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2017/0230 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority); Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority); Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority); Regulation (EU) No 345/2013 on European venture capital funds; Regulation (EU) No 346/2013 on European social entrepreneurship funds; Regulation (EU) No 600/2014 on markets in financial instruments; Regulation (EU) 2015/760 on European long-term investment funds; Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds; Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market; and (EU) Directive 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing

(Text with EEA relevance)

(11a) It is becoming increasingly important to promote consistent, systematic and effective monitoring and assessment of risks in relation to money-laundering and terrorist financing in the Union's financial system. ***Combating money laundering and financing of terrorism is a shared responsibility between Member States and European institutions and bodies, within their respective mandates. They should establish mechanisms for enhanced cooperation, coordination and mutual assistance, fully utilising all the tools and measures available under the existing regulatory and institutional framework. At the same time, all entities involved should allow for proper scrutiny and oversight of their actions. (1 Berès)***

(11ab) Given the consequences for financial stability which may stem from abuses of the financial sector for money-laundering or terrorist financing purposes, ***considering that it is in the banking sector that money-laundering and terrorist financing risks are most likely to have systemic impact,*** and building on the experience already gained by EBA in protecting the banking sector from such abuses ***as an Authority with oversight over all Member States***, EBA should take a leading*,* ***coordinating and monitoring*** role at Union level to *effectively* protect the financial system from money-laundering and terrorist financing risks. Therefore, it is necessary to entrust EBA, in addition to its present competences, with the authority to act within the remit of Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010 insofar as such authority relates to the prevention and combating of money-laundering and terrorist financing, where it concerns financial sector operators and the competent authorities supervising them, which are covered by those Regulations. Moreover, concentrating this mandate for the entire financial sector within EBA would optimise the use of its expertise and resources, and is without prejudice to the material obligations laid down in Directive (EU) 2015/849. *(2 K aras, 3 Swinburne, 5 Berès)*

(11b) In order for EBA to exercise its mandate effectively it should make full use of all its powers and tools under the Regulation ***while respecting the principle of proportionality***. ***The measures EBA adopts to promote integrity, transparency and security in the financial system and to prevent and combat money-laundering and terrorist financing should not exceed what is necessary to achieve the objectives of this Regulation or the acts referred to in Article 1(2) and should take duly into account nature, scale and complexity of risks, business practices, business models and size of financial sector operators and markets.*** In line with its new role, it is important that EBA collects all relevant information in relation to money-laundering and terrorist financing activities identified by the relevant Union and national authorities, without prejudice to the tasks assigned to authorities under Directive (EU) 2015/849 ***and without creating any unnecessary duplicates***. ***In full compliance with data protection rules***, EBA should store such information in a centralised database and foster cooperation among authorities by ensuring appropriate dissemination of relevant information. *EBA may also, where appropriate, transmit to the national judicial authorities of the Member State concerned and, where applicable, to the European Public Prosecutor, evidence in its possession which could give rise to criminal proceedings*

*(11b a)****Following requests from competent authorities in the exercise of their prudential supervisory functions, EBA should provide assistance.*** ***EBA should also coordinate closely, and, where appropriate, exchange information, with competent authorities including the European Central Bank, in its supervisory capacity, and authorities entrusted with the public duty of supervising obliged entities listed in points (1) and (2) of Article 2 (1) of Directive (EU) 2015/849 as well as with Financial Intelligence Units, while taking due account of existing channels for the exchange of information such as the EU-FIU Platform and FIU.Net, to ensure efficiency and to avoid any form of duplicative or inconsistent actions in preventing and combating money-laundering and terrorist financing.***

***(11b b)*** In addition EBA should carry out reviews of competent authorities, as well as risk assessment exercises relating to money-laundering and terrorist financing. ***EBA should assume a role in identifying supervisory and prudential practices and processes in Member States which harm the consistency and strength of the EU’s framework for prevention of money laundering and financing of terrorism. EBA should initiate proceedings to correct these weakness, and propose new regulatory technical standards, if necessary****.*

***(11b c)*** Furthermore, EBA should  *have a leading role in contibuting to facilitate cooperation between competent authorities in the Union and the relevant authorities in third countries* on these matters with a view to better coordinate action at Union level in material cases of anti-money laundering and terrorist financing having a cross-border and third country dimension. *(11b a, b, c - Karas 7, Beres 8, Swinburne 9, Beres 21)*(11c) In order to enhance the effectiveness of supervisory control of compliance in the area of money laundering and terrorist financing and to ensure greater coordination of the enforcement by national competent authorities of breaches of directly applicable Union law or its national transposing measures, EBA should have the power ***to carry out analysis of the information collected and, if necessary, pursue investigations on allegations brought to its attention concerning material breaches or non application of Union law, and***, where *it has evicence or significant* indications of material breaches, to request competent authorities to investigate any possible breaches of the relevant rules, to consider taking decisions and imposing sanctions addressed to financial institutions requiring them to comply with their legal obligations. This power should only be used where EBA has indications of material breaches. ***Where EBA has substantial indications of material breaches, the actions referred to above should be initiated without undue delay.*** ***The requests referred to in this paragraph should not compromise ongoing supervisory measures by the competent authority to which the request is addressed. (12 Karas, 13 Swinburne)***

(15a) In view of the importance of ensuring that the Union supervisory framework for combating of money-laundering and terrorist financing is applied effectively, independent reviews to provide objective and transparent perspectives on supervisory practices are of paramount importance. *Through these reviews, EBA should assess the strategies, capacities and resources of the competent authorites to address emerging risks related to money laundering and terrorist financing.* Where such reviews reveal serious concerns, which the competent authority does not remedy *as appropriate and necessary*, EBA *should* ***issue a follow-up report regarding compliance with requested follow-up measures and*** should notify the European Parliament, the Council and the Commission ***without undue delay***. *(15 Karas, 16 Ferber)*

(15b) For carrying out its tasks and exercising its powers, EBA should be able to take individual decisions addressed to financial sector operators in the context of the procedure for breach of Union law and of the procedure of binding mediation even when the material rules are not directly applicable to financial sector operators, after having taken a decision addressed to the competent authority. Where the material rules are laid down in Directives, EBA should apply the national legislation transposing those Directives, ***unless EBA, after consulting the Commission, takes the view that national legislation does not transpose those Directives adequately***. Where the relevant Union law is composed of Regulations and where, on the date of entry into force of this Regulation, those Regulations expressly grant options to Member States, EBA should apply the national legislation exercising those options. *(18 Berès)*

*(15b a) With a view to enhance EBA’s role in ensuring the effectiveness of supervisory control of compliance in the area of money laundering and terrorist financing and in addressing breaches or non-application of Union law or its national transposing measures, EBA should make available channels for reporting breaches or non-application of Union law. EBA should ensure that information may be submitted anonymously and safely. Where EBA deems that the submitted information contains evidence or significant indications of material breaches, EBA provide feedback to the reporting person (20 Berès)*

(24a) To ensure that the appropriate level of expertise underpins decisions relating to anti-money laundering and terrorist financing measures, it is necessary to set up a ***permanent internal*** committee composed of the heads of authorities and bodies in charge of compliance with anti-money laundering and terrorist financing legislation, ***whose expertise on different business models and specificities of sectors should be fully taken into consideration. This Committe***e will examine and prepare decisions to be taken by EBA.In order to avoid duplication, this new committee will replace the existing anti-money laundering sub-committee which has been set up within the ESAs Joint Committee. *(23 Karas)*

*(24a a) With regard to EBA’s tasks related to preventing and combating of money-laundering and terrorist financing, the Joint Committee should serve as a forum in which the EBA should cooperate regularly and closely with the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority on matters relating to the interaction between the specific tasks of the EBA referred to in point (l) of Article 8(1) and the tasks conferred on the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority, to ensure that different business models and specificities of the different sectors are fully taken into consideration. (25 Karas)*

***(24a b) EBA should be properly and adequately resourced and staffed to effectively contribute to the consistent, efficient and effective prevention of the use of the financial system for the purposes of money-laundering and terrorist financing, within its respective competences under this Regulation. Additional competences and workload conferred upon*** *the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority* ***should also be matched with sufficient human and financial resources. (26 Karas, 28 Giegold)(24a c) In line with the objective to achieve a more coherent and viable supervisory system in the Union to prevent and combat money-laundering and terrorist financing, the Commission should, after consulting all relevant authorities and stakeholders, conduct a comprehensive assessment on the implementation, functioning and effectiveness of the specific tasks conferred to EBA pursuant to point (1) of Article 8(1) of this Regulation. As part of its assessment, the Commission should analyse the interaction between those tasks and the tasks conferred on the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority. Since much money-laundering and terrorist financing activity takes place outside the financial services sector, the Commission should, based on a comprehensive cost and benefit analysis as well as following the objective of ensuring consistency, efficiency and effectiveness, also thoroughly investigate the possibility of conferring specific anti money-laundering and terrorist financing tasks to an existing or new dedicated EU-wide agency. The Commission should submit this assessment, as part of its report pursuant to Article 65 of Directive (EU) 2018/843, and together with legislative proposals, if appropriate, to the European Parliament and the Council by 11 January 2022 (27 Karas).***

*Article 1  
Amendments to Regulation (EU) No 1093/2010*

Regulation (EU) 1093/2010 is amended as follows:

1. Article 1 is amended as follows:
   * + 1. paragraph 2 is replaced by the following:

"2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC of the European Parliament and of the Council\*, Regulation (EU) No 575/2013 of the European Parliament and of the Council, Directive 2013/36/EU of the European Parliament and of the Council, Directive 2014/49/EU of the European Parliament and of the Council\*\*, Directive 2014/92/EU of the European Parliament and of the Council\*\*\*, Regulation (EU) 2015/847\*\*\*\* of the European Parliament and the Council\*\*\*\*\*, Directive (EU) 2015/2366 of the European Parliament and of the Council\*\*\*\*\*\* and, to the extent that those acts apply to credit and financial institutions and the ompetent authorities that supervise them, within the relevant parts of Directive 2002/65/EC and Directive (EU) 2015/849 of the European Parliament and of the Council\*\*\*\*\*\*\*, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013\*\*\*\*\*\*\*\*.

\* Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

\*\*Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes Text with EEA relevance (OJ L 173, 12.6.2014, p. 149).

\*\*\*Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features Text with EEA relevance (OJ L 257, 28.8.2014, p. 214).

\*\*\*\*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).

\*\*\*\*Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

\*\*\*\*\*Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

\*\*\*\*\*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).";

* + - 1. in Article 1(2), the following subparagraph is added:

'The Authority shall also act within the powers conferred by this Regulation and within the scope of Directive (EU) 2015/849(\*) of the European Parliament and of the Council to the extent that that Directive applies to financial sector operators and the competent authorities that supervise them. For this purpose only, EBA shall carry out the tasks conferred by any legally binding Union act on the European Insurance and Occupational Pensions Authority established by Regulation (EU) No 1094/2010 or to the European Securities and Markets Authority established by Regulation (EU) No 1095/2010. When carrying out such tasks, the Authority shall  *consult* those Authorities *and keep them* informed of its activities concerning any entity which is a "financial" institution" as defined in Article 4(1) of Regulation (EU) No 1094/2010 or a "financial market participant" as defined in Article 4(1) of Regulation (EU) No 1095/2010.' *(30 Karas)*;

(\*) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73)';

* + - 1. *in Article 1(5), the following point f(b) is added:*

*‘(fb) preventing the use of the financial system for the purposes of money-laundering and terrorist financing (532 Giegold, 355 Berès et al, 31 Giegold);*

(3) Article 4 is amended as follows:

(aa) the following point (1a) is inserted:

“(1a) 'financial sector operators' means any entity which is subject to *Article 2* *of* Directive (EU) 2015/849 and which is *also* either a 'financial institution' as defined in Article 4(1) of this Regulation and in Article 4(1) of Regulation (EU) No 1094/2010 or a ‘financial market participant’ as defined in Article 4(1) of Regulation (EU) No 1095/2010" *(33 Karas)*;

(c) point (ii) of point (2) is replaced by the following:

"(ii) with regard to Directives 2002/65/EC and (EU) 2015/849 the authorities and bodies competent for ensuring compliance with the requirements of those that Directives by credit and financial institutions;

(iia) with regard to Directive (EU) 2015/849 the authorities and bodies that supervise financial institutions and are competent for ensuring their compliance with the requirements of that Directive *as referred to in Article 48 of that Directive (34 Karas)*";

(5) Article 8 is amended as follows:

(a) paragraph 1 is amended as follows:

(v) the following point (l) is added:

"(l) to contribute to the *consistent, efficient and effective* prevention of the use of the financial system for the purposes of money-laundering and terrorist financing." *(36 Karas)*;

(6a) the following Articles 9a and 9b are inserted:

"Article 9a  
Special tasks related to combating money-laundering and terrorist financing

1. The Authority shall*, within its respective competences,* take a leading*, coordinating and monitoring* role in promoting integrity, transparency and security in the financial system by means of adopting measures to prevent and combat money laundering and terrorist financing. *In line with the principle of proporationality, these measures shall not exceed what is necessary to achieve the objectives of this Regulation or the acts referred to in Article 1(2) and shall take duly into account nature, scale and complexity of risks, business practices, business models and size of financial sector operators and markets.These measures to prevent and combat money laundering and terrorist financing include (37 Karas)*:

* + - 1. collecting *and analysing relevant* information from competent authorities and *other sources* relating to weaknesses identified in the processes and procedures, governance arrangements, fit and proper assessments, business models and activities of financial sector operators to prevent *and combat* money-laundering and terrorist financing as well as measures taken by competent authorities*,* ***without prejudice to the tasks assigned to authorities under Directive (EU) 2015/849***. Competent authorities shall provide all such information to the Authority in addition to any obligations under Article 35. The Authority shall coordinate closely with Financial Intelligence Units***, without creating any unnecessary duplicates (40 Berès, 42 Karas)***;

***(aa )coordinating closely, and, where appropriate, exchanging information, with competent authorities including the European Central Bank, in its supervisory capacity, and authorities entrusted with the public duty of supervising obliged entities listed in points (1) and (2) of Article 2 (1) of Directive (EU) 2015/849 as well as with Financial Intelligence Units, while taking due account of existing channels for the exchange of information such as the EU-FIU Platform and FIU.Net, to ensure efficiency and to avoid any form of duplicative or inconsistent actions in preventing and combating money-laundering and terrorist financing (40 Berès, 44 Karas);***

* + - 1. developing common *guidance and* standards for *preventing and* combating money-laundering and terrorist financing in the financial sector and promoting their consistent implementation ***in particular by developing draft regulatory and implementing technical standards, guidelines, recommendations, and other measures, including opinions in accordance with Article 16a, which shall be based on the legislative acts referred to in Article 1(2) (46 Karas)***;

***(ba) providing assistance to competent authorities, following their specific requests (38 Berès);***

* + - 1. monitoring market developments and assessing vulnerabilities *and risks* to money-laundering*,* terrorist financing *and, where applicable, tax good governance* in the financial sector. *(375, 411, 476, 577, 556 Berès)*

***1a. For the purpose of point (a) in paragraph 1, the Authority shall develop draft regulatory technical standards to specify the practical modalities concerning the collection of relevant information including the type of information that shall be submitted by competent authorities relating to weaknesses identified in the processes and procedures, governance arrangements, fit and proper assessments, business models and activities of financial sector operators to prevent and combat money-laundering and terrorist financing as well as measures taken by competent authorities, without creating any unnecessary duplicates.***

***The Authority shall submit those draft regulatory technical standards to the Commission by [six months after entry into force of this Regulation].***

***Power is delegated on the Commission to adopt the regulatory technical standards referred to in paragraph 1a pursuant to Article 290 TFEU (39 Karas).***

2. *In compliance with data protection rules,* *the* Authority shall establish and keep up to date a central database of information collected pursuant to point (a) in paragraph 1. The Authority shall ensure that information is analysed and made available to competent authorities on a need-to-know and confidential basis ***The Authority may also, where appropriate, transmit to the national judicial authorities and the national competent authorities of the Member State concerned and, where applicable, to the European Public Prosecutor, evidence in its possession which could give rise to criminal proceedings*** *(51 Berès, 52 Swinburne)*.

3. The Authority shall promote convergence of supervisory processes referred to in Directive (EU) 2015/849 *and assess the strategies, capacities and resources of the competent authorites to address emerging risks related to money laundering and terrorist financing* including by conducting reviews, in accordance with Article 30 *(54 Berès)*.

Where such a review reveals serious shortcomings in the identification, assessment or addressing of risks of money-laundering and terrorist financing and the competent authority does not take action to address the follow-up measures*,* ***that are deemed appropriate and necessary, as*** set out in the report referred to in Article 30(3), the Authority shall ***issue a follow-up report regarding compliance with requested follow-up measures and*** inform the European Parliament, the Council and the Commission *(53 Karas)*.

4. The Authority shall*,* *with support of the permanent internal committee on anti-money laundering and countering terrorist financing where appropriate,* perform risk assessments on competent authorities with a main focus on competent authorities as referred to in point (iia) of Article 4(2)to test their strategies and resources to address and monitor the most important emerging risks related to money-laundering and terrorist financing. The Authority shall inform the Commission of the outcomes of *such* risk assessments ***on the risks of money-laundering and terrorist financing affecting the Union's financial sector***, including by integrating the analysis of the outcomes in the opinion it is requested to deliver pursuant to paragraph 5 of Article 6 of Directive (EU) 2015/849 *(55 Karas)*.

5. In material cases of money-laundering or terrorist financing affecting cross border matters with third countries, the Authority shall have a leading role in *contibuting to facilitate* cooperation between competent authorities in the Union and the relevant authorities in third countries *(56 Karas)*.

6. The Authority shall establish a permanent internal committee on anti-money laundering and countering terrorist financing to coordinate measures in order to combat money-laundering and terrorist financing and to prepare draft decisions to be taken by the Authority in accordance with Article 44.

7. The committee shall be chaired by the Chairperson of the Board of Supervisors and shall be composed of the heads of the authorities and bodies competent for ensuring compliance with the requirements of Directive (EU) 2015/849 by financial institutions. In addition, the Commission, the ESRB, the Supervisory Board of the European Central Bank, the European Insurance and Occupational Pensions Authority, and the European Securities and Markets Authority may each nominate a high-level representative to participate in the committee meetings as observers, ***, whose expertise on different business models and specificities of sectors shall be fully taken into consideration.*** ***The Committee may delegate some of its work to an internal working group that prepares the decisions of the committee (57 Ferber, 58 Karas, 59 Swinburne)***.";

Article 9b  
Request for investigation related to the prevention of money laundering and terrorist financing

1. In matters concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing in accordance with Directive (EU) 2015/849, the *Board of Supervisors or the Executive Board (63 Giegold)* may, where it has *evidence or* *significant* indications of material breaches, request a competent authority as referred to in point (iia) of Article 4(2) to investigate possible breaches of Union law, and where such Union law is composed of Directives or explicitly grants options for Member States, breaches of national laws transposing Directives or exercising options granted to Member States by Union law, by a financial sector operator and to consider imposing sanctions on that operator in respect of such breaches. Where necessary, it may also request a competent authority as referred to in point (iia) of Article 4(2) to consider adopting an individual decision addressed to that financial sector operator requiring it to undertake all necessary action to comply with its obligations under directly applicable Union law, or under national laws transposing Directives or exercising options granted to Member States by Union law, including the cessation of any conduct. ***Where the Authority has substantial indications of material breaches, the actions referred to above shall be initiated without undue delay.*** ***The requests referred to in this paragraph shall not impede ongoing supervisory measures by the competent authority to which the request is addressed (60 Karas, 61 Ferber, 62 Swinburne).***

2. The competent authority shall comply with any request addressed to it in accordance with paragraph 1 and shall inform the Authority *as soon as possible and* within 10 *working* days *at the latest* of the steps it has taken or intends to take to comply with that request *(64 Karas)*.

3. Without prejudice to the powers *and obligations* of the Commission under Article 258 TFEU, where a competent authority does not comply with paragraph 2 of this Article, Article 17 shall apply *(65 Karas)*.";

1. Article 17 is amended as follows:

(b) paragraphs 6 and 7 are replaced by the following:

“6.   Without prejudice to the powers *and obligations* 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 or, in the context of matters relating to the prevention and combating of money laundering and terrorist financing, to financial sector operators, adopt an individual decision addressed to a financial institution or a financial sector operator requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any conduct *(68 Karas)*.

In matters concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, where the relevant requirements of the acts referred to in Article 1(2) are not directly applicable to financial sector operators, the Authority may adopt a decision requiring the competent authority to comply with the formal opinion referred to in paragraph 4 within the period of time specified therein. If the authority does not comply with that decision, the Authority may also adopt a decision in accordance with the first sub-paragraph. To that effect, the Authority shall apply all relevant Union law, and where that 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.

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

7. Decisions adopted in accordance with 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 of this Article or to a decision pursuant to paragraph 6, competent authorities shall comply with the formal opinion or the decision, as the case may be.”;

***(8a) The following Article 17a is inserted:***

***The Authority shall have in place dedicated reporting channels for receiving and handling information provided by a reporting person on reporting breaches or non-application of Union law. The Authority shall ensure that information may be submitted anonymously and safely. Where the Authority*** *deems that the submitted information contains evidence or significant indications of material breaches, it shall provide feedback to the reporting person (71 Berès).*

1. Article 19 is amended as follows:

(e) paragraph 4 is replaced by the following:

"4. Without prejudice to the powers of the Commission pursuant to Article 258 of the Treaty, 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.";

“4. Without prejudice *and obligations* 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 or, in the context of matters relating to the prevention and combating of money laundering and terrorist financing, a financial sector operator 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 that financial institution or financial sector operator requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice *(74 Karas)*.

In matters concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, the Authority may also adopt a decision in accordance with the first subparagraph where the relevant requirements of the acts referred to in Article 1(2) are not directly applicable to financial sector operators. To that effect, 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.”;

1. Article 54 is amended as follows:

(b) in paragraph 2 the fifth indent is deleted;

* + - 1. the following paragraph 2a is inserted:

"2a. With regard to the Authority's tasks related to preventing and combating of money-laundering and terrorist financing, the Joint Committee shall serve as a forum in which the Authority shall cooperate *regularly and closely* with the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority on matters relating to the interaction between the specific tasks of the Authority referred to in point (l) of Article 8(1) and the tasks conferred on the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority *(76 Karas)*. ";

***The Joint Committee may assist the Commission in assessing the conditions and the technical specifications and procedures for ensuring secure and efficient inter-connection of the centralised automated mechanisms pursuant to the report as referred in article 32a(5) of Directive (EU) 2018/843 as well as in the effective interconnection of the national registers unter Directive (EU) 2018/843. (77 Giegold)***

***(41a) the following Article 81a is inserted:***

***“Article 81a***

***Assessment of the specific tasks conferred to the Authority related to preventing and combating money-laundering and terrorist financing***

***1. The Commission shall, after consulting all relevant authorities and stakeholders, conduct a comprehensive assessment on the implementation, functioning and effectiveness of the specific tasks conferred to the Authority pursuant to point (1) of Article 8(1) of this Regulation. As part of its assessment, the Commission shall analyse the interaction between those tasks and the tasks conferred on the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority. In addition, the Commission shall, based on a comprehensive cost and benefit analysis as well as following the objective of ensuring consistency, efficiency and effectiveness, thoroughly investigate the possibility of conferring specific tasks with regard to the prevention and combat of money-laundering and terrorist financing to an existing or new dedicated EU-wide agency.***

***2. The Commission shall submit the assessment referred to in paragraph 1 as part of its report pursuant to Article 65 of Directive (EU) 2018/843, and together with legislative proposals, if appropriate, to the European Parliament and the Council by 11 January 2022. (78 Karas)”***

*Article 2*

*Amendments to Regulation (EU) No 1094/2010*

Regulation (EU) 1094/2010 is amended as follows:

(1) paragraph 2 of Article 1 is replaced by the following:

"2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2009/138/EC with the exception of Title IV thereof, of Directives 2002/92/EC, 2003/41/EC, 2002/87/EC, Directive 2009/103/EC\* and, to the extent that those acts apply to insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision and insurance intermediaries, within the relevant parts of Directives (EU) 2015/849 and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.

\* Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ L 263, 7.10.2009, p. 11).";

1. Article 54 is amended as follows:
   * + 1. in paragraph 2, the fifth indent is deleted;

(c) the following paragraph 2a is inserted:

"2a. The Joint Committee shall serve as a forum in which the Authority shall cooperate *regularly and closely* with the European Banking Authority and the European Securities and Markets Authority on matters relating to the interaction between the tasks of the Authority and of the European Securities and Markets Authority and the specific tasks referred to in point (l) of Article 8(1) of Regulation (EU) No 1093/2010 conferred on the European Banking Authority *(87 Karas)*.";

*Article 3*

*Amendments to Regulation (EU) No 1095/2010*

Regulation (EU) 1095/2010 is amended as follows:

1. Article 1 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 97/9/EC, Directive 98/26/EC, Directive 2001/34/EC, Directive 2002/47/EC, Directive 2003/71/EC, Directive 2004/39/EC, Directive 2004/109/EC, Directive 2009/65/EC, Directive 2011/61/EU of the European Parliament and of the Council \* Regulation 1606/2002 of the European Parliament and of the Council\*\*, Directive 2013/34/EU of the European Parliament and of the Council\*\*\*, and Regulation (EC) No 1060/2009, and, to the extent that these acts apply to firms providing investment services or to collective investment undertakings marketing their units or shares and the competent authorities that supervise them, within the relevant parts of, Directive 2002/87/EC, Directive (EU) 2015/849, Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.

\* Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

\*\*Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

\*\*\*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).";

1. Article 54 is amended as follows:
   * + 1. in paragraph 2, the fifth indent is deleted;
       2. the following paragraph 2a is inserted:

"2a. The Joint Committee shall serve as a forum in which the Authority shall cooperate *regularly and closely* with the European Banking Authority and the European Insurance and Occupational Pensions Authority on matters relating to the interaction between the tasks of the Authority and of the European Insurance and Occupational Pensions Authority and the specific tasks referred to in point (l) of Article 8(1) of Regulation (EU) No 1093/2010 conferred on the European Banking Authority *(97 Karas)*.";

Article 9bis  
Amendments to Directive (EU) 2015/849

Directive (EU) 2015/849 is amended as follows:

1. Article 6 is amended as follows:
   * + 1. paragraph 3 is replaced by the following:

"3. The Commission shall make the report referred to in paragraph 1 available to Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money-laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the European Banking Authority ('EBA'), and representatives from Financial Intelligence Units, to better understand the risks. Reports shall be made public at the latest six months after having been made available to Member States, except for the elements of the reports which contain classified information.";

* + - 1. in paragraph 5 the second sentence is replaced by the following:

"Thereafter, EBA shall issue an opinion every two years.";

1. Article 7 is amended as follows:
   * + 1. in paragraph 2 the second sentence is replaced by the following:

“The identity of that authority or the description of the mechanism shall be notified to the Commission, EBA, and other Member States.”;

* + - 1. paragraph 5 the first sentence is replaced by the following:

“5. Member States shall make the results of their risk assessments, including their updates, available to the Commission, EBA and the other Member States.”;

1. in Article 17 the first sentence is replaced by the following:

“By 26 June 2017, the ESAs, and thereafter EBA shall issue guidelines addressed to competent authorities and the credit institutions and financial institutions in accordance with Article 16 of Regulation (EU) No 1093/2010 on the risk factors to be taken into consideration and the measures to be taken in situations where simplified customer due diligence measures are appropriate.”;

1. in paragraph 4 of Article 18, the first sentence is replaced by the following:

“4. By 26 June 2017, the ESAs, and thereafter EBA shall issue guidelines addressed to competent authorities and the credit institutions and financial institutions, in accordance with Article 16 of Regulation (EU) No 1093/2010 on the risk factors to be taken into consideration and the measures to be taken in situations where enhanced customer due diligence measures are appropriate.”;

1. in Article 41, paragraph 1 is replaced by the following:

“1. The processing of personal data under this Directive is subject to Directive 95/46/EC, as transposed into national law. Personal data that is processed pursuant to this Directive by the Commission or by EBA is subject to Regulation (EC) No 45/2001.”;

1. Article 45 is amended as follows:
   * + 1. paragraph 4 is replaced by the following:

“4. The Member States and EBA shall inform each other of instances in which the law of a third country does not permit the implementation of the policies and procedures required under paragraph 1. In such cases, coordinated actions may be taken to pursue a solution. In the assessing which third countries do not permit the implementation of the policies and procedures required under paragraph 1, Member States and EBA shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including secrecy, data protection and other constraints limiting the exchange of information that may be relevant for that purpose.”;

* + - 1. paragraph 6 is replaced by the following:

“6. EBA shall develop draft regulatory technical standards specifying the type of additional measures referred to in paragraph 5 and the minimum action to be taken by credit institutions and financial institutions where a third country's law does not permit the implementation of the measures required under paragraphs 1 and 3.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 26 December 2016.”;

* + - 1. paragraph 10 is replaced by the following:

“10. EBA shall develop draft regulatory technical standards on the criteria for determining the circumstances in which the appointment of a central contact point pursuant to paragraph 9 is appropriate, and what the functions of the central contact points should be.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 26 June 2017.”

1. Article 48 is amended as follows:
   * + 1. in the second subparagraph of paragraph 1a the final sentence is replaced by the following:

“Financial supervisory authorities of the Member States shall also serve as a contact point for EBA.”;

* + - 1. in paragraph 10 the first sentence is replaced by the following:

“By 26 June 2017, the ESAs and thereafter EBA shall issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010, on the characteristics of a risk- based approach to supervision and the steps to be taken when conducting supervision on a risk-based basis.”;

1. in Section 3 the title of Subsection II is replaced by the following:

“Cooperation with EBA”;

1. Article 50 is replaced by the following:

“The competent authorities shall provide EBA with all the information necessary to allow it to carry out its duties under this Directive.”;

1. Article 62 is amended as follows:
   * + 1. paragraph 1 is replaced by the following:

“1. Member States shall ensure that their competent authorities inform EBA of all administrative sanctions and measures imposed in accordance with Articles 58 and 59 on credit institutions and financial institutions, including of any appeal in relation thereto and the outcome thereof.”;

* + - 1. paragraph 3 is replaced by the following:

“3. EBA shall maintain a website with links to each competent authority's publication of administrative sanctions and measures imposed in accordance with Article 60 on credit institutions and financial institutions, and shall show the time period for which each Member State publishes administrative sanctions and measures.”.

*AMs that fall if COMP is adopted: 1 Berès, 2 Karas, 3 Swinburne, 4 Giegold, 5 Berès, 6 Giegold, 7 Karas, 8 Berès, 9 Swinburne, 10 Giegold, 11 Berès, 12 Karas, 13 Swinburne, 14 Giegold, 15 Karas, 16 Ferber, 17 Giegold, 18 Berès, 19 Swinburne, 20 Berès, 21 Berès, 22 Giegold, 23 Karas, 24 Swinburne, 25 Karas, 26 Karas, 27 Karas, 28 Giegold, 29 Giegold, 30 Karas, 31 Giegold, 32 Giegold, 33 Karas, 34 Karas, 35 Giegold, 36 Karas, 37 Karas, 38 Berès, 39 Swinburne, 40 Berès, 41 Swinburne, 42 Karas, 43 Giegold, 44 Karas, 45 Berès, 46 Karas, 47 Giegold, 48 Giegold, 49 Karas, 50 Ferber, 51 Berès, 52 Swinbune, 53 Karas, 54 Berès, 55 Karas, 56 Karas, 57 Ferber, 58 Karas, 59 Swinburne, 60 Karas, 61 Feber, 62 Swinburne, 63 Giegold, 64 Karas, 65 Karas, 66 Giegold, 67 Swinburne, 68 Karas, 69 Swinburne, 70 Giegold, 71 Berès, 72 Giegold, 73 Swinburne, 74 Karas, 75 Giegold, 76 Karas, 77 Giegold, 78 Karas, 79 Giegold, 80 Giegold, 81 Giegold, 82 Giegold, 83 Giegold, 84 Giegold, 85 Giegold, 86 Giegold, 87 Karas, 88 Giegold, 89 Giegold, 90 Giegold, 91 Giegold, 92 Giegold, 93 Giegold, 94 Giegold, 95 Giegold, 96 Giegold, 97 Karas, 98 Giegold, 99 Giegold, 100 Giegold, 101 Giegold, 102 Giegold, 103 Giegold, 104 Giegold, 105 Giegold, 106 Giegold, 107 Giegold, 108 Giegold, 109 Giegold, 110 Giegold, 111 Giegold, 112 Giegold, 113 Giegold, 114 Klinz, 115 Giegold, 116 Giegold, 117 Giegold, 118 Giegold, 119 Swinburne, 120 Giegold, 121 Giegold, 122 Giegold, 123 Giegold, 124 Giegold, 125 Giegold, 126 Giegold, 127 Giegold, 128 Giegold, 129 Giegold, 130 Giegold, 131 Giegold, 132 Giegold, 133 Giegold, 134 Giegold*

*AMs not addressed in COMP:*