AM518, Benjumea; AM519, Marques et al.; AM520, Schirdewan; AM521, Strugariu et al. AM522, Fitzgerald)

~~(b) other financial institutions that operate in at least ten Member States, including the Member State of establishment, another Member State where they are operating via a subsidiary or a branch, and all other Member States where they are operating by means of direct provision of services or via a network of representative agents. (AM527, Benjumea; AM528, Fitzgerald; AM529, Strugariu et al.; AM530, Schirdewan; AM531, Marques et al.)~~

(1a) In cases where all of the obliged entities established in a particular Member State operate in fewer than four Member States, whether through establishments or through the freedom to provide services, the periodic assessment referred to in paragraph 1 shall be carried out on the obliged entities listed in paragraph 3 which are established in that Member State. (AM535, Strugariu et al.)

(1b) The Authority shall receive all necessary information from supervisory authorities, and, in exceptional cases, from the obliged entities, in order to carry out the periodic assessment of individual obliged entities. That information shall be included in the common reporting templates referred to in Article 5(3), point (e). (AM522, Fitzgerald; AM585, Benjumea)

(1c) The Authority shall keep the relevant non-AML/CFT authorities informed of the assessments provided for in paragraphs 1, (1a) and (1b) in cases where the obliged entities fall within their supervisory remits. (AM534, Delbos-Corfield; AM536, Marques et al.)

2. **After having assessed the residual (AM542, Benjumea) risk profile of the assessed obliged entities referred to in paragraph 1, the Authority, point (a) or (b) shall classify them as low, medium, substantial or high in each jurisdiction they operate in, based on the benchmarks and following the methodology set out in the regulatory technical standard referred to in paragraph 5. (AM 538 Delbos et al.; AM539, Schirdewan; AM540, Marques et al.; AM541, Fitzgerald; AM542, Benjumea)**

3. The methodology for classifying the **residual** risk profile shall be established separately for at least the following categories of obliged entities, taking into account the specificities of each sector: (AM543, Benjumea)

(a) credit institutions;

(b) bureaux de change;

(c) collective investment **undertakings** (AM544, Benjumea; AM545, de Lange; AM546, Hansen et al.);

(d) credit providers other than credit institutions;

(e) e-money institutions;

(f) investment firms;

(g) payments service providers;

(h) life insurance undertakings;

(i) life insurance intermediaries;

(j) other financial institutions.

(ja) crypto-asset service providers. (AM547, Marques et al.; AM549, Benjumea ; AM550, Schirdewan; AM551, de Lange; AM552, Delbos-Corfield)

4. For each category of obliged entities referred to in paragraph 4.3 (AM557, Marques et al.; AM558, Delbos-Corfield; AM559, Schirdewan; AM560, Benjumea), the benchmarks in the assessment methodology shall be based on the risk factor categories related to customer, products, services, transactions, delivery channels, geographical areas, **and the risk management systems put in place by the obliged entities (AM618, Benjumea)**. The benchmarks shall be established for at least the following indicators of ~~inherent~~ **residual** risk (AM560, Benjumea) in any Member State they operate in:
- (a) with respect to customer-related risk: the share of non-resident customers **from third countries**, (AM566, Hansen et al.) the presence and share of customers identified as Politically Exposed persons ('PEPs') **and the presence and share of customers located in jurisdictions listed in Annex I to the EU list of non-cooperative jurisdictions for tax purposes, in jurisdictions continuously listed in Annex II to the EU list of non-cooperative jurisdictions for tax purposes for a period of over three years, and in jurisdictions identified and designated as referred to in Chapter III Section 2 of [please insert reference – proposal for Anti-Money Laundering Regulation]**; (AM561, Schirdewan; AM562, Marques et al.; AM563, Strugariu et al.; AM564, Castaldo et al.; AM565, Daly; AM567, Delbos-Corfield et al.)
 - (b) with respect to products and services offered:
 - (i) the significance and the trading volume of products and services identified as the most potentially vulnerable to money laundering and terrorist financing risks at the level of the internal market in the supra-national risk assessment or at the level of the country in the national risk assessment;
 - (ii) the volume of the deposit and payment account services provided under the freedom to provide services, **together with other products and services identified as potentially vulnerable to ML/FT risks**; (AM569, Benjumea)
 - (iii) for money remittance service providers, the significance of aggregate annual emission and reception activity of each remitter in a jurisdiction, **in particular those with structural weaknesses in its AML/CFT detection and prevention systems under international standards**; (AM570, Benjumea)
 - (iiia) **the volume of products or transactions that might favour anonymity, including crypto-assets which have in-built anonymisation**; (AM571, Marques et al.)
 - (iiib) **the significance of privacy wallets, mixers and tumblers and other anonymising software or techniques used for obfuscating transactions**; (AM572, Marques et al.)
 - (c) with respect to geographical areas:
 - (i) the annual volume of correspondent banking services, **or correspondent crypto-asset services**, provided by Union financial sector entities in third countries, **in particular those identified as vulnerable in its AML/CFT detection and prevention systems under international standards**; (AM573, Benjumea; AM575, Marques et al.)

- (ii) the number and share of correspondent banking **or crypto-asset** clients (AM578, Marques et al.) from third countries with structural weaknesses in their AML systems identified by global standard setting bodies;
 - (iii) the volume of activity of **crypto-asset** (AM580, Marques et al.) service providers registered or licensed in third countries and operating as financial institutions in the Union.
5. The Authority shall develop draft regulatory technical standards setting out the methodology with the benchmarks referred to in paragraph 4 for classifying the **residual (AM585, Benjumea)** risk profile of **the obliged entities listed in paragraph 3** in each Member State **they** operate in as low, medium, substantial or high. (AM588, Schirdewan)
- The Authority shall submit the draft regulatory technical standards to the Commission by [1 January 2025].
- The Commission is empowered to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 38 of this Regulation.
6. The Authority shall review the benchmarks and methodology at least every three years. Where amendments are required, the Authority shall submit amended draft regulatory technical standards to the Commission.

Article 13

AM592, 593, 595, 596, 597, 598, 599, 600, 603, 604, 605, 606, 610, 611, 612, 613, 614, 617, 619, 620

The process of listing selected obliged entities

1. ~~The following~~ **For the first selection process, the 40 obliged entities assessed pursuant to Article 12 that have the highest residual risk profile in at least two Member States shall qualify as a selected obliged entity:**
- As of the second selection process, the number of obliged entities that qualify as a selected obliged entity may be increased by up to 10% in every successive selection process, up to a maximum of 60. The Commission shall, to that end, provide an impact assessment taking into account the budgetary impact of such an increase. (AM593, Strugariu et al., AM594, Delbos-Corfield et al.; AM595, Marques et al.; AM596, Seekatz)**
- (a) ~~each credit institution assessed pursuant to Article 12 that has a high inherent risk profile in at least four Member States and that has been under supervisory or other public investigation for material breaches of the acts referred to in Article 1(2) in at least one of those Member States in the previous three years;~~
 - (b) ~~each financial institution assessed pursuant to Article 12 that has a high inherent risk in at least one Member States where it is established or operates via a subsidiary or a branch, and at least five other Member States where it operates via direct provision of services or via a network of representative agents.~~
- 1a. **Where in a Member State no established, registered or authorised obliged entity or group thereof qualifies as a selected obliged entity pursuant to paragraph 1, the obliged entity or group thereof that has the highest residual risk profile**

pursuant to the methodology referred to in Article 12(3) shall be designated as a selected obliged entity. (AM592, Boyer et al.; AM 610, Seekatz; AM611, Marques et al.; AM612, Strugariu et al.; AM619, Karas et al.; AM620, Hansen et al.)

If several obliged entities or groups thereof have a high residual risk profile, then the selected obliged entities shall be the ones operating in the highest number of Member States through either establishments or under the freedom to provide services. If several obliged entities or groups thereof operate in the same number of Member States, then the selected obliged entities shall be the ones with the highest ratio of transaction volume with third countries to total transaction volume as measured over the last financial reporting year. (AM 610, Seekatz)

2. The Authority shall commence the first selection process on 1 July 2025 and shall conclude the selection within one month. The selection shall be made every three years after the date of commencement of the first selection, and shall be concluded within one month in each selection period. The list of the selected obliged entities shall be published by the Authority without undue delay upon completion of selection process. The Authority shall commence the direct supervision of the selected obliged entities five months after publication of the list.
3. A selected obliged entity shall remain subject to direct supervision by the Authority **as long as the entity is listed under paragraph 2.** (AM617, Daly)

RECITALS

- (15) With the objective of ensuring a more effective and less fragmented protection of the Union's financial framework, a limited number of the riskiest obliged entities should be directly supervised by the Authority. As ML/TF risks are not proportional to the size of the supervised entities, other criteria should be applied to identify the most risky entities. In particular, two categories should be considered: high-risk cross-border credit and financial institutions with activity in a significant number of Member States, selected periodically; and, in exceptional cases, any entity **whose serious, systematic or repeated** breaches of applicable requirements are not sufficiently or in a timely manner addressed by its national supervisor. **In addition, the Authority shall ensure that it directly supervises at least one entity per Member State. This will enhance the prevention of ML/TF and ensure that supervisory practices are aligned across the Union.** (AM251, Strugariu et al.) Those entities would fall under the category of 'selected obliged entities'.
- (16) **ML/TF supervision should be risk-based.** (AM241, Ferber et al.) The first category of credit and financial institutions, **including crypto-asset service providers,** or groups of such institutions should be assessed every three years, based on a combination of objective criteria related to their cross-border presence and activity, and criteria related to their inherent ML/FT risk profile. ~~Only large complex financial groups present in a~~ **The Authority should assess those institutions based on residual risk benchmarks in order to better target the riskiest of those obliged entities.** (AM238, Beck; AM242, Benjumea) **In order to ensure that direct supervision by the Authority has added value, only cross-border entities operating in a minimum** number of Member States ~~that could be more efficiently supervised at Union level should be included in the selection process. With respect to credit institutions, minimal cross border presence for inclusion in the selection process should be based on the number of subsidiaries and branches in~~

different Member States, because risky banking activities of significant volume require a local presence in a form of **, either through having** an establishment. Other financial sector entities may, in contrast, carry out activities that can be sufficiently risky from an ML/TF perspective by means of direct provision of services, for example via a network of agents, but may not have established subsidiaries or branches in a large number of Member States. Therefore, applying the same cross border criteria, that is to say the one related to freedom of establishment, would result in scoping out large financial sector entities that can have a significant risk profile in a number of Member States, without being established there. Since the volume of activities via direct provision of **or as a result of the freedom to provide** services is generally smaller than the volume of activities carried out in a branch or a subsidiary, it is appropriate to consider only groups that are established in at least two Member States, but provide services directly or via a network of agents in at least eight more Member States. **, should fall within the remit of the Authority. (AM240, Strugariu et al.)**

- (17) In order to ensure that only the riskiest obliged entities ~~among those with significant cross border operations~~ are supervised directly at the level of the Union, the assessment of their inherent **and residual** risk should be harmonised. Currently, there are various national approaches and supervisory authorities use distinct benchmarks for assessment and classification of **the inherent and residual** ML/TF risk of obliged entities. Using these national methodologies for selection of entities for direct supervision at Union level could lead to a different playing field among them. Therefore, the Authority should be empowered to develop regulatory technical standards laying out a harmonised ~~methodology~~ **methodologies** and benchmarks for categorising ~~the inherent ML/TF risk~~ as low, medium, substantial, or high. ~~The methodology~~ **Authority should also develop common residual risk benchmarks. (AM243, Benjumea)** ~~Those methodologies~~ should be tailored to particular types of risks and therefore should follow different categories of obliged entities which are financial institutions in accordance with the Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [OP please insert the next number for COM(2021)420]. ~~That methodology, as well as crypto-asset service providers. Those methodologies~~ should be sufficiently detailed and should establish specific quantitative and qualitative benchmarks considering at least the risk factors related to types of customers served, products and services offered, and geographical areas, including third country jurisdictions that obliged entities operate in or are related to. Specifically, each assessed obliged entity would have its inherent **and residual** risk profiles classified in each Member State where it operates in a manner consistent with the classification of any other obliged entity in the Union. The quantitative and qualitative benchmarks would allow such classification to be objective and not dependent on the discretion of a given supervisory authority in a Member State, or the discretion of the Authority.
- (18) The final selection criterion should warrant a level playing field among directly supervised obliged entities, and to that end, no discretion should be left to the Authority or supervisory authorities in deciding on the list of obliged entities that should be subject to direct supervision. Therefore, where a given assessed obliged entity operates cross-border and falls within the high risk category in accordance with the harmonised methodology in a minimum number of Member States, it should be deemed a selected obliged entity. ~~In case of credit institutions, the cross border aspect should be addressed by including those credit institutions that are classified as high risk in at least four Member States and where in at least one Member State of those four the entity has been~~

~~under supervisory or other public investigation for material breaches of AML/CFT requirements. In case of other financial institutions, the cross border aspect should be addressed by including those financial institutions that are classified as high risk in at least one Member State where they are established and at least five other Member States where they operate by means of direct provision of services. (AM250, Delbos-Corfield et al.)~~

- (19) To provide transparency and clarity to the relevant institutions, the Authority should publish a list of the selected obliged entities within one month of commencement of a selection round, after verifying the correspondence of information provided by the financial supervisors to the cross-border activities criteria and the inherent **and residual risk methodologies**. Therefore it is important that at the beginning of each selection period, the relevant financial supervisors **and, if necessary, the obliged entities themselves**, provide the Authority with up-to-date statistical information to determine the list of financial institutions eligible for assessment in accordance with the assessment entry criteria relating to their cross-border operations. In this context, the financial supervisors should inform the Authority about the inherent **and residual** risk category that a financial institution **or crypto-asset service provider** falls into in their jurisdictions in accordance with the ~~methodology~~ **methodologies** laid down in the regulatory technical standards. The Authority should then assume the tasks related to direct supervision five months after the publication of the list. That time is needed to appropriately prepare the transfer of supervisory tasks from national to Union level, including the formation of a joint supervisory team, and adopting any relevant working arrangements with the relevant financial supervisors.
- (20) To ensure legal certainty and a level playing field among selected entities, any selected entity should remain under direct supervision of the Authority for at least three years, even if since the moment of selection and in the course of the three years it ceases to meet any of the cross-border activity or risk-related criteria due to e.g. potential consolidation, expansion or re-allocation of activities carried out via establishments or freedom to provide services. The Authority should also ensure that sufficient time is allocated to preparation by the obliged entities and their supervisory authorities to the transfer of supervision from national to Union level. Therefore, each subsequent selection should commence six months before the end-date of the three year period of supervision of the previously selected entities.
- (21) The relevant actors involved in the application of the AML/CFT framework should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the Treaties. In order to ensure that the AML supervisory system composed of the Authority and supervisory authorities functions as an integrated mechanism, and that jurisdiction-specific risks and local supervisory expertise are duly taken into account and well utilised, direct supervision of selected obliged entities should take place in the form of joint supervisory teams. These teams should be led by a staff member of the Authority coordinating all supervisory activities of the team. ~~To ensure an adequate understanding of possible national specificities, the team leader ('JST coordinator') should be stationed in the Member State where a selected entity has its headquarter.~~ The Authority should be in charge of establishment and composition of the joint supervisory team, and **the each local supervisors supervisor involved in the supervision of the selected obliged entity** should ensure that a sufficient number of ~~their~~ **its** staff members are appointed to the team, taking into account the risk profile of the selected entity in ~~their~~ **its** jurisdiction **as well as its overall volume of activity**.

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COMP F – Cooperation, general investigations and on-site inspections.

AMs covered: 623, 625, 629, 630, 632, 634, 635, 636, 638, 641, 646

AMs falling: 79, 622, 624, 625, 626, 627, 80, 628, 630, 631, 633, 81, 637, 82, AFCO 43, AFCO 44, 83, 639, 642, 640, 643, CONT 36, 84, 644, 645, 648, CONT 39, 647, CONT 39, 642, 649, 650, 656, 657, 651, 653, 655, 658, 659, 660

Article 14

AM625.

Cooperation within the AML/CFT supervisory system for the purposes of direct supervision

1. Without prejudice to the Authority's power pursuant to Article 20(2), point (g), to receive directly, or have direct access to, information reported, on an ongoing basis, by selected obliged entities, financial supervisors shall provide the Authority with all information necessary for carrying out the tasks conferred on the Authority **in accordance with this Regulation and other applicable Union law**.
 - 1a. **When an obliged entity becomes a selected obliged entity, the Authority and the national competent authority of the obliged entity shall agree on working arrangements to ensure the smooth transition and conduct of their respective supervisory responsibilities.** (AM623, Delbos-Corfield et al.)
2. Where appropriate, financial supervisors shall be responsible for assisting the Authority with the preparation and implementation of any acts relating to the tasks referred to in Article 5(2), point (b), as regards all selected obliged entities, including assistance in verification activities. They shall follow the instructions given by the Authority when performing those tasks.
3. The Authority shall develop implementing technical standards specifying the conditions under which financial supervisors are to assist the Authority pursuant to paragraph 2.
4. The Authority shall submit the draft implementing technical standards to the Commission by 1 January 2025.

The Commission is empowered to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 42.

AM629, 632, 634, 635, 636.

Joint supervisory teams

1. A joint supervisory team shall be established for the supervision of each selected obliged entity. Each joint supervisory team shall be composed of staff from the Authority and from the financial supervisors responsible for supervision of the selected obliged entity at national level. The members of the joint supervisory team shall be appointed in accordance with paragraph 4 and shall work under the coordination of a designated staff member from the Authority ('JST coordinator').
2. The JST coordinator shall **be stationed in the Authority's premises and** (AM629, Marques et al.) ensure the coordination of the work within the joint supervisory team. Joint supervisory team members shall follow the JST coordinator's instructions as regards their tasks in the joint supervisory team. This shall ~~not affect~~ **be without prejudice to** their tasks and duties within their respective financial supervisors. **Unless justified, the JST coordinator shall not be from the Member States where the selected obliged entity is established.** ~~The JST coordinator shall be delegated from the Authority to the financial supervisor in the Member State where a selected obliged entity has its headquarters, upon agreement of the relevant financial supervisors. The duration of the delegation shall be limited to the time period during which the Authority carries out supervisory tasks with respect to the selected obliged entity.~~ (AM629, Marques et al., AM630, Urtasun et al.)
3. The tasks of a joint supervisory team shall include the following:
 - (a) performing the supervisory reviews and assessments for the selected obliged entities;
 - (b) performing and coordinating on-site inspections at selected obliged entities and preparing the reports, including proposals for adoption of supervisory measures following such reports, where necessary;
 - (c) taking into account the reviews, assessments and on-site inspections referred to in points (a) and (b), participating in the preparation of draft decisions applicable to the respective selected obliged entity to be proposed to the General Board and Executive Board;
 - (d) liaising with financial supervisors where necessary for exercises of supervisory tasks in any Member State where a selected obliged entity is established.
4. The Authority shall be responsible for the establishment and the composition of joint supervisory teams. **The Authority and** the respective financial supervisors shall appoint one or more persons from their staff as a member or members of a joint supervisory team. A financial supervisor staff member may be appointed **to** (AM634, Marques et al.) more than one joint supervisory team.
5. The Authority and financial supervisors shall consult each other and agree on the use of staff with regard to the joint supervisory teams.
 - 5a. **The Authority shall develop internal procedures (AM636, Marques et al.) setting out the composition of joint supervisory teams, notably with regard to staff from each financial supervisor in a home/host context, the status of staff from national supervisors,**

the allocation of human resources by the Authority to **participate** in joint supervisory teams, and necessary operational and procedural rules. **The Authority shall ensure that the financial supervisors of the Member States in which the selected obliged entity operates are adequately represented in the JST and that the JST is composed of staff having a sufficient level and diversity of knowledge, background, expertise and experience.** (AM632, Delbos-Corfield et al.; AM635, Hansen et al.)

Article 16

AM638, 641.

Request for information

1. The Authority may require selected obliged entities, legal persons belonging to them, **and, if necessary, natural persons, including their employees, as well as** third parties to whom the selected obliged entities have outsourced operational functions or activities and natural or legal persons affiliated to them, to provide all information that is necessary in order to carry out the tasks conferred on it by this Regulation **and other applicable Union law.** (AM638, Pereira)
2. The persons referred to in paragraph 1 or their representatives and, in the case of legal persons or associations having no legal personality, the persons authorised to represent them by law or by their constitution, shall supply the information requested **in a timely manner** (AM641, Marques et al.). Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.

The addressees of a request made pursuant to paragraph 1 shall provide the Authority without undue delay with clear, accurate and complete information.
3. Where the Authority obtains information directly from the natural or legal persons referred to in paragraph 1, it shall make that information available to the financial supervisor concerned.

Article 17

AM646.

General investigations

1. In order to carry out the tasks conferred on it by this Regulation, the Authority may conduct all necessary investigations of any selected obliged entity or any natural or legal person employed by or belonging to a selected obliged entity and established or located in a Member State.

To that end, the Authority may:

 - (a) require the submission of documents;
 - (b) examine the books and records of the persons and take copies or extracts from the books and records;
 - (c) obtain access to internal audit reports, certification of accounts and any software, databases, IT tools or other electronic means of recording information;

- (ca) **obtain access to documents and information relating to decision-making processes, including those developed by algorithms or other digital processes;** (AM646, Marques et al.)
 - (d) obtain written or oral explanations from any person referred to in Article 16 or their representatives or staff;
 - (e) interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject-matter of an investigation.
2. The persons referred to in Article 16 shall be subject to investigations launched on the basis of a decision of the Authority. When a person obstructs the conduct of the investigation, the financial supervisor of the Member State where the relevant premises are located shall provide, in compliance with national law, the necessary assistance, including facilitating the access by the Authority to the business premises of the legal persons referred to in Article 16, so that the rights listed in paragraph 1 of this Article can be exercised.

Article 18

On-site inspections

1. In order to carry out the tasks conferred on it by this Regulation, the Authority may, subject to prior notification to the financial supervisor concerned, conduct all necessary on-site inspections at the business premises of the legal persons referred to in Article 16. Where the proper conduct and efficiency of the inspection so require, the Authority may carry out the on-site inspection without prior announcement to those legal persons.
2. The staff of the Authority and other persons authorised by the Authority to conduct an on-site inspection may enter any business premises and land of the legal persons subject to a decision on investigation adopted by the Authority and shall have all the powers provided in Article 20.
3. The legal persons referred to in Article 16 shall be subject to on-site inspections on the basis of a decision of the Authority.
4. Staff and other accompanying persons authorised or appointed by the financial supervisor of the Member State where the inspection is to be conducted shall, under the supervision and coordination of the Authority, actively assist the officials of and other persons authorised by the Authority. To that end, they shall enjoy the powers set out in paragraph 2. Staff of financial supervisors of the Member State concerned shall also have the right to participate in the on-site inspections.
5. Where the staff of and other accompanying persons authorised or appointed by the Authority find that a person opposes an on-site inspection ordered pursuant to this Article, the financial supervisor of the Member State concerned shall provide the necessary assistance in accordance with national law. To the extent necessary for the inspection, this assistance shall include the sealing of any business premises and books or records. Where that power is not available to the financial supervisor concerned, it shall use its powers to request the necessary assistance of other national authorities.

Article 19

Authorisation by a judicial authority

1. If an on-site inspection provided for in Article 18 requires authorisation by a judicial authority in accordance with national law, the Authority shall apply for such an authorisation.
2. Where an authorisation as referred to in paragraph 1 is applied for, the national judicial authority shall control that the decision of the Authority is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Authority for detailed explanations, in particular relating to the grounds the Authority has for suspecting that an infringement of the acts referred to in Article 1(2), first subparagraph has taken place, the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the inspection or demand to be provided with the information on the Authority's file. The lawfulness of the Authority's decision shall be subject to review only by the Court of Justice of the European Union.

RECITALS

- (22) To ensure that the Authority can fulfil its supervisory obligations in an efficient manner with regard to selected obliged entities, the Authority should be able to obtain any internal documents and information necessary for the exercise of its tasks and for that purpose have general investigation powers afforded to all supervisory authorities under national administrative law.
- (23) The Authority should have the power to require actions, internal to the entity, to enhance the compliance of obliged entities with the AML/CFT framework, including reinforcement of internal procedures and changes in the governance structure, going as far as removal of members of the management body, without prejudice to the powers of other relevant supervisory authorities of the same selected entity. Following relevant findings related to non-compliance or partial compliance with applicable requirements by the obliged entity, it should be able to impose specific measures or procedures for particular clients or categories of clients who pose high risks. On-site inspections should be a regular feature of such supervision. If a specific type of on-site inspection requires an authorisation by the national judicial authority, such authorisation should be applied for by the Authority.

COMP G – Supervisory powers, sanctions.

AMs covered: 663, 664, 665, 666, 667, 668, 670, 673, 674, 675, 676, 678, 680, 257

AMs falling: 661, 662, 85, 86, 87, 671, 672, 88, 89, 90, 677, 91, 679, 681, 682, 683, 684, 685, 686, 687, 688, 689, 693, 692, 690, 696, 695, 694, 699, 698, 697, 700, 701, 702, 703, 18, 19, 257, 258, 259, 92

Article 20

AM663, 664, 665, 666, 667, 668, 670, 673, 674, 675, 676.

Supervisory powers

1. For the purpose of carrying out its tasks referred to in Article 5(2), the Authority shall have the powers set out in paragraph 2 of this Article to require any selected obliged entity to take the necessary measures where:
 - (a) the selected obliged entity does not meet the requirements of Union acts and national legislation referred to in Article 1(2);
 - (b) the Authority has evidence that the selected obliged entity is likely to breach the requirements of Union acts and national legislation referred to Article 1(2) within a **reasonable timeframe**; (AM663, Strugariu et al.);
 - (c) the arrangements, strategies, processes and mechanisms implemented by the selected obliged entity do not ensure, based on a **duly justified** (AM665, Pereira; AM666, Beck) determination by the Authority, a sound management and coverage of its **ML/TF (AM664, Benjumea; AM667, Daly; AM668, Seekatz et al.)** risks.
2. For the purposes of Article 6(1) the Authority shall have, in particular, the following powers:
 - (a) to require the reinforcement of the arrangements, processes, mechanisms and strategies;
 - (aa) **to issue recommendations**;
 - (b) to require a plan to restore **and ensure** compliance with supervisory requirements pursuant to Union acts and national legislation referred to in Article 1(2) and to set a deadline for its implementation, including improvements to that plan regarding its scope and deadline;
 - (c) to require to apply a specific policy or treatment of clients, transactions, or delivery channels;
 - (d) to restrict or limit the business, operations or network of institutions comprising the selected obliged entity, or to require the divestment of activities that pose **evident or** (AM670, Benjumea) excessive money laundering and terrorism financing risks;

- (e) to require the implementation of measures to bring about the reduction of the money laundering and terrorism financing risks in the activities, products and systems of selected obliged entities;
- (f) to require changes in the governance structure;
- (g) to require the provision of any data or information necessary for the fulfilment of tasks listed in Article 5(2), to require submission of any document, or impose additional or more frequent reporting requirements;
- (h) to impose specific requirements relating to individual clients, transactions or activities that pose high risks;
- (ha) to order the natural or legal person to cease the conduct and to refrain from repeating that conduct;
- (hb) to issue a public statement which identifies the natural or legal person and the nature of the breach in accordance with Article 24;**
- (i) where a selected entity is subject to authorisation, to **recommend** (AM674, Delbos-Corfield et al.) the withdrawal **or suspension** of licence of **the** selected obliged entity to the authority that has granted such **licence** or to **withdraw** the authorisation where it has been granted. The authority that has granted such authorisation shall make every effort to comply with the suspension or the withdrawal **recommended** by the Authority. In the event that an authority does not comply or does not intend to comply, it shall inform the Authority, stating its reasons; (AM673, Marques et al.)
- (ia) **to impose a temporary ban on any person performing managerial duties in a selected obliged entity, or any other natural person, held responsible for the breach, from performing managerial duties in the selected obliged entities. (AM675, Strugariu et al.; AM676, Castaldo et al.)**

3. The Authority shall also have the powers and obligations which supervisory authorities have under the relevant Union law, unless otherwise provided for by this Regulation. To the extent necessary to carry out the tasks conferred on it by this Regulation, the Authority may require, by way of instructions, those supervisory authorities to make use of their powers, under and in accordance with the conditions set out in national law, where this Regulation does not confer such powers on the Authority, in particular where such powers stem from Article 41(1) (a) to (f), (2) and (3) [OP please insert the next number to the AMLD, COM(2021)423]. Those supervisory authorities shall fully inform the Authority about the exercise of those powers.

The Authority shall be granted access to the information available in the registers, data retrieval systems and mechanisms referred to in Chapter II of [please insert reference to AMLD] for the purpose of carrying out the supervisory tasks conferred on it by this Regulation.^{3a.} The administrative measures referred to in paragraph 1 shall be accompanied by a binding deadline for their effective implementation. The Authority shall follow up and assess the effective implementation by the selected obliged entity of the actions requested.

Article 21

AM678, 680.

Administrative pecuniary sanctions

1. For the purpose of carrying out the tasks conferred on it by this Regulation, where a selected obliged entity intentionally **or** negligently **commits a serious, repeated or systematic** (AM678, Benjumea) breach of a requirement listed in Annex II under directly applicable acts of Union law referred to in Article 1(2), or does not comply with a binding decision referred to in Article 6(1), the Authority may impose administrative pecuniary sanctions, under the conditions specified in paragraphs 2 to 7 of this Article.
2. Where the Executive Board of the Authority finds that a selected obliged entity has, intentionally or negligently, committed a **serious, repeated or systematic** breach of directly applicable requirements contained in [OP please insert the next number to the AMLR, COM (2021)420] or [OP please insert the next number to the TFR, COM(2021)422], it shall adopt a decision imposing administrative pecuniary sanctions, in accordance with paragraph 3. Administrative pecuniary sanctions shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, the **measures** (AM680, Daly) referred to in Article 20(2).
3. The basic amount of the administrative pecuniary sanctions referred to in paragraph 1 shall be included within the following limits:
 - (a) for **serious, repeated or systematic** breaches of one or more requirements related to customer due diligence, group policies and procedures and/or reporting obligations that have been identified in two or more Member States where a selected obliged entity operates, the sanction shall amount to at least EUR 1 000 000 and shall not exceed EUR 2 000 000 or 1% of the annual turnover, whichever is higher;
 - (b) for **serious, repeated or systematic** breaches of one or more requirements related to customer due diligence, internal policies, controls and procedures and/or reporting obligations that have been identified one Member State where a selected obliged entity operates, the sanction shall amount to at least EUR 500 000 and shall not exceed EUR 1 000 000 or 0,5% of the annual turnover, whichever is higher;
 - (c) for **serious, repeated or systematic** breaches of all other requirements that have been identified in two or more Member States where a selected obliged entity operates, the sanction shall amount to at least EUR 1 000 000 and shall not exceed EUR 2 000 000;
 - (d) for **serious, repeated or systematic** breaches of all other requirements that have been identified in one Member State the sanction shall amount to at least EUR 500 000 and shall not exceed EUR 1 000 000;
 - (e) for **serious, repeated or systematic** breaches of the decisions of the Authority referred to in Article 6(1), the sanction shall amount to at least EUR 100 000 and shall not exceed EUR 1 000 000.

4. The basic amounts defined within the limits set out in paragraph 3 shall be adjusted, where needed, by taking into account aggravating or mitigating factors in accordance with the relevant coefficients set out in Annex I. The relevant aggravating coefficients shall be applied one by one to the basic amount. If more than one aggravating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual aggravating coefficient shall be added to the basic amount. Where the benefit derived from the breach by the natural or legal person held responsible or the losses to third parties caused by the breach can be determined, they shall be added to the total amount of the sanction, after application of the coefficients.
5. The relevant mitigating coefficients shall be applied one by one to the basic amount. If more than one mitigating coefficients is applicable, the difference between the basic amount and the amount resulting from the application of each individual mitigating coefficient shall be subtracted from the basic amount.
6. The maximum amount of a sanction for **serious, repeated or systematic** breaches referred to in paragraph 2, points (a) and (b) shall not exceed 10 % of the total annual turnover of the obliged entity in the preceding business year, after application of the coefficients referred to in paragraphs 4 and 5.
7. The maximum amount of a sanction for **serious, repeated or systematic** breaches referred to in paragraph 2, points (c) and point (d) shall not exceed EUR 10 000 000 or, in the Member States whose currency is not the Euro, the corresponding value in the national currency, after application of the coefficients referred to in paragraphs 4 and 5.
8. Where the selected obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and the Council⁸, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable accounting standards according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.
9. In the cases not covered by paragraph 1 of this Article, where necessary for the purpose of carrying out the tasks conferred on it by this Regulation, the Authority may require financial supervisors to open proceedings with a view to taking action in order to ensure that appropriate administrative pecuniary sanctions are imposed in accordance with the legislative acts referred to in Article 1(2) and any relevant national legislation which confers specific powers which are currently not required by Union law. The sanctions applied by financial supervisors shall be effective, proportionate and dissuasive.

The first subparagraph shall be applicable to administrative pecuniary sanctions to be imposed on selected obliged entities for breaches of national law transposing [OP please insert the next number to the AMLD, COM(2021)423] and to any administrative pecuniary sanctions to be imposed on members of the management

⁸ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

board of selected obliged entities who under national law are responsible for a breach by an obliged entity.

10. The administrative pecuniary sanctions applied shall be effective, proportionate and dissuasive.

Article 22

AM703, 704.

Periodic penalty payments

1. The Executive Board shall by decision impose a periodic penalty payment in order to compel:
 - (a) a selected obliged entity to put an end to a breach, in accordance with a decision taken pursuant to Article 6(1);
 - (b) a person referred to in Article 16(1) to supply complete information which has been required by a decision pursuant to Article 6(1);
 - (c) a person referred to in Article 16(1) to submit to an investigation and in particular to produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched pursuant to Article 17.
2. The periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed on a daily basis until the selected obliged entity or person concerned complies with the relevant decision referred to in paragraph 1.
3. Notwithstanding paragraph 2, the amount of a periodic penalty payment shall be 3 % of the average daily turnover in the preceding business year or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. It shall be calculated from the date set in the decision imposing the periodic penalty payment.
4. **Six months after the notification of the Authority's decision to impose a periodic penalty payment, the Executive Board shall review the periodic penalty payment and decide whether it should be extended once.** (AM703, Delbos-Corfield et al.; AM704, Daly)

Article 22a

Methodology for assessing breaches and imposing sanctions and other administrative measures

1. When determining the type and level of administrative sanctions or measures, the Authority shall take into account all relevant circumstances, including where applicable:
 - (a) the gravity and the duration of the breach;
 - (b) the degree of responsibility of the natural or legal person held responsible;

- (c) the financial strength of the natural or legal person held responsible, including in light of its total turnover or annual income;
 - (d) the benefit derived from the breach by the natural or legal person held responsible, insofar as it can be determined;
 - (e) the losses to third parties caused by the breach, insofar as they can be determined;
 - (f) the level of cooperation of the natural or legal person held responsible with the competent authority;
 - (g) previous breaches by the natural or legal person held responsible;
 - (ga) repeated similar breaches by the natural or legal person held responsible.**
2. By ... [2 years after the date of entry into force of this Regulation], the Authority shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall define indicators to classify the level of gravity of breaches and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures pursuant to this Section **and the consequences in the event of repeated breaches. Those draft regulatory technical standards shall also include ranges of pecuniary sanctions relative to the turnover of the entity in breach that shall be applied in accordance with the indicators to classify the level of gravity of the breach as references for effective, proportionate and dissuasive sanctions, including in cases of repeated breaches.**
3. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 2 of this Article in accordance with Articles 38 to 41.

RECITALS

- (24) The Authority should have a full range of supervisory powers in relation to directly supervised entities in order to ensure compliance with applicable requirements. These powers should apply in cases where the selected entity does not meet its requirements, in cases where certain requirements are not likely to be met, as well as in cases where internal ~~process~~ **processes** and controls are not appropriate to ensure sound management of selected obliged entity's ML/FT risks. The exercise of these powers could be done by means of binding decisions addressed to selected individual obliged entities, **as well as by means of recommendations.**
- (25) In addition to supervisory powers and in order to ensure compliance, in cases of **serious, repeated or systematic** breaches of directly applicable requirements, the Authority should be able to impose administrative pecuniary sanctions **and other measures** on the selected obliged entities. **Those measures should be defined in regulatory technical standards by means of indicators to classify the level of gravity of the breaches and the criteria to be taken into account when setting the level of administrative pecuniary sanctions and other measures. (AM257, Pereira)** Such sanctions should be proportionate and dissuasive, should have both punitive and deterrent effect, and should comply with the principle of *ne bis in idem*. The maximum amounts of pecuniary sanctions should be in line with those established by [please insert reference – 6th Anti-Money Laundering Directive] and available to all supervisory authorities across the Union. The basic amounts of these sanctions should be determined within the limits established by

the AML/CFT framework, taking into account the nature of the requirements that have been breached. In order for the Authority to take aggravating or mitigating factors adequately into account, adjustments to the relevant basic amount should be possible. With the objective to achieve a timely change of the damaging business practice, the Executive Board of the Authority should be empowered to impose periodic penalty payments to compel the relevant legal or natural person to cease the relevant conduct. With the aim to heighten awareness of all obliged entities, by encouraging them to adopt business practices in line with the AML/CFT framework, the sanctions and penalties should be disclosed. The Court of Justice should have jurisdiction to review the legality of decisions adopted by the Authority, the Council and the Commission, in accordance with Article 263 TFEU, as well as for determining their non-contractual liability.

- (26) In order for the Authority and financial supervisors to communicate swiftly and efficiently within AML/CFT supervisory system and to enable more coherent decision-making processes, it is necessary to have specific arrangements for communication within that system.

COMP H – Hearings, disclosures, procedural rules, and judicial review.

AMs covered: 706, 707, 708, 710, 711, 712, 713, 714, 715, 716

AMs falling: 705, 93, 707, 711, 94, 709, 712, 95, AFCO 45, CONT 40, 717, AFCO 46, 718

Article 23

AM706.

Hearing of persons subject to proceedings

1. Before taking any decision imposing an administrative pecuniary sanction or periodic penalty payment under Articles 21 and 22, the Executive Board shall give the persons subject to the proceedings the opportunity to be heard on Authority's findings. The Executive Board shall base its decisions only on findings on which the persons subject to the proceedings have had the opportunity to comment.
2. The rights of defence of the persons subject to the proceedings shall be fully respected during the proceedings. They shall be entitled to have access to the Authority's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or internal preparatory documents of the Authority.

Article 24

AM707, 708, 710, 711, 712.

Disclosure, nature, enforcement and allocation of administrative pecuniary sanctions and periodic penalty payments

1. The Authority shall disclose to the public every administrative pecuniary sanction and periodic penalty payment that has been imposed on a selected obliged entity pursuant to Articles 21 and 22, **as well as the administrative measures that have been imposed on a selected obliged entity pursuant to Article 20(2), point d)**, ~~unless such disclosure to the public would cause disproportionate damage to the parties involved.~~ **after the person sanctioned is informed of that decision and all administrative internal procedures have been exhausted. The publication shall include at least information on the type and nature of the breach and the identity of the selected obliged entities responsible.** (AM707, Daly; AM708, Delbos-Corfield; AM710, Tardino; AM711, Strugariu et al.)

The disclosed information shall at least be available on the website of the Authority.
- 1a. **The Authority shall transmit without delay, on a confidential basis, to at least the European Parliament, the Council and the Commission, all relevant information on administrative measures that have been imposed on a selected obliged entity**

pursuant to Article 20. The shared information shall include at least the type and nature of the breach and the identity of the selected obliged entities responsible.

(AM712, Strugariu et al.)

2. Administrative pecuniary sanctions and periodic penalty payments imposed pursuant to Articles 21 and 22 shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision without other formality than verification of the authenticity of the decision by the authority which the government of each Member State shall designate for that purpose and shall make known to the Authority and to the Court of Justice of the European Union.

When those formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with national law, by bringing the matter directly before the competent body.

Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the Member State concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

3. The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the European Union.

Article 25

AM713, 714, 715, 716.

Procedural rules for taking supervisory measures and imposing administrative pecuniary sanctions

1. Where, in carrying out its duties under this Regulation, the Authority finds that there are serious indications of the possible existence of facts liable to constitute one or more of the breaches listed in Annex II, the Authority shall appoint an independent investigatory team within the Authority to investigate the matter.

The investigatory team shall not be involved or have been involved in the direct supervision of the selected obliged entity concerned and shall perform their functions independently from the Authority's Executive Board. **The Authority shall develop internal procedures to determine the rules governing the selection of the members of the independent investigatory teams, in particular with regards to the qualifications, expert knowledge, professional experience and guarantee of independence** (AM713, Urtasun et al.) **expected of them.**

2. The investigatory team shall investigate the alleged breaches, taking into account any comments submitted by the persons subject to investigation, and shall submit a complete file with their findings to the Authority's Executive Board.

In order to carry out their tasks, the investigatory team may exercise the power to require information in accordance with Article 16 and to conduct investigations and on-site inspections in accordance with Articles 17 and 18.

Where carrying out their tasks, the investigatory team shall have access to all documents and information gathered by the joint supervisory team in its supervisory activities.

3. Upon completion of their investigation and before submitting the file with their findings to Authority's Executive Board, the investigatory team shall give the persons subject to investigation the opportunity to be heard on the matters being investigated. The investigatory team shall base their findings only on facts on which the persons subject to investigation have had the opportunity to comment.

The rights of defence of the persons concerned shall be fully respected during investigations under this Article.

4. When submitting the file with their findings to the Authority's Executive Board, the investigatory team shall notify that fact to the persons subject to investigation. The persons subject to investigation shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties.

5. On the basis of the file containing the investigatory team's findings and, when requested by the persons concerned, after having heard the persons subject to investigation in accordance with Article 23 (AM714, Delbos-Corfield et al.), the Executive Board shall decide if one or more of the breaches listed in Annex II have been committed by the persons who have been subject to investigation, and in such case, shall take a supervisory measure in accordance with Article 20 and impose an administrative pecuniary sanction in accordance with Article 21.

6. The investigatory team shall not participate in the deliberations of the Executive Board or in any other way intervene in the decision-making process of the Executive Board.

7. The Commission shall adopt further rules of procedure for the exercise of the power to impose administrative pecuniary sanctions or periodic penalty payments, including provisions on rights of defence, temporal provisions, and the collection of administrative pecuniary sanctions or periodic penalty payments, and shall adopt detailed rules on the limitation periods for the imposition and enforcement of penalties.

The rules referred to in the first subparagraph shall be adopted by means of delegated acts in accordance with Article 85.

8. The Authority shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. **The information communicated to the relevant national authorities shall also be transmitted to Europol in cases where two or more Member States are involved in the facts liable to constitute criminal offences. The Authority shall also transmit the information to the European Public Prosecutor's Office where such information concerns offences in respect of which the European Public Prosecutor's Office exercises or is permitted to exercise competence in accordance with Council Regulation (EU) 2017/1939. (AM715, Castaldo et al.; AM716, Strugariu et al.)** In addition, the Authority shall refrain from imposing administrative pecuniary sanctions or periodic penalty payments where a prior acquittal or conviction arising from identical facts, or from facts which are substantially the same, has acquired the force of res judicata as the result of criminal proceedings under national law.

Article 26

Review by the Court of Justice of the European Union

The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions of the Authority imposing an administrative pecuniary sanction or a periodic penalty payment. It may annul, reduce or increase the fine or periodic penalty payment imposed.

Article 27

Language arrangements in direct supervision

1. The Authority and the financial supervisors shall adopt arrangements for their communication within the AML/CFT supervisory system, including the language(s) to be used.
2. Any document which a selected obliged entity or any other natural or legal person individually subject to the Authority's supervisory procedures submits to the Authority may be drafted in any of the official languages of the Union, chosen by the selected obliged entity or natural or legal person concerned.
3. The Authority, selected obliged entities and any other legal or natural person individually subject to the Authority's supervisory procedures may agree to exclusively use one of the official languages of the Union in their written communication, including with regard to the Authority's supervisory decisions.
4. The revocation of such agreement on the use of one language shall only affect the aspects of the Authority's supervisory procedure which have not yet been carried out.
5. Where participants in an oral hearing request to be heard in an official language of the Union other than the language of the Authority's supervisory procedure, sufficient advance notice of this requirement shall be given to the Authority so that it can make the necessary arrangements.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

(Text with EEA relevance)

COMP I – Indirect supervision.

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

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

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

SECTION 4

INDIRECT SUPERVISION OF NON-SELECTED OBLIGED ENTITIES

Article 28

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

Assessments of the state of supervisory convergence

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

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

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

Article 29

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

Coordination and facilitation of work of the AML colleges

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

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

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

RECITALS

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

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

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

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

Article 30

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

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

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

Where necessary, the Authority may also request a financial supervisor to adopt an individual decision addressed to that entity requiring it to undertake all necessary actions to comply with its obligations under directly applicable Union law or under national law, to the extent that it transposes Directives or exercises options granted to Member States by Union law, including the cessation of any practice.

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

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

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

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

Article 30a

AM754, 773.

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

1. The Authority shall, at the request of a financial supervisor, assess whether or not it is necessary to exercise direct supervision of **non-selected obliged entities** in accordance with this Regulation **for the purposes of ensuring** the consistent application of high supervisory standards.
Member States may set out specific arrangements regarding the delegation of responsibilities that have to be complied with before their competent authorities enter into such delegation agreements, and may limit the scope of delegation to what is necessary for the effective supervision of cross-border financial market participants or groups.
2. The financial supervisor's request shall:
 - (a) identify the non-selected obliged entity in respect of which the financial supervisor is of the view that the Authority should assume direct supervision;
 - (b) state why AML/CFT direct supervision of the non-selected obliged entity is necessary **for the purposes of ensuring** the consistent application of high supervisory standards;
 - (c) identify the proposed duration of the requested transfer of the relevant tasks and powers.
3. The financial supervisor's request shall be accompanied by a report indicating the supervisory history and risk profile of the non-selected obliged entity **that has been identified in the financial supervisor's request.**
4. If the Authority does not agree with the financial supervisor's request, it shall consult with **that** financial supervisor prior to its final assessment as to whether AML/CFT supervision by the Authority of the non-selected obliged entity is necessary **for the purposes of ensuring** the consistent application of high supervisory standards.

Article 30b

AM750, 752, 753.

Settlement of disagreements between competent authorities in cross-border situations

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

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

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

The Authority shall notify the **financial supervisors** of the conclusion of the procedures under paragraphs 4 and 5 together with, where applicable, its decision taken under paragraph 5. (AM752, Marques et al.; AM753, Delbos-Corfield et al.)
6. Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a **financial supervisor** does not comply with the decision of the Authority, and thereby fails to ensure that a financial institution or, in the context of matters relating to the prevention and countering of money laundering or of terrorist financing, a financial sector operator complies with requirements directly applicable to it by virtue of the relevant Union law, the Authority may adopt an individual decision addressed to that

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

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

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

Article 30c

AM792.

Breach of Union law

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

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

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

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

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

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

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

4. Where the supervisory authority has not complied with Union law within one month of the date of receipt of the Authority's recommendation, the Commission may, after having been informed of that fact by the Authority, or on its own initiative, issue a formal opinion requiring the supervisory authority to take the action necessary to comply with Union law. The Commission's formal opinion shall take into account the Authority's recommendation.

The Commission shall issue such formal opinion within three months of the date of adoption of the recommendation. The Commission may extend that period by one month.

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

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

6. Where a supervisory authority does not comply with the formal opinion within the period specified therein, and where it is necessary to remedy, in a timely manner, such non-compliance in order to attain or restore the integrity, stability and reputation of the financial system, the Authority may adopt an individual decision addressed to a non-selected obliged entity requiring it to take all necessary action to comply with its obligations under Union law. To that effect, the Authority shall apply all relevant Union law, and, where that Union law is composed of Directives, national law to the extent that it transposes those Directives. Where the relevant Union law is composed of Regulations and where those Regulations expressly grant options for Member States, the Authority shall apply also national law to the extent that such options have been exercised.

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

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

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

RECITALS

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

agreements, and could limit the scope of delegation to what is necessary for the effective supervision of cross-border financial market participants or groups. The financial supervisor's request should be accompanied by a report indicating the supervisory history and risk profile of the relevant non-selected obliged entity. In cases where the Authority does not agree with the financial supervisor's request, it should consult with that financial supervisor prior to its final assessment as to whether AML/CFT supervision by the Authority of the non-selected obliged entity is necessary. If the Authority agrees with the financial supervisor's request, the Authority should **take over the** relevant tasks and powers related to direct supervision of the non-selected obliged entity from the financial supervisor concerned to the Authority. That decision should also be communicated to the European Parliament and to the Council.

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

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

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

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

SECTION 6

FIUS SUPPORT AND COORDINATION MECHANISM

Article -33

AM834, 849, 873.

The FIUs Support and Coordination Mechanism

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

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

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

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

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

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

Article -33a

AM835, 848, 918, 919.

Cooperation within the FIUs Support and Coordination Mechanism

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

Article 33

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

Conduct of joint analyses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 34

AM852.

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

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

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

RECITALS

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

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

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

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

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

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

Article 35

AM853, 854, 856, 857.

National FIU delegates

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

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

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

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

Article 36

Mutual assistance in the area of cooperation between FIUs

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

Article 37

AM864, 865, 867.

FIU.net

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

Article 37a

AM860, 869, 870, 871, 872.

Peer review

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

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

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

RECITALS

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

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

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

COMP JA - Non-financial sector oversight

AMs covered: 799, 807, 808, 810, 815, 816, 743, 817, 827

AMs falling: 794, 795, 117, 797, 798, 796, 800, 118, 801, 802, 803, 804, 805, 806, 809, CONT 46, 811, 813, 812, 814, 818, CONT 47, 819, 820, 821, 822, 823, 824, 825, 826, 828, 829, 830, 831, 832, 833, 266, 30

SECTION 5

OVERSIGHT OF NON-FINANCIAL SECTOR

Article 31

AM799, 807, 808, 810, 815, 816.

Peer reviews

1. ~~The Authority shall periodically conduct peer reviews of some or all of the activities of non-financial supervisors to strengthen consistency and effectiveness in supervisory outcomes. To that end, the Authority shall develop methods to allow for an objective assessment and comparison between non-financial supervisors reviewed. ~~When planning and conducting peer reviews, existing information and evaluations already available with regard to the non-financial supervisor concerned, including any relevant information provided to the Authority in accordance with Article 11, assessments or reports drawn up by international organisations and intergovernmental bodies competent in the field of preventing money laundering or terrorist financing and any relevant information from stakeholders shall be taken into account.~~~~
2. ~~For the purposes of this Article, the Authority shall establish ad hoc peer review committees, which~~ **The peer reviews shall be composed of carried out by the staff from the Authority and members of the non-financial supervisors. The peer review committees shall be chaired by a member of the Authority's staff. The Chair of the Authority shall, following a call for proposals, propose the chair and the members of a peer review committee which shall be approved by the Executive Board in cooperation with the relevant staff of the non-financial supervisors.**
3. The peer review shall include an assessment of, but shall not be limited to:
 - (a) the adequacy of powers and financial, human and technical resources, the degree of independence, the governance arrangements and professional standards of non-financial supervisor to ensure the effective application of Chapter IV [OP please insert the next number to the AMLD, COM(2021)423];
 - (b) the effectiveness and the degree of convergence reached in the application of Union law and in supervisory practice, and the extent to which the supervisory practice achieves the objectives set out in Union law;

- (c) the application of best practices developed by non-financial supervisors whose adoption might be of benefit for other non-financial supervisors;
 - (d) the effectiveness and the degree of convergence reached with regard to the enforcement of the provisions adopted in the implementation of Union law, including the administrative sanctions and other administrative measures imposed against persons responsible where those provisions have not been complied with.
4. The Authority shall produce a report setting out the results of the peer review. That peer review report shall be prepared by the ~~peer review committee~~ **staff of the Authority, in cooperation with the relevant staff of the non-financial supervisors**, and adopted by the Executive Board, ~~having received the observations of the General Board in supervisory composition as to the consistency of application of the methodology with other peer~~ **which shall share it in a timely manner with the non-financial supervisor under review reports**. The report shall explain and indicate the follow-up measures that are deemed appropriate, proportionate and necessary as a result of the peer review. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 43 and opinions pursuant to Article 44. The non-financial supervisors shall make every effort to comply with any guidelines and recommendations issued, in accordance with Article 43. **The Authority shall transmit such reports without delay, on a confidential basis, at least to the European Parliament.**
 5. The Authority shall publish the findings of the peer review on its website and submit an opinion to the Commission where, having regard to the outcome of the peer review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of Union rules applicable to obliged entities in the non-financial sector or to non-financial supervisors would be necessary from the Union's perspective.
 6. The Authority shall provide a follow-up report two years after the publication of the peer review report. The follow-up report shall be prepared by the ~~peer review committee~~ **staff of the Authority, in cooperation with the relevant staff of the non-financial supervisors**, and adopted by the Executive Board, ~~having received the observations of the General Board in supervisory composition on the consistency with other peer~~ **which shall share it in a timely manner with the non-financial supervisor under review reports**. The follow-up report shall include an assessment of the adequacy and effectiveness of the actions undertaken by the non-financial supervisors that were subject to the peer review in response to the follow-up measures of the peer review report. The Authority shall publish the findings of the follow-up report on its website.
 7. For the purposes of this Article, the Executive Board shall adopt a peer review work plan every two years, which shall reflect the lessons learnt from the past peer review processes and discussions held in the General Board in supervisory composition. The peer review work plan shall constitute a separate part of the annual and multiannual working programme and shall be included in the Single Programming Document. In case of urgency or unforeseen events, the Authority may decide to carry out additional peer reviews.
 8. When supervision is performed by SRBs, the peer review exercise shall include the assessment of the adequacy and effectiveness of measures pursuant to Article 38 of [OP please insert the next number to the AMLD, COM(2021)423] that are taken by

the public authority in charge of overseeing these bodies to ensure that they perform their function to the standards required under Union law.

9. **When the peer review concerns SRBs**, representatives of **SRBs shall** be invited to participate in that peer review. (AM815, Ferber; AM816, Benjumea)

Article 31a

AM743, 817, 827.

Establishment of AML colleges in the non-financial sector

1. **3 years after the the entry into force of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423final], the Authority may, within the scope of its powers and without prejudice to the powers of the relevant supervisory authorities pursuant to Articles 34 and 34a of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423final], decide whether there is a need to establish AML colleges, and ensure their consistent functioning, for obliged entities in the non-financial sector operating in at least 4 Member States and with an annual EU-wide turnover of at least 200 million euros.**
2. **The Authority may:**
 - (a) **convene and organise the meetings of colleges where deemed appropriate;**
 - (b) **assist in the organisation of college meetings, where requested by the relevant supervisory authorities, or convene a college meeting at its own discretion where deemed necessary;**
 - (c) **ensure that all relevant information is collected and shared by the supervisory authorities in order to facilitate the work of the college and make such information accessible to the relevant authorities in the college;**
 - (d) **promote effective and efficient supervisory practices, including evaluating the risks to which obliged entities are or might be exposed;**
 - (e) **mediate and assist in resolving conflicts between participating supervisory authorities on their request;**
 - (f) **oversee, in accordance with the tasks and powers specified in this Regulation, the tasks carried out by the supervisory authorities;**
 - (g) **identify instances where the absence of effective and efficient supervisory practices and activities in the context of AML colleges derives from inadequate or lack of transposition of EU law into national legislation, and duly report those instances to the Commission.**
3. **Such colleges may be used for exchanging information, providing mutual assistance and, where appropriate, coordinating the supervisory approach to the obliged entity, including the taking of appropriate and proportionate measures to address serious breaches of the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] that are detected in the jurisdiction of a supervisor participating in the college.**

4. **The AML colleges shall be composed of permanent members, including the Authority and non-financial supervisors and, when unanimously agreed by them, observers.**

Where, pursuant to Article 29(3) of Directive [please insert reference to AMLD6], Member States allow SRBs to perform supervision of the entities referred to in Article 3, points (3)(a) and (b) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], the respective national oversight authorities, in accordance with Article 38 of Directive [please insert reference to AMLD6], shall be the permanent members.

5. **This article does not apply to SRBs, including SRBs overseeing obliged entities who exercise an independent legal profession or are public office holders who are appointed by the government to exercise judicial functions. (AM827 Karas et al.)**

Article 32

AM827.

Powers over supervisory authorities in the non-financial sector

1. Where a supervisory authority in the non-financial sector has not applied the Union acts or the national legislation referred to in Article 1(2), or has applied them in a way which appears to be a breach of Union law, in particular by failing to ensure that an entity under its supervision or oversight satisfies the requirements laid down in those acts or in that legislation, the Authority shall act in accordance with the powers set out in paragraphs 2, 3, 4, 6 and 7 of this Article.
2. Upon request from one or more supervisory authorities in the non-financial sector, the European Parliament, the Council, the Commission, or on its own initiative, including when this is based on well-substantiated information from natural or legal persons, and after having informed the supervisory authority in the non-financial sector concerned, the Authority shall outline how it intends to proceed with the case and, where appropriate, investigate the alleged breach or non-application of Union law.

The supervisory authority shall, without delay, provide the Authority with all information which the Authority considers necessary for its investigation including information on how the Union acts or in that legislation referred to in Article 1(2) are applied in accordance with Union law.

Whenever requesting information from the supervisory authority concerned has proven, or is deemed to be, insufficient to obtain the information that is deemed necessary for the purposes of investigating an alleged breach or non-application of Union law, the Authority may, after having informed the supervisory authority, address a duly justified and reasoned request for information directly to other supervisory authorities.

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

3. The Authority may, not later than six months from initiating its investigation, address a recommendation to the supervisory authority in the non-financial sector concerned setting out the action necessary to comply with Union law.

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

The supervisory authority in the non-financial sector shall, within ten working days of receipt of the recommendation, inform the Authority of the steps it has taken or intends to take to ensure compliance with Union law.

4. Where the supervisory authority in the non-financial sector has not complied with Union law within one month from receipt of the Authority's recommendation, the Commission may, after having been informed by the Authority, or on its own initiative, issue a formal opinion requiring the supervisory authority in the non-financial sector to take the action necessary to comply with Union law. The Commission's formal opinion shall take into account the Authority's recommendation.

The Commission shall issue such a formal opinion within three months after the adoption of the recommendation. The Commission may extend this period by one month.

The Authority and the supervisory authority in the non-financial sector shall provide the Commission with all necessary information.

5. The supervisory authority in the non-financial sector shall, within ten working days of receipt of the formal opinion referred to in paragraph 5, inform the Commission and the Authority of the steps it has taken or intends to take to comply with that formal opinion.
6. Where the formal opinion referred to in paragraph 4 is addressed to a supervisory authority which is a public authority overseeing a SRB, and where it does not comply with the formal opinion within the period specified therein, **particularly if its inaction is causing a serious risk to the Union's system of supervision**, to remedy such non-compliance in a timely manner, the Authority may adopt a decision addressed to an SRB **in order to ensure compliance with applicable** Union law.

Where Member States allow SRBs to perform supervision of the entities referred to in Article 3, points (3)(a) and (b) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], the respective national oversight authority may send a duly justified request for a derogation of the first subparagraph if it considers it interferes with the independence of the judiciary. The request shall have suspensive effect, must be addressed to the Commission and shared with the Authority. A formal reply by the Commission must take no more than 10 working days. (AM827, Karas et al.)

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

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

When taking action in relation to issues which are subject to a formal opinion pursuant to paragraph 5 or to a decision pursuant to paragraph 7, supervisory authorities shall comply with the formal opinion or the decision, as the case may be.

Recitals

(30) In order to improve supervisory practices in the non-financial sector, the Authority should carry out peer reviews of supervisory authorities in the non-financial sector, including public authorities overseeing self-regulatory bodies (SRBs), and publish reports with its findings; those could be accompanied by guidelines or recommendations addressed to the relevant public authorities, including public authorities overseeing SRBs. **When performing those peer reviews, the Authority should not duplicate existing assessments and should take into account all relevant information.** SRBs should be able to participate in peer reviews ~~on a case-by-case basis where they have expressed their willingness to participate.~~

(30a) Cooperation between national supervisors is essential to ensure a common supervisory approach across the Union. To be effective, this cooperation has to be leveraged to the greatest extent possible which is why it is appropriate to mandate the Authority to decide whether it is necessary or not to set-up AML/CFT supervisory colleges with respect to non-financial sector obliged entities that operate under the freedom to provide services or of establishment in several Member States and with a significant annual EU-wide turnover. In addition, the Authority should facilitate the functioning of the AML supervisory colleges and contribute to the convergence of supervisory practices and the promotion of high supervisory standards.

(31) With the objective to increase the efficiency of the implementation of AML/CFT measures also in the non-financial sector, the Authority should also be able to investigate possible breaches or incorrect application of Union law by supervisory authorities in that sector, including public authorities overseeing SRBs. The national oversight authority can request a derogation to this rule when there is a risk of interference with the independence of the judiciary.

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 (l) 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).