

Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC

CHAPTER II

TASKS AND POWERS OF THE AUTHORITY

Article 8

Tasks and powers of the Authority

- 1 The Authority shall have the following tasks:
- [^{F1}a] to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, in particular by providing opinions to the Union institutions and by developing guidelines, recommendations, draft regulatory and implementing technical standards, and other measures which shall be based on the legislative acts referred to in Article 1(2);
 - aa to develop and maintain up to date, taking into account, inter alia, changing business practices and business models of financial institutions, a European supervisory handbook on the supervision of financial institutions in the Union as a whole, which sets out supervisory best practices for methodologies and processes;]
 - b to contribute to the consistent application of legally binding Union acts, in particular by contributing to a common supervisory culture, ensuring consistent, efficient and effective application of the acts referred to in Article 1(2), preventing regulatory arbitrage, mediating and settling disagreements between competent authorities, ensuring effective and consistent supervision of financial institutions, ensuring a coherent functioning of colleges of supervisors and taking actions, inter alia, in emergency situations;
 - [^{F1}c] to facilitate the delegation of tasks and responsibilities among competent authorities;]
 - d to cooperate closely with the ESRB, in particular by providing the ESRB with the necessary information for the achievement of its tasks and by ensuring a proper follow up to the warnings and recommendations of the ESRB;
 - e to organise and conduct peer review analyses of competent authorities, including issuing guidelines and recommendations and identifying best practices, in order to strengthen consistency in supervisory outcomes;
 - f to monitor and assess market developments in the area of its competence, including where appropriate trends in credit, in particular, to households and SMEs;
 - g to undertake economic analyses of markets to inform the discharge of the Authority's functions;
 - h to foster depositor and investor protection;
 - [^{F1}i] to promote the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to depositors and investors throughout the Union and developing methods for the resolution of failing financial institutions and an assessment of the need for appropriate financing instruments, with a view to fostering cooperation between competent

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- authorities involved in the management of crisis concerning cross-border institutions that have the potential to pose a systemic risk, in accordance with Articles 21 to 26;]
- j to fulfil any other specific tasks set out in this Regulation or in other legislative acts;
- k to publish on its website, and to update regularly, information relating to its field of activities, in particular, within the area of its competence, on registered financial institutions, in order to ensure information is easily accessible by the public^[F1].]
- [^{F2}1 to take over, as appropriate, all existing and ongoing tasks from the Committee of European Banking Supervisors (CEBS).]
- [^{F3}1a When carrying out its tasks in accordance with this Regulation, the Authority shall:
- a use the full powers available to it; and
- b with due regard to the objective to ensure the safety and soundness of credit institutions, take fully into account the different types, business models and sizes of credit institutions.]
- 2 To achieve the tasks set out in paragraph 1, the Authority shall have the powers set out in this Regulation, in particular to:
- a develop draft regulatory technical standards in the specific cases referred to in Article 10;
- b develop draft implementing technical standards in the specific cases referred to in Article 15;
- c issue guidelines and recommendations, as laid down in Article 16;
- d issue recommendations in specific cases, as referred to in Article 17(3);
- e take individual decisions addressed to competent authorities in the specific cases referred to in Articles 18(3) and 19(3);
- f in cases concerning directly applicable Union law, take individual decisions addressed to financial institutions, in the specific cases referred to in Article 17(6), 18(4) and 19(4);
- g issue opinions to the European Parliament, the Council, or the Commission as provided for in Article 34;
- h collect the necessary information concerning financial institutions as provided for in Article 35;
- i develop common methodologies for assessing the effect of product characteristics and distribution processes on the financial position of institutions and on consumer protection;
- j provide a centrally accessible database of registered financial institutions in the area of its competence where specified in the acts referred to in Article 1(2).
- [^{F3}2a When carrying out the tasks referred to in paragraph 1 and exercising the powers referred to in paragraph 2, the Authority shall have due regard to the principles of better regulation, including the results of cost-benefit analyses produced in accordance with this Regulation.]

Textual Amendments

F1 Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

F2 Deleted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory](#)

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- Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.
- F3** Inserted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Article 9

Tasks related to consumer protection and financial activities

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

- a collecting, analysing and reporting on consumer trends;
- b reviewing and coordinating financial literacy and education initiatives by the competent authorities;
- c developing training standards for the industry; and
- d contributing to the development of common disclosure rules.

2 The Authority shall monitor new and existing financial activities and may adopt guidelines and recommendations with a view to promoting the safety and soundness of markets and convergence of regulatory practice.

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

[^{F14} The Authority shall establish, as an integral part of the Authority, a Committee on financial innovation, which brings together all relevant competent supervisory authorities with a view to achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities and providing advice for the Authority to present to the European Parliament, the Council and the Commission.]

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

The Authority shall review the decision referred to in the first subparagraph at appropriate intervals and at least every 3 months. If the decision is not renewed after a 3-month period, it shall automatically expire.

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

[^{F1}The Authority may also assess the need to prohibit or restrict certain types of financial activity and, where there is such a need, inform the Commission and the competent authorities in order to facilitate the adoption of any such prohibition or restriction.]

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Textual Amendments

- F1** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Article 10

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), the Authority may develop draft regulatory technical standards. The Authority shall submit its draft standards to the Commission for endorsement.

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 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 Authority shall also request the opinion of the Banking Stakeholder Group referred to in Article 37.

Where the Authority submits a draft regulatory technical standard, the Commission shall immediately forward it to the European Parliament and the Council.

Within 3 months of receipt of a draft regulatory technical standard, the Commission shall decide whether to endorse it. The Commission may endorse the draft regulatory technical standards in part only, or with amendments, where the Union's interests so require.

Where the Commission intends not to endorse a draft regulatory technical standard or to endorse it in part or with amendments, it shall send the draft regulatory technical standard back to the Authority, explaining why it does not endorse it, or, as the case may be, explaining the reasons for its amendments. Within a period of 6 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.

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

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

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

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

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

4 The regulatory technical standards shall be adopted by means of regulations or decisions. They shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

Article 11

Exercise of the delegation

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

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

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

Article 12

Revocation of the delegation

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

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

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

Article 13

Objections to regulatory technical standards

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

Where the Commission adopts a regulatory technical standard which is the same as the draft regulatory technical standard submitted by the Authority, the period during which the European Parliament and the Council may object shall be 1 month from the date of notification. At the initiative of the European Parliament or the Council that period shall be extended by 1 month.

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

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

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

Article 14

Non-endorsement or amendment of draft regulatory technical standards

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

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

Article 15

Implementing technical standards

1 The Authority may develop 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). 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 endorsement.

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

Where the Authority submits a draft implementing technical standard, the Commission shall immediately forward it to the European Parliament and the Council.

Within 3 months of receipt of a draft implementing technical standard, the Commission shall decide whether to endorse it. The Commission may extend that period by 1 month. The Commission may endorse the draft implementing technical standard in part only, or with amendments, where the Union's interests so require.

Where the Commission intends not to endorse a draft implementing technical standard or intends to endorse it in part or with amendments, it shall send it back to the Authority explaining why it does not intend to endorse it, or, as the case may be, explaining the reasons for its amendments. Within a period of 6 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 fifth 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

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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 In cases 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.

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

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

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

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

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

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

4 The implementing technical standards shall be adopted by means of regulations or decisions. They shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

Article 16

Guidelines and recommendations

1 The Authority shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to competent authorities or financial institutions.

2 The Authority shall, where appropriate, conduct open public consultations regarding the guidelines and recommendations and analyse the related potential costs and benefits. Such consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines or recommendations. The Authority shall, where appropriate, also request opinions or advice from the Banking Stakeholder Group referred to in Article 37.

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

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

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

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

4 In the report referred to in Article 43(5) the Authority shall inform the European Parliament, the Council and the Commission of the guidelines and recommendations that have been issued, stating which competent authority has not complied with them, and outlining how the Authority intends to ensure that the competent authority concerned follow its recommendations and guidelines in the future.

Article 17

Breach of Union law

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

2 Upon a request from one or more competent authorities, the European Parliament, the Council, the Commission or the Banking Stakeholder Group, or on its own initiative, and after having informed the competent authority concerned, the Authority may investigate the alleged breach or non-application of Union law.

Without prejudice to the powers laid down in Article 35, the competent authority shall, without delay, provide the Authority with all information which the Authority considers necessary for its investigation.

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

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

4 Where the competent authority has not complied with Union law within 1 month from receipt of the Authority's recommendation, the Commission may, after having been informed by the Authority, or on its own initiative, issue a formal opinion requiring the competent authority to take the action necessary to comply with Union law. The Commission's formal opinion shall take into account the Authority's recommendation.

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

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

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

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 within the period of time 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 acts referred to in Article 1(2) are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under 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.

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

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

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

Article 18

Action in emergency situations

[^{F1} In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, the Authority shall actively facilitate and, where deemed necessary, coordinate any actions undertaken by the relevant competent supervisory authorities.

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

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

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

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

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

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

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

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

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

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Article 19

Settlement of disagreements between competent authorities in cross-border situations

[^{F1} Without prejudice to the powers laid down in Article 17, where a competent authority disagrees about the procedure or content of an action or inaction of another competent authority in cases specified in the Union acts referred to in Article 1(2), the Authority, at the request of one or more of the competent authorities concerned, may assist the competent authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4 of this Article.]

In cases specified in the legislation referred to in Article 1(2), and where on the basis of objective criteria, disagreement between competent authorities from different Member States can be determined, the Authority may, on its own initiative, assist the authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.

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

3 If the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority may, in accordance with the procedure set out in the third and fourth subparagraph of Article 44(1) take a decision requiring them to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with Union law.

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 acts referred to in Article 1(2), the Authority may adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice.

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

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

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

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Article 20

Settlement of disagreements between competent authorities across sectors

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

[^{F3}Article 20a

Convergence of supervisory review process

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

Textual Amendments

- F3** Inserted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

Article 21

Colleges of supervisors

[^{F1} The Authority shall promote, within the scope of its powers, the efficient, effective and consistent functioning of the colleges of supervisors referred to in Regulation (EU) No 575/2013 and Directive 2013/36/EU and foster the consistency of the application of Union law among the colleges of supervisors. With the objective of converging supervisory best practices, the Authority shall promote joint supervisory plans and joint examinations, and staff from the Authority may participate in the activities of the colleges of supervisors, including on-site examinations, carried out jointly by two or more competent authorities.]

[^{F12} The Authority shall lead in ensuring a consistent functioning of colleges of supervisors for cross-border institutions across the Union, taking account of the systemic risk posed by financial institutions referred to in Article 23, and shall, where appropriate, convene a meeting of a college.]

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

The Authority may:

- a collect and share all relevant information in cooperation with the competent authorities in order to facilitate the work of the college and establish and manage a central system to make such information accessible to the competent authorities in the college;
- b initiate and coordinate Union-wide stress tests in accordance with Article 32 to assess the resilience of financial institutions, in particular the systemic risk posed by financial institutions as referred to in Article 23, to adverse market developments, and

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evaluate the potential for systemic risk to increase in situations of stress, ensuring that a consistent methodology is applied at the national level to such tests and, where appropriate, address a recommendation to the competent authority to correct issues identified in the stress test;

- c promote effective and efficient supervisory activities, including evaluating the risks to which financial institutions are or might be exposed as determined under the supervisory review process or in stress situations;
- d oversee, in accordance with the tasks and powers specified in this Regulation, the tasks carried out by the competent authorities; and
- e request further deliberations of a college in any cases where it considers that the decision would result in an incorrect application of Union law or would not contribute to the objective of convergence of supervisory practices. It may also require the consolidating supervisor to schedule a meeting of the college or add a point to the agenda of a meeting.

3 The Authority may develop draft regulatory and implementing technical standards to ensure uniform conditions of application with respect to the provisions regarding the operational functioning of colleges of supervisors and issue guidelines and recommendations adopted pursuant to Article 16 to promote convergence in supervisory functioning and best practices adopted by the colleges of supervisors.

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

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

Article 22

General provisions

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

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

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

[^{F3}1a At least annually, the Authority shall consider whether it is appropriate to carry out Union-wide assessments of the resilience of financial institutions, in accordance with Article 32, and shall inform the European Parliament, the Council and the Commission of its reasoning. Where such Union-wide assessments are carried out and the Authority considers it appropriate to do so, it shall disclose the results for each participating financial institution.]

2 The Authority shall, in collaboration with the ESRB, develop a common set of quantitative and qualitative indicators (risk dashboard) to identify and measure systemic risk.

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

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

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

4 Upon a request from one or more competent authorities, the European Parliament, the Council or the Commission, or on its own initiative, the Authority may conduct an inquiry into a particular type of financial institution or type of product or type of conduct in order to assess potential threats to the stability of the financial system and make appropriate recommendations for action to the competent authorities concerned.

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

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

Textual Amendments

- F3** Inserted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

Article 23

Identification and measurement of systemic risk

1 The Authority shall, in consultation with the ESRB, develop criteria for the identification and measurement of systemic risk and an adequate stress-testing regime which includes an evaluation of the potential for systemic risk posed by financial institutions to increase in situations of stress. The financial institutions that may pose a systemic risk shall be subject to strengthened supervision, and where necessary, the recovery and resolution procedures referred to in Article 25.

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

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

Article 24

Permanent capacity to respond to systemic risks

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

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

Article 25

Recovery and resolution procedures

[^{F1} The Authority shall contribute to, and participate actively in, the development and coordination of effective, consistent and up-to-date recovery and resolution plans for financial institutions. The Authority shall also, where provided for in the Union acts referred to in Article 1(2), assist in developing procedures in emergency situations and preventive measures to minimise the systemic impact of any failure.]

2 The Authority may identify best practices aimed at facilitating the resolution of failing institutions and, in particular, cross-border groups, in ways which avoid contagion, ensuring that appropriate tools, including sufficient resources, are available and allow the institution or the group to be resolved in an orderly, cost-efficient and timely manner.

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

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

Article 26

European system of deposit guarantee schemes

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

the stabilising safeguard role of mutual guarantee schemes intact, provided they comply with Union legislation.

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

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

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

Article 27

European system of bank resolution and funding arrangements

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

[^{F12} The Authority shall provide its assessment of the need for a system of coherent, robust and credible funding mechanisms, with appropriate financing instruments linked to a set of coordinated crisis management arrangements.]

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

The review of this Regulation provided for in Article 81 shall, in particular, examine the possible enhancement of the role of the Authority in a framework of crisis prevention, management and resolution, and, if necessary, the creation of a European resolution fund.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

Article 28

Delegation of tasks and responsibilities

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

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

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

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

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

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

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

Article 29

Common supervisory culture

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

- a providing opinions to competent authorities;
- b promoting an effective bilateral and multilateral exchange of information between competent authorities, with full respect for the applicable confidentiality and data protection provisions provided for in the relevant Union legislation;
- c contributing to developing high-quality and uniform supervisory standards, including reporting standards, and international accounting standards in accordance with Article 1(3);
- d reviewing the application of the relevant regulatory and implementing technical standards adopted by the Commission, and of the guidelines and recommendations issued by the Authority and proposing amendments where appropriate; and
- e establishing sectoral and cross-sectoral training programmes, facilitating personnel exchanges and encouraging competent authorities to intensify the use of secondment schemes and other tools.

2 The Authority may, as appropriate, develop new practical instruments and convergence tools to promote common supervisory approaches and practices.

[^{F3}For the purpose of building a common supervisory culture, the Authority shall develop and maintain up to date, taking into account, inter alia, changing business practices and business models of financial institutions, a European supervisory handbook on the supervision of financial institutions for the Union as a whole. The European supervisory handbook shall set out supervisory best practices for methodologies and processes.]

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

Textual Amendments

- F3** Inserted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Article 30

Peer reviews of competent authorities

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

- 2 The peer review shall include an assessment of, but shall not be limited to:
- a the adequacy of resources and governance arrangements of the competent authority, with particular regard to the effective application of the regulatory technical standards and implementing technical standards referred to in Articles 10 to 15 and of the acts referred to in Article 1(2) and the capacity to respond to market developments;
 - b the degree of convergence reached in the application of Union law and in supervisory practice, including regulatory technical standards and implementing technical standards, guidelines and recommendations adopted pursuant to Articles 10 to 16, and the extent to which the supervisory practice achieves the objectives set out in Union law;
 - c best practices developed by some competent authorities which might be of benefit for other competent authorities to adopt;
 - 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 measures and sanctions imposed against persons responsible where those provisions have not been complied with.

[^{F13} On the basis of a peer review, the Authority may issue guidelines and recommendations pursuant to Article 16. In accordance with Article 16(3), the competent authorities shall endeavour to follow those guidelines and recommendations. When developing draft regulatory technical or implementing technical standards in accordance with Articles 10 to 15, the Authority shall take into account the outcome of the peer review, along with any other information acquired in carrying out its tasks, in order to ensure convergence of the standards and practices of the highest quality.

3a The Authority shall submit an opinion to the Commission where the peer review or any other information acquired in carrying out its tasks shows that a legislative initiative is necessary to ensure the further harmonisation of prudential rules.]

4 The Authority shall make the best practices that can be identified from those peer reviews publicly available. In addition, all other results of peer reviews may be disclosed publicly, subject to the agreement of the competent authority that is the subject of the peer review.

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

Textual Amendments

- F1** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Article 31

Coordination function

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

The Authority shall promote a coordinated Union response, inter alia, by:

- (a) facilitating the exchange of information between the competent authorities;
- (b) [^{F1}determining the scope and verifying where appropriate the reliability of information that should be made available to all the competent authorities concerned;]
- (c) without prejudice to Article 19, carrying out non-binding mediation upon a request from the competent authorities or on its own initiative;
- (d) [^{F1}notifying the ESRB, the Council and the Commission of any potential emergency situations without delay;
- (e) taking all appropriate measures in case of developments which may jeopardise the functioning of the financial markets with a view to the coordination of actions undertaken by relevant competent authorities;
- (f) centralising information received from competent authorities in accordance with Articles 21 and 35 as the result of the regulatory reporting obligations of institutions. The Authority shall share that information with the other competent authorities concerned.]

Textual Amendments

- F1** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Article 32

Assessment of market developments

1 The Authority shall monitor and assess market developments in the area of its competence and, where necessary, inform the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority

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(European Securities and Markets Authority), the ESRB and the European Parliament, the Council and the Commission about the relevant micro-prudential trends, potential risks and vulnerabilities. The Authority shall include in its assessments an economic analysis of the markets in which financial institutions operate and an assessment of the impact of potential market developments on such institutions.

[^{F12} The Authority shall, in cooperation with the ESRB, initiate and coordinate Union-wide assessments of the resilience of financial institutions to adverse market developments. To that end it shall develop:

- a common methodologies for assessing the effect of economic scenarios on an institution's financial position;
- b common approaches to communication on the outcomes of those assessments of the resilience of financial institutions;
- c common methodologies for assessing the effect of particular products or distribution processes on an institution; and
- d common methodologies for asset evaluation, as necessary, for the purpose of the stress testing.]

3 Without prejudice to the tasks of the ESRB set out in Regulation (EU) No 1092/2010, the Authority shall, at least once a year, and more frequently as necessary, provide assessments to the European Parliament, the Council, the Commission and the ESRB of trends, potential risks and vulnerabilities in its area of competence.

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

[^{F3a} For the purpose of running the Union-wide assessments of the resilience of financial institutions under this Article, the Authority may, in accordance with Article 35 and subject to the conditions set out therein, request information directly from those financial institutions. It may also require competent authorities to conduct specific reviews. It may request competent authorities to carry out on-site inspections, and may participate in such on-site inspections in accordance with Article 21 and subject to the conditions set out therein, in order to ensure comparability and reliability of methods, practices and results.

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

4 The Authority shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating with the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) through the Joint Committee.

Textual Amendments

- F1** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.
- F3** Inserted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

Article 33

International relations

1 Without prejudice to the respective competences of the Member States and the Union institutions, the Authority may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries. 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 assist in preparing equivalence decisions pertaining to supervisory regimes in third countries in accordance with the acts referred to in Article 1(2).

3 In the report referred to in Article 43(5), the Authority shall set out the administrative arrangements agreed upon with international organisations or administrations in third countries and the assistance provided in preparing equivalence decisions.

Article 34

Other tasks

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

2 With regard to prudential assessments of mergers and acquisitions falling within the scope of Directive 2006/48/EC, as amended by Directive 2007/44/EC, and which according to that Directive require consultation between competent authorities from two or more Member States, the Authority may, on application of one of the competent authorities concerned, issue and publish an opinion on a prudential assessment, except in relation to the criteria in Article 19a(1)(e) of Directive 2006/48/EC. The opinion shall be issued promptly and in any event before the end of the assessment period in accordance with Directive 2006/48/EC, as amended by Directive 2007/44/EC. Article 35 shall apply to the areas in respect of which the Authority may issue an opinion.

Article 35

Collection of information

[^{F1}] At the request of the Authority, the competent authorities shall provide the Authority with all the necessary information, in specified formats, to carry out the tasks conferred on it by this Regulation, provided that they have legal access to the relevant information. The information shall be accurate, coherent, complete and timely.

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

3 Upon a duly justified request from a competent authority, the Authority shall provide any information that is necessary to enable the competent authority to carry out its tasks in

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accordance with the professional secrecy obligations laid down in sectoral legislation and in Article 70.]

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

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

[^{F16} Where complete or accurate information is not available or is not made available in a timely fashion under paragraph 1 or 5, the Authority may request information, by way of a duly justified and reasoned request, directly from:

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

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

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

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

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

[^{F37a} Where the addressees of a request under paragraph 6 do not provide clear, accurate and complete information promptly, the Authority shall inform the European Central Bank where applicable and the relevant authorities in the Member States concerned which, subject to national law, shall cooperate with the Authority with a view of ensuring full access to the information and to any originating documents, books or records to which the addressees have legal access in order to verify the information.]

Textual Amendments

- F1** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.
- F3** Inserted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

Article 36

Relationship with the ESRB

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

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

3 The Authority shall, in accordance with paragraphs 4 and 5, ensure a proper follow-up to ESRB warnings and recommendations referred to in Article 16 of Regulation (EU) No 1092/2010.

4 On receipt of a warning or recommendation from the ESRB addressed to the Authority, the Authority shall convene a meeting of the Board of Supervisors without delay and assess the implications of such a warning or recommendation for the fulfilment of its tasks.

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

[^{F1}If the Authority does not act on a recommendation, it shall explain to the Council and to the ESRB its reasons for not doing so. The ESRB shall inform the European Parliament thereof in accordance with Article 19(5) of Regulation (EU) No 1092/2010.]

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

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

[^{F1}Where the competent authority, in accordance with Article 17(1) of Regulation (EU) No 1092/2010, informs the Council and the ESRB of the actions it has undertaken in response to a recommendation of the ESRB, it shall take due account of the views of the Board of Supervisors and shall also inform the Commission.]

6 In discharging the tasks set out in this Regulation, the Authority shall take the utmost account of the warnings and recommendations of the ESRB.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory Authority \(European Banking Authority\) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation \(EU\) No 1024/2013.](#)

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

Article 37

Banking Stakeholder Group

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

[^{F1}The Banking Stakeholder Group shall meet on its own initiative as necessary, and in any event at least four times a year.]

2 The Banking Stakeholder Group shall be composed of 30 members, representing in balanced proportions credit and investment institutions operating in the Union, their employees' representatives as well as consumers, users of banking services and representatives of SMEs. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent financial institutions, three of whom shall represent cooperative and savings banks.

3 The members of the Banking Stakeholder Group shall be appointed by the Board of Supervisors, following proposals from the relevant stakeholders. In making its decision, the Board of Supervisors shall, to the extent possible, ensure an appropriate geographical and gender balance and representation of stakeholders across the Union.

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

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

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

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

7 The Authority shall make public the opinions and advice of the Banking Stakeholder Group and the results of its consultations.

Textual Amendments

F1 Substituted by [Regulation \(EU\) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation \(EU\) No 1093/2010 establishing a European Supervisory](#)

Status: Point in time view as at 30/10/2013.

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Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Article 38

Safeguards

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

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

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

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

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

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

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

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

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

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

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

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

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

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examine the matter. The Member State concerned shall clearly set out the reasons for its disagreement with the decision of the Council.

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

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

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

Article 39

Decision-making procedures

1 Before taking the decisions provided for in this Regulation, the Authority shall inform any named addressee of its intention to adopt the decision, setting a time limit within which the addressee may express its views on the matter, taking full account of the urgency, complexity and potential consequences of the matter. This applies mutatis mutandis to recommendations as referred to in Article 17(3).

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

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

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

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

Status: Point in time view as at 30/10/2013.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

(1) [^{F1}OJ L 56, 4.3.1968, p. 1.]

Textual Amendments

- F1** Substituted by Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013.

Status:

Point in time view as at 30/10/2013.

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) No 1093/2010 of the European Parliament and of the Council, CHAPTER II.