**Consolidated version as of 8 January 2018**

**Draft compromise amendments - ESAs Regulations (including horizontal issues and financing but without governance)**

***COMP A***

*Article 1* ***[Post 24 October shadows’ meeting version]***

Establishment and scope of action

1.  This Regulation establishes a European Supervisory Authority (European Banking Authority) (hereinafter ‘the Authority’).

2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, ***Directive 2009/110/EC (342, Berès > applies to Art. 1, 2 & 3)***, 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\*\*\*\*\*\****, Directive 2013/34/EU of the European Parliament and of the Council\*\*\*\*\*\*\*\*\*, Regulation (EU) No 909/2014 of the European Parliament and of the Council\*\*\*\*\*\*\*\*\*\*, Regulation (EU) No 600/2014 of the European Parliament and of the Council\*\*\*\*\*\*\*\*\*\*\* (975 Berès, Klinz > applies only to Art. 3), Directive 2014/65/EU of the European Parliament and of the Council\*\*\*\*\*\* and amended Regulation (EU) No 648/2012 (975 Berès, Klinz, 1052 Klinz et al > applies only to Art. 3)***, and, to the extent that those acts apply to credit and financial institutions and the competent 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 (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).

\*\*\*\*\* 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).

***\*\*\*\*\*\*\*\*\* 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) (343 Berès > applies to Art. 1, 2 & 3)***

***\*\*\*\*\*\*\*\*\* Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1–72). (975 Berès, Klinz, 1052 Klinz et al > applies only to Art. 3)***,

***\*\*\*\*\*\*\*\*\*\* Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84–148). (975 Berès, Klinz, 1052 Klinz et al > applies only to Art. 3)***,

***\*\*\*\*\*\*\*\*\*\*\* Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349–496).; (975 Berès, Klinz, 1052 Klinz et al > applies only to Art. 3)***,

3.  The Authority shall also act in the field of activities of credit institutions, financial conglomerates, investment firms, payment institutions and e-money institutions in relation to issues not directly covered in the acts referred to in paragraph 2, including matters of corporate governance, auditing and financial reporting, ***taking into account sustainable business models and the integration of environmental, social and governance related factors,*** provided that such actions by the Authority are necessary to ensure the effective and consistent application of those acts. ***(346 Berès > applies to Art. 1, 2 & 3)***

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

5.  The objective of the Authority shall be to protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses. The Authority shall, ***within its respective competences,*** contribute to:

(a) improving the functioning of the internal market, including, in particular, a sound, effective and consistent level of regulation and supervision;

(b) ensuring the integrity, transparency, efficiency and orderly functioning of financial markets;

(c) strengthening international supervisory coordination;

(d) preventing regulatory arbitrage and promoting equal conditions of competition;

(e) ensuring the taking of credit and other risks are appropriately regulated and supervised; and

(f) enhancing customer ***and consumer*** protection. ***(352 Berès et al > applies to Art. 1, 2 & 3)***

***(fa) enhancing supervisory convergence across the internal market, including promoting a risk-based approach to conduct of business supervision (354 Berès et al > applies to Art. 1, 2 & 3)***

For those purposes, the Authority shall contribute to ensuring the consistent, efficient and effective application of the acts referred to in paragraph 2, foster supervisory convergence, ***and*** provide opinions ***in accordance with Article 16a*** to the European Parliament, the Council, and the Commission.*(1 Balz, Berès* ***> applies to Art. 1, 2 & 3****)*

In the exercise of the tasks conferred upon it by this Regulation, the Authority shall pay particular attention to any systemic risk posed by financial institutions, the failure of which may impair the operation of the financial system or the real economy.

When carrying out its tasks, the Authority shall act independently, objectively and in a non-discriminatory ***and transparent*** *(2 Balz-Berès,* ***347 Ferber, 356 Giegold, 357 Langen > applies to Art. 1, 2 & 3)*** manner, in the interests of the Union as a whole ***and shall respect the principle of proportionality (347 Ferber, 356 Giegold > applies to Art. 1, 2 & 3).******The Authority shall apply the principles of accountability and integrity and should ensure that all stakeholders are treated fairly in this regard (356 Giegold, 353 Klinz > applies to Art. 1, 2 & 3).***

***The content and form of the Authority's actions and measures shall not exceed what is necessary to achieve the objectives of this Regulation or the acts referred to in paragraph 2 and shall be proportionate to the nature, scale and complexity of the risks inherent in the business of an institution or markets that is affected by the Authority's action. (344 Balz, 512 Langen > applies to Art. 1, 2 & 3)***

*AMs tabled to Article 1 of the EBA Regulation that fall if COMP is adopted: 1 Balz-Berès, 2 Balz-Berès, 342 Berès, 343 Berès, 344 Balz, 345 Giegold, 346 Berès-Fernández-Tang, 348 Pietikäinen, 349 Wierinck, 350 Giegold, 351 Berès-Fernández, 352 Berès-Fernández-Frunzulică,* *355 Berès-Frunzulică, 356 Giegold, 347 Ferber, 353 Klinz-Tremosa i Balcells-Cornillet, 354 Berès-Fernández-Tang, Frunzulică, 357 Langen, 444 Pietikäinen, 512 Langen*

*AMs tabled to Article 1 of the EIOPA Regulation that fall if COMP is adopted: 867 Tang, 868 Pietikainen, 869 Wierinck, 870 Klinz et al*

*AMs tabled to Article 1 of the ESMA Regulation that fall if COMP is adopted: 975 Berès-Klinz, 976 Balz, 977 Giegold, 978 Ferber, 979 Tang, 980 Pietikainen, 981 Pietikainen, 982 Klinz et al*

*AMs not addressed in COMP:*

***COMP B***

*Article 2* ***[Post 24 October shadows’ meeting version]***

European System of Financial Supervision

1.  The Authority shall form part of a European System of Financial Supervision (ESFS). The main objective of the ESFS shall be to ensure that the rules applicable to the financial sector are adequately implemented to preserve financial stability and to ensure confidence in the financial system as a whole and ***effective and*** sufficient protection for the customers of financial services. ***(358 Berès et al, 359 Giegold > applies to Art. 1, 2 & 3)***

2.  The ESFS shall comprise the following:

(a) the European Systemic Risk Board (ESRB), for the purposes of the tasks as specified in Regulation (EU) No 1092/2010 and this Regulation;

(b) the Authority;

(c) the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council ([8](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0008));

(d) the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council ([9](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0009));

(e) the Joint Committee of the European Supervisory Authorities (Joint Committee) for the purposes of carrying out the tasks as specified in Articles 54 to 57 of this Regulation, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010;

(f) the competent or supervisory authorities as specified in the Union acts referred to in Article 1(2) of this Regulation, including the European Central Bank with regard to the tasks conferred on it by Regulation (EU) No 1024/2013, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

3.  The Authority shall cooperate regularly and closely with the ESRB as well as 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, ensuring cross-sectoral consistency of work and reaching joint positions in the area of supervision of financial conglomerates and on other cross-sectoral issues.

4. In accordance with the principle of sincere cooperation pursuant to Article 4(3) of the Treaty on European Union, the parties to the ESFS shall cooperate with trust and full mutual respect, in particular in ensuring the flow of appropriate and reliable information ***among them and in relation to the European Parliament, the Council and the Commission***. *(3 Balz-Berès* ***> applies to Art. 1, 2 & 3)***

5.  Those supervisory authorities that are party to the ESFS shall be obliged to supervise financial institutions operating in the Union in accordance with the acts referred to in Article 1(2).

References in this Regulation to supervision include ***all relevant*** activities***, without prejudice to national competences,*** of all competent authorities to be carried out pursuant to the legislative acts referred to in Article 1(2). *(4 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

*AMs tabled to Article 2 of the EBA Regulation that fall if COMP is adopted: 3 Balz-Berès, 4 Balz-Berès, 360 Berès-Tang, 358 Berès-Fernández, 359 Giegold*

*AMs tabled to Article 2 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 2 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP C***

*Article 3****[Post 24 October shadows’ meeting version]***

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| Accountability of the ***European System of Financial Supervision*** |
| ***1.*** The Authorities referred to in points (a) to ***(e)*** of Article 2(2) shall be accountable to the European Parliament and to the Council. The European Central Bank shall be accountable to the European Parliament and to the Council with regard to the exercise of the supervisory tasks conferred on it by Regulation (EU) No 1024/2013 in accordance with that Regulation. |
| ***1a. During any investigations carried out by the European Parliament pursuant to Article 226 TFEU, the Authority shall cooperate fully with the European Parliament.*** |
| ***1b. The Board of Supervisors shall adopt an annual report on the activities of the Authority, including on the performance of the Chairperson’s duties, and shall transmit that report to the European Parliament, the Council, the Commission, the Court of Auditors and the European Economic and Social Committee by 15 June each year. The report shall be made public.*** |
| ***The Authority shall include in the annual report referred to in the first subparagraph information on the administrative arrangements agreed upon with supervisory authorities, on international organisations or administrations in third countries, on the assistance provided by the Authority to the Commission in preparing equivalence decisions, and on the monitoring activity pursued by the Authority in accordance with Article 33.*** |
| ***1c. At the request of the European Parliament, the Chairperson shall participate in a hearing before the European Parliament on the performance of the Authority. A hearing shall take place at least annually. The Chairperson shall make a statement before the European Parliament and answer any questions put by its members, whenever so requested.*** |
| ***1d. The Chairperson shall report in writing on the activities of the Authority to the European Parliament when requested and at least 15 days before making the statement referred to in paragraph 1c.*** |
| ***1e. In addition to the information referred to in Articles 11 to 18 and Articles 20 and 33, the report shall also include any relevant information requested by the European Parliament on an ad hoc basis.*** |
| ***1f. The Authority shall reply orally or in writing to questions addressed to it by the European Parliament or by the Council within five weeks of receipt of a question.*** |
| ***1g. Upon request, the Chairperson shall hold confidential oral discussions behind closed doors with the Chair Vice-Chairs and Coordinators of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under Article 226 TFEU. All participants shall respect requirements of professional secrecy.*** *(5 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*  ***1g a. The Authority shall establish a register of documents and their status of accessibility. 356 Giegold*** ***> applies to Art. 1, 2 & 3****)* |
| ***1h. The Authority shall provide to the European Parliament a meaningful summary of proceedings of any meetings of the Basel Committee on Banking Supervision, the Financial Stability Board and the International Accounting Standards Board and any other relevant international body or institution concerning or affecting banking supervision. (****6 Balz, Berès* ***> applies to Art. 1, 2 & 3****)* |

*AMs tabled to Article 3 of the EBA Regulation that fall if COMP is adopted: 5 Balz-Berès, 6 Balz-Berès, 356 Giegold*

*AMs tabled to Article 2 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 2 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP D***

*Article 4* ***[Post 24 October shadows’ meeting version]***

Definitions

For the purposes of this Regulation the following definitions apply:

(1) financial institutions’ means any undertaking subject to regulation and supervision pursuant to the Union acts referred to in Article 1(2);

(2) ‘competent authorities’ means:

(i) competent authorities as defined in point (40) of Article 4(1) of Regulation (EU) No 575/2013, including the European Central Bank with regard to matters relating to the tasks conferred on it by Regulation (EU) No 1024/2013;

(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 Directives by ~~credit and~~ financial institutions; (*7**Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

(iii) with regard to deposit guarantee schemes, bodies which administer deposit guarantee schemes pursuant to Directive 2014/49/EU of the European Parliament and of the Council or, where the operation of the deposit guarantee scheme is administered by a private company, the public authority supervising those schemes pursuant to that Directive, and relevant administrative authorities as referred to in that Directive; and

(iv) with regard to Directive 2014/59/EU of the European Parliament and of the Council ([11](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0011)) and to Regulation (EU) No 806/2014 of the European Parliament and of the Council ([12](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0012)), the resolution authorities, defined in Article 3 of Directive 2014/59/EU, the Single Resolution Board, established by Regulation (EU) No 806/2014, and the Council and the Commission when taking actions under Article 18 of Regulation (EU) No 806/2014, except where they exercise discretionary powers or make policy choices.

(v) competent authorities as referred to in Directive 2014/17/EU; in Regulation 2015/751, in Directive EU 2015/2366, in Directive 2009/110/EC, in Regulation (EC) No 924/2009 and in Regulation (EU) No 260/2012;

(vi) bodies and authorities referred to in Article 20 of Directive 2008/48/EC.

*AMs tabled to Article 4 of the EBA Regulation that fall if COMP is adopted: 7 Balz-Berès, 361 Swinburne*

*AMs tabled to Article 4 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 4 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP: 983 Berès*

***COMP E***

*Article 6* ***(> applies to Art. 1, 2 & 3) [Post 24 October shadows’ meeting version]***

Composition

The Authority shall comprise:

(1) a Board of Supervisors, which shall exercise the tasks set out in Article 43;

(2) an Executive Board, which shall exercise the tasks set out in Article 47;

(3) a Chairperson, who shall exercise the tasks set out in Article 48;

(5) a Board of Appeal, which shall exercise the tasks set out in Article 60.

*AMs tabled to Article 6 of the EBA Regulation that fall if COMP is adopted:363 Balz, 364 Balz*

*AMs tabled to Article 6 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 6 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP F***

*Article 7* ***[Post 24 October shadows’ meeting version]***

Seat

The Authority shall have its seat in ***Paris, France***. *(8 Balz-Berès)*

***The location of the seat of the Authority shall not affect the Authority’s execution of its tasks and powers, the organisation of its governance structure, the operation of its main organisation, or the main financing of its activities, while allowing, where applicable, for the sharing with Union agencies of administrative support services and facility management services which are not related to the core activities of the Authority. By ... [date of application of this amending Regulation] and every 12 months thereafter, the Commission shall report to the European Parliament and the Council on the compliance of the European Supervisory Authorities with that requirement.*** *(9 Balz-Berès,* ***365 Karas > applies to Art. 1, 2 & 3****)*

*AMs tabled to Article 7 of the EBA Regulation that fall if COMP is adopted: 8 Balz-Berès, 9 Balz-Berès, 365 Karas*

*AMs tabled to Article 7 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 7 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP G***

*Article 8* ***[Post 8 January 2019 shadows’ meeting version]***

Tasks and powers of the Authority

1.  The Authority shall have the following tasks:

(a) ***based on the legislative acts referred to in Article 1(2),*** to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, in particular by developing draft regulatory and implementing technical standards, ***guidelines, recommendations,*** and other measures***, including opinions in accordance with*** Article ***16a***; *(10 Balz, Berès* ***> applies to Art. 1, 2 & 3****)*

(aa) to develop and maintain an up-to-date Union supervisory handbook on the supervision of financial institutions in the Union ***which sets out supervisory best practices and high quality methodologies and processes and takes into account, inter alia, changing business practices and business models and the size of financial institutions and markets***; *(11 Balz, Berès****, 369 Berès et al, 370 Swinburne, 874 Berès******> applies to Art. 1, 2 & 3****)*

(ab) to develop and maintain ***an*** up-to-date Union resolution handbook on the resolution of financial institutions in the Union which sets out best practices and high quality methodologies and processes ***for resolution and takes into account, inter alia, changing business practices and business models and the size of financial institutions and markets***; *(12 Balz, Berès****, 373 Berès et al > applies to Art. 1, 2 & 3****)*

(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, ***fostering and monitoring supervisory independence, (376 Giegold > applies to Art. 1, 2 & 3)*** 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;

(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 reviews, ***with the support of national competent authorities,*** of competent authorities, and, in that context, to issue recommendations ***addressed to those competent authorities*** and to identify best practices ***and in that context to issue guidelines*** with a view to strengthening consistency in supervisory outcomes; *(13 Balz, Berès,* ***378 Berès et al******> applies to Art. 1, 2 & 3****)*

(f) to monitor and assess market developments in the area of its competence including where relevant, developments relating to trends in credit, in particular, to households and SMEs and in innovative financial services ***and developments relating to trends in environmental, social and governance related factors***; ***(366 Pietikainen, 379 Giegold > applies to Art. 1, 2 & 3)***;

***(f a) to lead, together with competent authorities, benchmarking exercises on internal model outcomes with a view to analysing the range of variability of risk parameters as well as their predictive capacity, and, in that context, to issue regulatory technical standards, guidelines and reports; (381 Cornillet et al > applies only to Art. 1)***

(g) to undertake ***market*** analyses to inform the discharge of the Authority’s functions; *(14 Balz, Berès* ***> applies to Art. 1, 2 & 3****)*

(h) to foster***,*** ***where relevant,*** depositor, consumer and investor protection***, in particular with regards to short-comings in a cross-border context and taking related risks into account;******(382 Berès et al, 383 Giegold, 384 Balz, > applies to Art. 1, 2 & 3)***

(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 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;

***(ia) to coordinate enforcement activities among competent authorities; (387, 877 Klinz et al, > applies to Art. 2 & 3)***

***(ia) to contribute to the establishment of a common EU financial data strategy; (985 Klinz et al > applies to Art. 1, 2 & 3)***

(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.

***(ka) to publish on its website, and to update regularly, all regulatory technical standards, implementing technical standards, guidelines, recommendations and Q&As for each legislative act referred to in Article 1(2), including overviews that concern the state of play of ongoing work and the planned timing of the adoption of draft regulatory technical standards, draft implementing technical standards, guidelines recommendations and Q&As. These information shall be made available in all working languages of the European Union*** *(15 Balz, Berès****, 388 Ferber, 389 Karas > applies to Art. 1, 2 & 3****)*

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 ***financial*** institutions, take fully into account the different types, business models and sizes of ***financial*** institutions. *(16 Balz, Berès* ***> applies to Art. 1, 2 & 3****)*

(c) take account of technological innovation, innovative and sustainable business models ***such as cooperatives and mutuals***, and the integration of environmental, social and governance related factors. ***(881 Berès > applies only to Art. 2)***

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;

(ca) issue recommendations as laid down in Articles 29a and 31a;

(d) issue recommendations in specific cases, as referred to in Article 17(3);

***(da) issue warnings in accordance with Article 9(3);*** *(17 Balz, Berès* ***> applies to Art. 1, 2 & 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;

***(ga) issue opinions to the European Parliament, the Council, or the Commission as provided for in Article 16a.*** *(18 Balz, Berès****> applies to Art. 1, 2 & 3****)*

***(g b) issue answers to questions, as laid down in Article 16b; (393 Hübner > applies to Art. 1, 2 & 3)***

***(g c) issue time-limited no-action letters, as laid down in Article 9a; (394, 882, 883, 989 Klinz et al, 396 Swinburne > applies to Art. 1, 2 & 3)***

(h) collect the necessary information concerning financial institutions as provided for in Article 35 and Article 35b;

(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).

2a.  When carrying out the tasks referred to in ***this Article***, the Authority shall ***strictly respect level 1 laws and level 2 measures and apply*** the principles of ***proportionality and*** better regulation, including ***impact assessments,*** cost-benefit analyses ***and open public consultations. (398, 884, 990 Klinz > applies to Art. 1, 2 & 3)***

***The open public consultations referred to in Articles 10, 15, 16 and 16a shall be conducted as widely as possible to ensure an inclusive approach towards all interested parties and shall allow reasonable time for stakeholders to respond***. ***The Authority shall provide and publish feedback on how information and views gathered from the consultation were used in a draft regulatory technical standard, a draft implementing technical standard, guidelines, recommendations and opinions. (875 Carthy > applies to Art. 1, 2 & 3)***

***The Authority shall summarise the input received from stakeholders in a manner that allows for comparability of the results of public consultations on similar issues.*** *(19 Balz, Berès* ***> applies to Art. 1, 2 & 3****)*

*AMs tabled specifically to Article 8 of the EBA Regulation that fall if COMP is adopted: 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 Balz-Berès , 366 Pietikäinen, 367 Carthy, 368 Wierinck, 369 Berès-Fernández, 373 Berès-Fernández, 377 Berès-Fernandez-Tang, 382 Berès-Fernández, 370 Swinburne, 371 Klinz-Cornillet, 372 Ferber, 388 Ferber, 374 Kappel-Meuthen, 379 Giegold, 395 Kappel-Meuthen, 375 Berès, 376 Giegold, 380 Berès-Fernández, 381 Cornillet-Tremosa i Balcells, 383 Giegold, 385 Giegold, 386 Cornillet-Klinz, 378 Berès-Fernandez-Frunzulica, 384 Balz, 389 Karas, 390 Ferber, 391 Balz, 392 Berès-Fernandez, 393 Hubner, 394 Klinz et al, 396 Swinburne, 397 Balz, 398 Klinz*

*AMs tabled specifically to Article 8 of the EIOPA Regulation that fall if COMP is adopted: 872 Carthy, 873 Pietikainen, 874 Berès, 875 Carthy, 876 Pietikainen, 877 Klinz et al, 881 Berès, 882 Klinz et al, 883 Klinz et al, 884 Klinz*

*AMs tabled specifically to Article 8 of the ESMA Regulation that fall if COMP is adopted: 984 Pietikainen, 985 Klinz et al, 987 Pietikainen, 988 Carthy, 989 Klinz et al, 990 Klinz*

*AMs not addressed in COMP:*

***COMP H***

*Article 9* ***[Post 8 January 2019 shadows’ meeting version]***

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***, such as the development of costs and charges of retail financial services and products in Member States***; ***(399 Giegold*** > ***applies to Art. 1, 2 & 3)***

(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;

***(da new) contributing to a level playing field in the single market where consumers and other users of financial services/policy holders (applies to Art. 2) have fair access to comparable financial services~~, and~~ products and redress (399 Giegold > applies also to Art. 3****)*

***(db new) to foster further developments in terms of regulation and supervision which could ease a deeper harmonization and integration at the EU level; to this end the Authority shall, in its area of expertise, monitor the obstacles or impact to cross-border consolidation ~~and mergers~~ and may provide an opinion or recommendations with the aim of identifying appropriate ways to address ~~remove~~ them (386 Cornillet et al > applies only to Art. 1).***

***(dc new) coordinating mystery shopping activities of competent authorities; (401 Klinz-Tremosa i Balcells-Cornillet, 404 Giegold, 885, 887, 991 Klinz et al > applies to Art. 1, 2 & 3****)*

(ab) developing retail risk indicators for the timely identification of potential causes of consumer***and investor***harm*;* ***(886 Berès > applies only to Art. 2)***

2. The Authority shall monitor new and existing financial activities and may adopt guidelines and recommendations ***in accordance with Article 16*** with a view to promoting the safety and soundness of markets, and convergence ***and effectiveness*** of regulatory and supervisory practices. *(20 Balz, Berès)*

***2a. The Authority shall, within its respective competences, develop standards on conduct of business supervision addressed to national competent authorities, such as on minimum powers and tasks. (404 Giegold*** > ***applies to Art. 1, 2 & 3)***

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).

4. The Authority shall establish, as an integral part of the Authority, ***a Committee on proportionality, to ensure that the differences in the nature, scale and complexity of risks, changing business models and practice, and the size of financial institutions and markets is reflected in the work of the Authority, and*** ***(406 Balz > applies to Art. 1, 2 & 3)*** a Committee on ***consumer protection and*** financial innovation, which brings together all relevant competent authorities and authorities responsible for consumer protection with a view to ***enhancing consumer protection and*** ***(695 Giegold > applies to Art. 1, 2 & 3)*** 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. The ***Authority shall closely cooperate with the European Data Protection Board to avoid duplication, inconsistencies and legal uncertainty in the sphere of data protection. The (405 Karas > (> applies to Art. 1, 2 & 3****)* Authority may also include national data protection authorities as part of the Committee.

5.  The Authority may temporarily prohibit or restrict ***the marketing, distribution or sale of*** certain financial ***products, instruments or*** activities ***~~(applies to Art. 3)~~******~~/instruments~~(408 Klinz-Tremosa i Balcells-Cornillet, 411 Berès et al > applies to Art. 1, 2 & 3)*** that ***have the potential to cause significant financial damage to customers or threaten (408, 888, 992 Klinz-Tremosa i Balcells-Cornillet > applies to Art. 1, 2 & 3)*** 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, ***as soon as pos*sible** and at least every ***6*** months. ***The Authority may renew the prohibition or restriction twice, after which period it shall become permanent, unless the Authority considers otherwise. (409 Hübner, 410 Giegold, 412 Berès et al > applies to Art. 1, 2 & 3)***

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.

The Authority may also assess the need to prohibit or restrict certain types of financial activity ***or practice*** 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.

***COMP Ga***

***Article 9a***

***Time-limited no-action letters***

***1. In exceptional circumstances, and if the conditions set out in this paragraph are met, the Authority may, in coordination with all relevant competent authorities,*** ***issue time-limited no-action letters with regard to specific provisions in Union law that are based on the legislative acts referred to in Article 1(2). These no-action letters are a temporary commitment by the Authority and all relevant competent authorities not to enforce financial market participant’s non-compliance with specific provisions of Union law where the financial market participants cannot comply with such specific provisions because of at least one of the following reasons:***

***(a) compliance would place the financial market participants in breach of other legal and regulatory requirements of Union law;***

***(b) compliance without further level 2 measures or level 3 guidance is deemed not feasible by the Authority;***

***c) compliance would seriously detriment or threat any of the following: market confidence, costumer or investor protection, the orderly functioning and integrity of financial markets or commodity markets, the stability of the whole or part of the financial system in the Union.***

***The Authority shall not issue no-action letters if it deems that they would have a detrimental effect, which is disproportionate to its benefits, on the efficiency of financial markets or on costumer or investor protection.***

***2. The Authority shall specify in its no-action letter which specific provisions of Union law are subject to the non-enforcement, why it considers that the conditions of paragraph 1 are met and at which date the non-enforcement shall expire. The duration of such non-enforcement shall not exceed six months.***

***3. If the Authority decides to issue a no-action letter it shall immediately inform the Commission, the European Parliament and the Council thereof. Within two weeks after receiving this information, the Commission, the European Parliament, or the Council may request the Authority to reconsider its decision.*** ***At the initiative of the Commission, the European Parliament, or the Council this period shall be extended by two weeks. In the case that either the Commission, the European Parliament, or the Council request the Authority to reconsider its decision, the Authority shall decide, in accordance with the procedure set out in the second subparagraph of Article 44(1), whether it maintains its decision.***

***4. If the Authority has issued a no-action letter in accordance with paragraphs 1 to 3, it shall immediately publish it on its website. The Authority shall review its decision to issue a no-action letter at appropriate intervals and may only renew it for one period of 6 months. If a decision to issue a no-action letter is not renewed after a six-month period or a one year, it shall automatically expire. (413, 889, 993 Klinz et al, 414 Hübner, 421, 891, 994 Lamassoure et al > applies to Art. 1, 2 & 3)***

*AMs tabled specifically to Article 9 of the EBA Regulation that fall if COMP is adopted: 20 Balz-Berès; 399 Giegold, 400 Berès-Fernandez, 401 Klinz-Tremosa i Balcells-Cornillet, 402 Berès, 403 Berès-Fernandez-Tang, 405 Karas, 408 Klinz-Tremosa i Balcells-Cornillet, 404 Giegold, 406 Balz, 407 Berès, 409 Hübner, 410 Giegold, 411 Berès-Fernandez, 412 Berès-Fernandez, 413 Klinz et al, 414 Hübner, 421 Lamassoure et al*

*AMs tabled specifically to Article 9 of the EIOPA Regulation that fall if COMP is adopted: 885 Klinz-Cornillet, 886 Berès, 887 Klinz et al, 889 Klinz et al, 891 Lamassoure et al, 890 Giegold*

*AMs tabled specifically to Article 9 of the ESMA Regulation that fall if COMP is adopted: 991 Klinz et al, 992 Klinz et al, 993 Klinz et al, 994 Lamassoure et al*

*AMs not addressed in COMP:*

***COMP I***

*Article 10* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Regulatory technical standards

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| 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 ***regulatory*** standards to the Commission for endorsement***. At the same time, the Authority shall forward those technical standards for information to the European Parliament and to the Council***. *(21 Balz, Berès, 416 Berès, 418 Karas)* |
| 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. ***The Authority shall inform the European Parliament and the Council as soon as practicable and in full of the progress made in developing the draft regulatory technical standards.*** *(420 Ferber)* |
| 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 ***in accordance with Article 8(2a)***. The Authority shall also request the ***advice*** of the Banking Stakeholder Group referred to in Article 37. *(21 Balz, Berès, 416 Berès,)* |
| 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***.*** |
| ***In the event that the Commission does not reach a decision within three months of receipt of a draft regulatory technical standard whether to adopt the said standard, it shall immediately, and in any event before the expiry of the three month period, inform the European Parliament and the Council thereof, indicating the reasons for not being in a position to reach a decision and the planned timeline for endorsement, taking due account of the implementation and application date of the applicable legislative act referred to in Article 1(2). Any delayed adoption of the draft regulatory standard shall not prevent the European Parliament and the Council from exercising their scrutiny powers in accordance with Article 13***. *(21 Balz, Berès, 416 Berès, 419 Ferber)* |
| 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***, and shall send a copy of its letter to the European Parliament and to the Council***. 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. *(21 Balz, Berès, 416 Berès,)* |
| 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), ***it shall immediately inform the European Parliament and the Council thereof, indicating the reasons for not being in a position to submit the draft regulatory standard and the planned timeline for endorsement, taking due account of the implementation and application date of the applicable legislative act referred to in Article 1(2).*** The Commission may request such a draft within a new time limit. ***The Commission shall notify the European Parliament and the Council of the new time limit without delay. The European Parliament may invite the Chairperson of the Authority to explain the reasons for not being in a position to submit the draft regulatory technical standard.***

*(22 Balz, Berès)*

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| 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 ***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***,*** the Council ***and*** 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.  *(23 Balz, Berès)* |

4.  The regulatory technical standards shall be adopted by means of regulations or decisions***. The words ‘regulatory technical standard’ shall appear in their title***. They shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein. *(24 Balz, Berès)*

*AMs tabled specifically to Article 10 of the EBA Regulation that fall if COMP is adopted: 21-24 Balz, Berès, 416 Berès, 417 Balz, 418 Karas, 419 Ferber, 420 Ferber </Members>*

*AMs tabled specifically to Article 10 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 10 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP Ia = AM 25*** *Article 13(1), second subparagraph is deleted* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

~~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 for an initial period of 1 month and shall be extendable for a further period of 1 month.~~

*AMs tabled specifically to Article 13 of the EBA Regulation that fall if COMP is adopted: 25 Balz-Berès*

*AMs tabled specifically to Article 13 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 13 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP J***

*Article 15* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Implementing technical standards

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| 1. ***Where the European Parliament and the Council confer implementing powers on the Commission to adopt*** implementing technical standards by means of implementing acts pursuant to Article 291 TFEU, ***and in order to ensure uniform conditions for implementing*** legislative acts referred to in Article 1(2)***, the Authority may develop draft implementing technical standards***. Implementing technical standards shall be technical, shall not imply strategic decisions or policy choices and their content shall be to determine the conditions of application of those acts. The Authority shall submit its draft implementing technical standards to the Commission for endorsement. ***At the same time, the Authority shall forward those technical standards for information to the European Parliament and to the Council.*** |
| Before submitting draft implementing technical standards to the Commission, the Authority shall conduct open public consultations and shall analyse the potential related costs and benefits ***in accordance with Article 8(2a)***. The Authority shall also request the ***advice*** of the Banking Stakeholder Group referred to in Article 37. |
| Within 3 months of receipt of a draft implementing technical standard, the Commission shall decide whether to endorse it. The Commission may endorse the draft implementing technical standard in part only, or with amendments, where the Union’s interests so require***. If the Commission does not, in whole or in part, oppose the proposed implementing technical standard within the assessment period, it shall be deemed to be endorsed. (423 Giegold)*** |
| ***In the event that the Commission does not reach a decision within three months of receipt of the implementing technical standard, it shall immediately, and in any event before the expiry of the three month period, inform the European Parliament and the Council thereof, indicating the reasons for not being in a position to reach a decision and the planned timeline for endorsement, taking due account of the implementation and application date of the applicable legislative act referred to in Article 1(2)***. |
| 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 ***and shall send a copy of its letter to the European Parliament and to the Council***. 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 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. *(26 Balz, Berès)* |
| 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), ***it shall immediately inform the European Parliament and the Council thereof, indicating the reasons for not being in a position to submit the draft implementing technical standard and the planned timeline for endorsement, taking due account of the implementation and application date of the applicable legislative act referred to in Article 1(2).*** The Commission may request such a draft within a new time limit. ***The Commission shall notify the European Parliament and the Council of the new time limit without delay. The European Parliament may invite the Chairperson of the Authority to explain the reasons for not being in a position to submit the draft implementing technical standard.*** *(27 Balz, Berès)* |
| 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 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***,*** the Council ***and 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.  *(28 Balz, Berès)* |

4.  The implementing technical standards shall be adopted by means of regulations or decisions***. The words ‘implementing technical standard’ shall appear in their title***. They shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein. *(29 Balz, Berès)*

*AMs tabled specifically to Article 15 of the EBA Regulation that fall if COMP is adopted: 26-29 Balz, Berès, 422 Balz, 423 Giegold </Members>*

*AMs tabled specifically to Article 15 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 15 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP K***

*Article 16* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

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 ***or recommendations*** addressed to competent authorities or financial institutions. *(30 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

The Authority may also address guidelines and recommendations to the authorities of Member States that are not defined as competent authorities under this Regulation but that are empowered to ensure the application of the acts referred to in Article 1(2).

***Guidelines and recommendations shall be in accordance with the mandate of the legislative acts referred to in Article 1(2) and take into account the principle of proportionality. The Authority shall not issue guidelines and recommendations on issues covered by level 1 empowerments for RTS or ITS (Balz 425, > applies to Art. 1, 2 & 3).***

***1a. The Authority may, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, issue guidelines addressed to all competent authorities or financial institutions for the purposes of the legislative acts referred to in Article 1(2), based on the comply or explain implementation procedure referred to in paragraph 3 of this Article. Those guidelines shall be considered suitable for compliance with the requirements of the legislative acts referred to in Article 1(2). In line with the above, competent authorities and financial institutions may establish additional practices regarding the method of compliance with the legislative acts referred to in Article 1(2).*** *(31 Balz-Berès,* ***426 Berès et al > applies to Art. 1, 2 & 3****)*

2. The Authority shall, save in exceptional circumstances, conduct open public consultations regarding the guidelines and recommendations ***and, where applicable questions and answers (432 Hayes > applies to Art. 1, 2 & 3)*** which it issues and shall analyse the related potential costs and benefits of issuing such guidelines and recommendations. Those consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines or recommendations. The Authority shall, save in exceptional circumstances, also request advice from the Stakeholder Group referred to in Article 37. ***The Authority shall provide reasons when it does not conduct open public consultations or does not request advice from the Stakeholder Group.*** *(32 Balz-Berès,* ***428 Langen, 429 Berès, 430 Ferber > applies to Art. 1, 2 & 3****).*

***2a. For the purposes of the legislative acts referred to in Article 1(2), the Authority may issue recommendations to one or more competent authorities or to one or more financial institutions.*** *(33 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

***2aa. The Authority shall in its guidelines and recommendations state how it contributes to the establishment of consistent, efficient and effective supervisory practices within the ESFS, how it ensures the common, uniform and consistent application of Union law and as well as how it respects the provisions in paragraphs 1, 1a and 2a. (427 Balz, applies to Art. 1, 2 & 3)***

***2b. Guidelines and recommendations shall not merely refer to, or reproduce, elements of legislative acts. Before issuing a new guideline or recommendation, the Authority shall first review existing guidelines and recommendations, in order to avoid any duplication.*** *(34 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

***2c. Three months before issuing any of the guidelines and recommendations referred to in paragraph 1a and in paragraph 2a, the Authority shall inform the European Parliament and the Council of the intended content of such guidelines and recommendations.*** *(35 Balz-Berès,* ***433 Langen******> applies to Art. 1, 2 & 3****)*

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, ***explain how the Authority has justified issuing guidelines pursuant to paragraph 1a and recommendations pursuant to paragraph 2a, and summarise the feedback from public consultations on those guidelines pursuant to Article 8(2a). The report shall also state*** which competent authority has not complied with ***the guidelines and recommendations, and outline*** how the Authority intends to ensure that the competent authority concerned follow its ***guidelines and*** recommendations in the future. *(36 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

~~The report shall also explain how the Authority has justified the issue of its guidelines and recommendations and summarise the feedback from public consultations on those guidelines and recommendations.~~ *(37 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

5. Where two thirds of the members of the Stakeholder Group are of the opinion that the Authority has exceeded its competence by issuing ***a guideline pursuant to paragraph 1a***, they may send a reasoned ***advice thereon to the European Parliament, the Council and*** the Commission. *(38 Balz-Berès,* ***437 Langen******> applies to Art. 1, 2 & 3****)*

~~The Commission shall request an explanation justifying the issuance of the guidelines or recommendations concerned from the Authority. The Commission shall, on receipt of the explanation from the Authority, assess the scope of the guidelines or recommendations in view of the Authority's competence. Where the Commission considers that the Authority has exceeded its competence, and after having given the Authority the opportunity to state its views, the Commission may adopt an implementing decision requiring the Authority to withdraw the guidelines or recommendations concerned. The decision of the Commission shall be made public.~~ *(39 Balz, Berès,* ***434 Giegold, 435 Carthy , 436 Carthy> applies to Art. 1, 2 & 3****)*

***5a. Where at least half of the number of members of the Stakeholder Group are of the opinion that the Authority has exceeded its competence by issuing a recommendation pursuant to paragraph 2a, they may send a reasoned advice thereon to the European Parliament, the Council and the Commission.*** *(40 Balz, Berès)*

***5b. The European Parliament, the Council and the Commission may request an explanation justifying the issuance of the guidelines or recommendations concerned from the Authority. The Commission shall, on receipt of the explanation from the Authority, assess the scope of the guidelines or recommendations in view of the Authority's competence and send its assessment to the European Parliament and the Council. Where the European Parliament, the Council or the Commission considers that the Authority has exceeded its competence, and after having given the Authority the opportunity to state its views, the Commission may adopt a decision requiring the Authority to withdraw or amend the guidelines or recommendations concerned. Before such a decision is taken, and whenever so requested by the European Parliament, the Commission shall make a statement before the European Parliament and answer any questions put by its members. The European Parliament may request the Commission to adopt a decision requiring the Authority to withdraw or amend the guidelines or recommendations concerned. The decision of the Commission shall be made public.*** *(41 Balz, Berès)*

*AMs tabled specifically to Article 16 of the EBA Regulation that fall if COMP is adopted: 30-41 Balz-Berès, 424 Berès, 425 Balz, 427 Balz, 426 Berès-Fernandez, 429 Berès-Fernandez, 428 Langen, 430 Ferber, 431, 440, 442 Kappel, Meuthen, 432 Hayes, 433 Langen, 437 Langen, 434 Giegold, 435 Carthy, 436 Carthy, 438 Karas, 439 Ferber, 441 Klinz-Cornillet, 443 Ferber, 445 Wierinck, 446 Carthy*

*AMs tabled specifically to Article 16 of the EIOPA Regulation that fall if COMP is adopted: 892 Carthy, 893 Carthy, 894 Klinz-Cornillet*

*AMs tabled specifically to Article 16 of the ESMA Regulation that fall if COMP is adopted: 995 Carthy, 996 Carthy, 997 Klinz-Cornillet, 998 Pietikainen, 999 Carthy*

*AMs not addressed in COMP:*

***COMP L***

***Article 16a (> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

***Opinions***

***1. On all issues related to its area of competence and upon a request from the European Parliament, the Council or the Commission, or on its own initiative, (452 Berès > applies to Art. 1, 2 & 3) the Authority shall provide opinions to the European Parliament, the Council and the Commission. Those opinions shall not be made public unless so specified in the request.***

***2. The request referred to in paragraph 1 may include a public consultation or a technical analysis.*** *(42 Balz, Berès)*

***3. With regard to assessments under Article 22 of Directive 2013/36/EC, and which according to that Directive require consultation between competent authorities from two or more Member States, the Authority may, at the request of one of the competent authorities concerned, issue and publish an opinion on such an assessment. The opinion shall be issued promptly and in any event before the end of the assessment period referred to in that Directive.*** *(43 Balz, Berès)*

***3a. The Authority may, upon a request from the European Parliament, the Council or the Commission provide technical advice to the European Parliament, the Council and the Commission during the ordinary legislative procedure and for delegated acts concerning any legislative proposal of the Commission in the areas set out in the legislative acts referred to in Article 1(2). (986, 1057 Lamassoure > applies to Art. 1, 2 & 3)***

*~~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 assessments under Article 22 of Directive 2013/36/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 such an assessment, except in relation to the criteria in Article 23(1)(e) of that Directive. The opinion shall be issued promptly and in any event before the end of the assessment period referred to in that Directive. Articles 35 and 35b shall apply to the areas in respect of which the Authority may issue an opinion.~~

*AMs tabled specifically to Article 16a (or ex-Article 34) of the EBA Regulation that fall if COMP is adopted: 42, 43 Balz, Berès, 452 Berès, Fernandez, 453 Gill </Members>*

*AMs tabled specifically to Article 16a (or ex-Article 34) of the ESMA Regulation that fall if COMP is adopted: 1057 Lamassoure*

*AMs not addressed in COMP:*

***COMP M***

***Article 16b (> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

***Questions and answers***

***1. For the interpretation, practical application or implementation of the provisions of the legislative acts referred to in Article 1(2), or associated delegated and implementing acts, guidelines and recommendations adopted under those legislative acts, any natural or legal person, including competent authorities and Union institutions, may submit a question to the Authority in any official language of the Union.***

***Before submitting a question to the Authority, financial institutions shall assess whether to first address the question to their competent authority.***

***The Authority shall publish on its website all admissible questions pursuant to paragraph 1, for each legislative act, after collecting and before answering them. (454 Berès > applies to Art. 1, 2 & 3)***

***This process shall not preclude any natural or legal person, including competent authorities and Union institutions from seeking confidential technical advice or clarification from the Authority.***

***2. The Authority shall publish on its website non-binding answers to all admissible questions pursuant to paragraph 1, for each legislative act, unless such publication is in conflict with the legitimate interest of the natural or legal person that submitted the question or would involve risks to the stability of the financial system.***

***2a. Before publishing answers to admissible questions, the Authority may consult with stakeholders in accordance with Article 16(2). (448 Hayes, 449 Hübner, 502 Lamassoure et al, 919 Lamassoure et al > applies to Art. 1, 2 & 3)***

***3. Answers by the Authority shall be considered suitable for compliance with the requirements of the legislative acts referred to in Article 1(2), and with associated delegated and implementing acts and guidelines and recommendations adopted pursuant to those legislative acts. Competent authorities and financial institutions may establish other practices for compliance with all applicable legal requirements.***

***3a. The Authority shall review answers to questions as soon as it is deemed necessary and appropriate or at the latest 24 months after their publication in order to, where necessary, revise, update or withdraw them. (447 Balz > applies to Art. 1, 2 & 3)***

***3b. Where appropriate, the Authority shall take published answers into consideration when developing or updating guidelines and recommendations in accordance with Article 16. (447 Balz, > applies to Art. 1, 2 & 3)*** *(44 Balz, Berès)*

*AMs tabled specifically to Article 16b of the EBA Regulation that fall if COMP is adopted: 44 Balz, Berès, 447 Balz, 448 Hayes, 449 Hubner, 450 Giegold, 451 Kappel, Meuthen, 454 Berès*

*</Members>*

*AMs tabled specifically to Article 16b of the EIOPA Regulation that fall if COMP is adopted: 892 Carthy, 893 Carthy, 894 Klinz-Cornillet, 895 Hübner, 919 Lamassoure et al*

*AMs tabled specifically to Article 16b of the ESMA Regulation that fall if COMP is adopted: 1000 Hübner*

*AMs not addressed in COMP:*

***COMP N***

*Article 17*

Breach of Union law ***(> applies to Art. 1, 2 & 3) [Post 24 October 2018 shadows’ version]***

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, the ***relevant*** Stakeholder Group, ***or on the basis of factual and well reasoned information by relevant organisations or institutions,*** or on its own initiative, and after having informed the competent authority concerned, the Authority ***shall respond to the request and, if appropriate,*** ~~may~~ investigate the alleged breach or non-application of Union law. *(45 Balz, Berès****, 456 Karas, 457 Giegold)***

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 including as to how the acts referred to in Article 1(2) are applied in accordance with Union law.

Without prejudice to the powers laid down in Article 35, the Authority may address a duly justified and reasoned request for information directly to other competent authorities or relevant financial institutions, whenever ***requesting information from the competent authority concerned has proven or*** it is deemed ***insufficient to obtain the information (459 Berès)*** necessary for the purpose of investigating an alleged breach or non-application of Union law. Where it is addressed to financial institutions, the reasoned request shall explain why the information is necessary for the purposes of investigating an alleged breach or non- application of Union law.

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

Where a request for information has been addressed to a financial institution, the Authority shall inform the relevant competent authorities of such a request. The competent authorities shall assist the Authority in collecting the information, where so requested by the Authority.

3.  ***The Authority may*** ***initiate a process of arbitration with the competent authority concerned in order to discuss the action necessary to comply with union law. The competent authority concerned shall sincerely cooperate in such an arbitration. (461, Giegold)***

The Authority may, ***as soon as possible but*** not later than ***~~2~~4*** months from initiating its investigation, address a recommendation to the competent authority concerned setting out the action necessary to comply with Union law. ***(462 Hübner, 463 Berès)***

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 ***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, 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. *(46 Balz, Berès)*

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.

*AMs tabled specifically to Article 17 of the EBA Regulation that fall if COMP is adopted: 45-46 Balz-Berès, 455 Giegold, 461 Giegold, 456 Karas, 457 Giegold, 458 Kappel, Meuthen, 459 Berès, 463 Berès, 460 Hubner, 462 Hubner*

*AMs tabled specifically to Article 17 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 17 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP O***

*Article 18* ***(> applies to Art.1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Action in emergency situations

1.  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.

3.  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 ***or customer and consumer protection***, 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. ***(465 Berès et al > applies to Art. 1, 2 & 3)***

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.

*AMs tabled specifically to Article 18 of the EBA Regulation that fall if COMP is adopted: 464 Berès-Fernandez-Frunzulica, 465 Berès-Fernandez </Members>*

*AMs tabled specifically to Article 18 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 18 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP P***

*Article 19* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Settlement of disagreements between competent authorities in cross-border situations

1. In cases specified in the Union acts referred to in Article 1(2) ***as well as in cases of significant disagreement between two or more national competent authorities concerning the application of those acts (466, 1001 Berès et al, 467, 469, 470, 471, 472, 473, 896, 897, 898, 899, 900, 901, 1002, 1003, 1004, 1005, 1006, 1007 Cornillet > applies to Art. 1, 2 & 3)*** and without prejudice to the powers laid down in Article 17, the Authority may assist the competent authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4 in either of the following circumstances:

(a) at the request of one or more of the competent authorities concerned where a competent authority disagrees with the procedure or content of an action, proposed action, or inactivity of another competent authority;

(b) on its own initiative where on the basis of objective ***reasons, including on the basis of information from market participants or consumer organisations***, disagreement can be determined between competent authorities. *(47 Balz, Berès)*

In cases where the acts referred to in Article 1(2) require a joint decision to be taken by competent authorities, a disagreement shall be presumed in the absence of a joint decision being taken by those authorities within the time limits set out in those acts.

1a. The competent authorities concerned shall in the following cases notify the Authority without delay that an agreement has not been reached:

(a) where a time limit for reaching an agreement between competent authorities has been provided for in the Union acts, referred to in Article 1(2), and the earlier of the following occurs:

(i) the time limit has expired;

(ii) one or more of the competent authorities concerned conclude that a disagreement exists, on the basis of objective ***reasons***; *(48 Balz, Berès)*

(b) where no time limit for reaching an agreement between competent authorities has been provided in the Union acts referred to in Article 1(2), and the earlier of the following occurs:

(i) one or more of the competent authorities concerned conclude that a disagreement exists on the basis of objective ***reasons***; or *(49 Balz, Berès)*

(ii) two months have elapsed from the date of receipt by a competent authority of a request from another competent authority to take certain action in order to comply with those Union acts and the requested authority has not yet adopted a decision that satisfies the request.

1b. The Chairperson shall assess whether the Authority should act in accordance with paragraph 1. Where the intervention is at the Authority’s own initiative, the Authority shall notify the competent authorities concerned of its decision regarding the intervention.

Pending the Authority’s decision in accordance with the procedure set out in Article 47(3a), in cases where the acts referred to in Article 1(2) require a joint decision to be taken, all competent authorities involved in the joint decision shall defer their individual decisions. Where the Authority decides to act, all the competent authorities involved in the joint decision shall defer their decisions until the procedure set out in paragraphs 2 and 3 is concluded.

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. Where the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in paragraph 2, the Authority may take a decision requiring those authorities to take specific action or to refrain from certain action in order to settle the matter, in order to ensure compliance with Union law. The decision of the Authority shall be binding on the competent authorities concerned. . The Authority’s decision may require competent authorities to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant Union law.

3a. The Authority shall notify the competent authorities concerned of the conclusion of the procedures under paragraphs 2 and 3 together with, where applicable its decision taken under paragraph 3.

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. *(50 Balz, Berès)*

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.

*AMs tabled specifically to Article 19 of the EBA Regulation that fall if COMP is adopted: 47-50 Balz, Berès, 466 Berès, 474 Berès, Fernandez, Frunzulica, 467, 469, 470, 471, 472, 473 Cornillet, 468 Kappel, Meuthen*

*AMs tabled specifically to Article 19 of the EIOPA Regulation that fall if COMP is adopted: 896, 897, 898, 899, 900, 901 Cornillet*

*AMs tabled specifically to Article 19 of the ESMA Regulation that fall if COMP is adopted: 1001 Berès, 1002, 1003, 1004, 1005, 1006, 1007 Cornillet*

*AMs not addressed in COMP:*

***COMP Q***

*Article 21* ***(> applies to Art.1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Colleges of supervisors

1. The Authority shall promote ***and monitor,*** within the scope of its powers***,*** the efficient, effective and consistent functioning of the colleges of supervisors ***where*** ***established by legislative acts*** referred to in ***Article 1(2)*** 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 ***shall*** ***have full participation rights in the colleges of supervisors and, as such, shall be able to*** participate in ***and, if duly justified, lead*** the activities of the colleges of supervisors, including on-site examinations, carried out jointly by two or more competent authorities. *(51 Balz, Berès****, 476 Berès****)*

2.  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 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***, including to conduct specific assessments. It may request competent authorities to carry out on-site inspections, and may participate in such on-site inspections, in order to ensure comparability and reliability of methods, practices and results of Union-wide assessments***; *(52 Balz, Berès, 475 Giegold)*

(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 ***as specified in the legislative acts referred to in Article 1(2) and in accordance with the procedure laid down in Articles 10 to 15*** 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. *(53 Balz, Berès)*

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.

*AMs tabled specifically to Article 21 of the EBA Regulation that fall if COMP is adopted: 51-53 Balz, Berès, 475 Giegold, 476 Berès*

*AMs tabled specifically to Article 21 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 21 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP Qa on Internal Models***

***Article 21a of the EIOPA Regulation is replaced by the following:***

Article 21a ***(> applies only to Art. 2)***

Internal models

1. ***Without prejudice to Article 122 of Directive 2009/138/EC*** the Authority shall upon request from one or more supervisory authorities: ***(230 Balz-Berès, 903 Karas, 904 Ferber > applies only to Art. 2)***

(a) Issue ***advice*** to the supervisory authorities concerned on the application to use or ***to*** change an internal model. To this end, EIOPA may request all the information necessary from the supervisory authorities concerned; and ***(231 Balz-Berès > applies only to Art. 2)***

(b) In case of disagreement related to the approval of internal models assist the supervisory concerned authorities in reaching an agreement in accordance with the procedure set out in Article 19.

2. In the circumstances set out under Article 231(6a) of Directive 2009/138/EC, undertakings may request EIOPA to assist the competent authorities in reaching an agreement in accordance with the procedure set out in Article 19.

*AMs tabled to the EBA Regulation that fall if COMP is adopted: 230 Balz-Berès, 231 Balz-Berès, 381 Cornillet et al*

*AMs tabled to the EIOPA Regulation that fall if COMP is adopted: 878 Berès, 902 Berès, 903 Karas, 904 Ferber, 905 Berès, 907 Berès*

*AMs tabled to the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP R***

*Article 22* ***(> applies to Art.1, 2 & 3) [Post 24 October 2018 shadows’ version]***

General provisions ***on systemic risks*** *(54 Balz, Berès)*

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.

2. The Authority shall, in collaboration with the ESRB***, and in accordance with Article 23***, develop a common set of quantitative and qualitative indicators (risk dashboard) to identify and measure systemic risk. *(55 Balz, Berès)*

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***, Member States (908 Cornillet et al > applies to Art.1, 2 & 3)*** 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 ***or to the protection of customers or consumers (applies only to Art 1. and 3)*** / ***or to the protection of policy holders, pension scheme members and beneficiaries*** ***(908 Cornillet et al > applies only to Art. 2)*** and make appropriate recommendations for action to the competent authorities concerned.

For those purposes, the Authority may use the powers ~~may use the powers~~ conferred on it under this Regulation, including Article 35 and 35b. *(56 Balz-Berès)*

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

*AMs tabled specifically to Article 22 of the EBA Regulation that fall if COMP is adopted: 54-56 Balz-Berès, 477 Kappel-Meuthen*

*AMs tabled specifically to Article 22 of the EIOPA Regulation that fall if COMP is adopted: 908 Cornillet et al*

*AMs tabled specifically to Article 22 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP S***

*Article 23* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

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 ***or to***financial institutions to increase in situations of stress***, including potential environmental-related systemic risk***. 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. ***(478 Berès > applies to Art. 1, 2 & 3)***

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.

*AMs tabled specifically to Article 23 of the EBA Regulation that fall if COMP is adopted: 478 Berès et al, 479 Giegold, 480 Giegold*

*AMs tabled specifically to Article 23 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 23 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP Sa = AM 57*** *Article 27(2), third subparagraph is deleted.* ***(> applies to Art. 1, 2 & 3)***

~~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.~~

*AMs tabled specifically to Article 27 of the EBA Regulation that fall if COMP is adopted: 57 Balz-Berès*

*AMs tabled specifically to Article 27 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 27 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP T***

*Article 29* ***(> applies to Art. 1, 2 & 3) [Post 24 October 2018 shadows’ version]***

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;

(aa) issuing the ***Union*** Strategic Supervisory Plan in accordance with Article 29a; ***(482 Berès)***

(b) promoting an effective bilateral and multilateral exchange of information between competent authorities, pertaining to all relevant issues, including cyber security and cyber-attacks ~~as appropriate~~, with full respect for the applicable confidentiality and data protection provisions provided for in the relevant Union legislation; *(58 Balz, Berès)*

(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, including with respect to technological innovation, ***different form of cooperatives and mutuals*** facilitating personnel exchanges and encouraging competent authorities to intensify the use of secondment schemes and other tools; ***(909 Berès > applies only to Article 2)***

***(e a) putting in place a monitoring system to assess material environmental, social and governance-related risks, taking into account the COP 21 Paris agreement; (490 Pietikainen, 491 Carthy > applies to Art. 1, 2 & 3)***

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

~~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.~~ *(59 Balz, Berès)*

For the purpose of establishing a common supervisory culture, the Authority shall develop and maintain an up-to-date Union supervisory handbook on the supervision of financial institutions in the Union, taking ***duly*** into account ***nature, scale and complexity of risks,*** business practices***,*** business models ***and size*** of financial institutions ***and markets***. The Authority shall also develop and maintain an up-to-date Union resolution handbook on the resolution of financial institutions in the Union***, taking duly into account the nature, scale and complexity of risks, business practices, business models and size of financial institutions and markets***. Both the Union supervisory handbook and the Union resolution handbook shall set out best practices and shall specify high quality methodologies and processes. *(60 Balz-Berès****, 497 Karas, 916 Ferber, 917 Karas***

***The Authority shall take duly into account the supervisory handbook when carrying out its tasks, including assessment of potential breaches of Union law pursuant to Article 17, settling disputes pursuant to Article 19 and laying down laying down and assessing Union-wide supervisory strategic objectives in accordance with Article 29a and carrying out reviews to competent authorities pursuant to Article 30. (495 Berès-Fernandez, 496 Giegold)***

***The Authority shall, where appropriate, conduct open public consultations regarding the opinions referred to in point (a) of paragraph 1 and tools and instruments referred to in paragraph 2 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 opinions or tools and instruments. The Authority shall, where appropriate, also request opinions or advice from the relevant Stakeholders Group. (500 Balz, 501 Hübner, 918 Hübner)***

*AMs tabled specifically to Article 29 of the EBA Regulation that fall if COMP is adopted: 58-60 Balz-Berès, 481 Swinburne, 482 Berès, 485 Carthy, 486 Pietikainen, 487 Pietikainen, 488 Carthy, 489 Giegold, 490 Pietikainen, 491 Carthy, 492 Berès, 496 Giegold, 483 Giegold, 484 Hubner, 499 Ferber, 501 Hubner, 500 Balz, 493 Balz, 494 Giegold, 495 Berès-Fernandez, 497 Karas, 498 Klinz-Cornillet, </Members>*

*AMs tabled specifically to Article 29 of the EIOPA Regulation that fall if COMP is adopted: 909 Berès, 910 Pietikainen, 911 Carthy, 912 Pietikainen, 913 Carthy, 914 Pietikainen, 915 Carthy, 916 Ferber, 918 Hübner*

*AMs tabled specifically to Article 29 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP U***

Article 29a ***(> applies to Art. 1, 2 & 3) [Post 18 October 2018 shadows’ meeting]***

***Union*** Strategic Supervisory Plan *(61 Balz-Berès)*

1. ***The Authority shall, at least*** every three years ***and*** by 31 March, ***following a debate in the Board of Supervisors and taking into account contributions received from competent authorities~~, which are prioritised~~, existing work by the EU Institutions (507 Ferber, 508 Langen*** *>* ***applies to Art. 1, 2 & 3) and analysis, warnings and recommendations published by the ESRB (505 Berès et al,*** *>* ***applies to Art.1, 2 & 3),*** issue a recommendation addressed to ***~~those~~*** competent authorities, laying down ***Union-wide*** supervisory strategic objectives and priorities ("***Union*** Strategic Supervisory Plan") ***without prejudice to the specific national objectives*** and ***priorities of competent authorities***. ***Competent authorities shall identify in their contributions the supervisory activities that in their view shall be prioritised by the Authority. (504, 920, 1021 Klinz et al > applies to Art.1, 2 & 3)*** The Authority shall transmit the ***Union*** Strategic Supervisory Plan for information to the European Parliament, the Council and the Commission and shall make it public on its website. *(62 Balz-Berès* ***> applies to Art.1, 2 & 3****)*

The ***Union*** Strategic Supervisory Plan shall identify specific priorities for supervisory activities in order to promote consistent, efficient and effective supervisory practices and the common, uniform and consistent application of Union law and to address relevant micro-prudential trends, potential risks and vulnerabilities***, anticipating developments including new business models (515 Wierinck > applies to Art.1, 2 & 3***), identified in accordance with Article 32. ***The Union Strategic Supervisory Plan shall not prevent national competent authorities from applying national best practices, acting on additional national priorities and developments, and shall consider national specificities.*** *(63 Balz-Berès,* ***509 Ferber, 1022 Cornillet******> applies to Art.1, 2 & 3****)*

2. ***Each*** competent authority shall specifically stipulate how ***their annual work*** programme is aligned with the ***Union*** Strategic Supervisory Plan. ***(516 Hübner, 517 Giegold,*** ***> applies to Art.1, 2 & 3****)*

***(518 Berès, 519 Hübner, 520 Giegold > applies to Art.1, 2 & 3****)* ***(521 Berès, 522 Giegold > applies to Art.1, 2 & 3)*** ***(523 Berès*** ***> applies to Art.1, 2 & 3)***4. **Each** competent authority shall ***as part of its annual report dedicate a chapter*** on the implementation of the annual work programme ***(524, 526 and 527 Giegold > applies to Art.1, 2 & 3)***.

The ***chapter*** shall include at least the following information:

(a) a description of the supervisory activities and examinations of financial institutions, market practices and behaviours and of financial markets, and on the administrative measures and sanctions imposed against financial institutions responsible for breaches of Union and national law;

(b) a description of activities that were carried out and which were not foreseen in the annual work programme;

(c) an account of the activities provided for in the annual work programme that were not carried out and of the objectives of that programme that were not met, as well as the reasons for the failure to carry out those activities and to reach those objectives.

5. The Authority shall assess the ***information laid down in the dedicated chapter referred to in Paragraph 4***. Where there are material risks of not attaining the priorities set out in the ***Union (525 Berès > applies to Art.1, 2 & 3)*** Strategic Supervisory Plan the Authority shall issue a recommendation to each competent authority concerned on how the relevant shortcomings in its activities can be remedied.

Based on the reports and its own assessment of risks, the Authority shall identify the activities of the competent authority that are critical to fulfilling the ***Union*** Strategic Supervisory Plan ***528 Berès > applies to Art.1, 2 & 3)*** and shall, as appropriate, conduct reviews under Article 30 of those activities.

6. The Authority shall make best practices identified during the assessment of the annual work programmes publicly available.

*AMs tabled specifically to Article 29a of the EBA Regulation that fall if COMP is adopted: 61-63 Balz-Berès, 503 Swinburne, 504 Klinz-Tremosa i Balcells-Torvalds-Cornillet, 505 Berès-Fernández, 506 Giegold, 510 Berès, 511 Giegold, 517 Giegold, 520 Giegold, 522 Giegold, 524 Giegold, 526 Giegold, 527 Giegold, 507 Ferber, 509 Ferber, 508 Langen, 518 Berès, 521 Berès, 523 Berès, 525 Berès, 528 Berès, , 513 Pietikäinen, 514 Kappel-Meuthen, 515 Wierinck, 516 Hübner, 519 Hübner*

*AMs tabled specifically to Article 29a of the EIOPA Regulation that fall if COMP is adopted: 920 Klinz et al, 921 Pietikainen*

*AMs tabled specifically to Article 29a of the ESMA Regulation that fall if COMP is adopted: 1021 Klinz et al, 1022 Cornillet*

*AMs not addressed in COMP:*

***COMP V***

*Article 30* ***(> applies to Art. 1, 2 & 3)*** ***[Post 18 October 2018 shadows’ meeting]***

Reviews of competent authorities

1. ***On its own initiative or upon request by the European Parliament or the Council, the (529 Giegold > applies to Art.1, 2 & 3)*** Authority shall conduct reviews of some or all of the activities of competent authorities, to further strengthen consistency ***and effectiveness*** in supervisory outcomes. To that end, the Authority shall develop methods to allow for objective assessment and comparison between the competent authorities reviewed. When ***identifying competent authorities to be reviewed and*** conducting reviews, existing information and evaluations already made with regard to the competent authority concerned, including ***relevant*** information provided to the Authority in accordance with Article 35, and any ***relevant*** information from stakeholders***, in particular possible deficiencies of and misconduct by a competent authority,*** shall be taken into account. *(64 Balz-Berès****> applies to Art.1, 2 & 3****)*

1a. For the purposes of this Article, the Authority shall establish a***n ad hoc*** review committee ***chaired by the Authority, and*** composed of staff from the Authority***, accompanied and supported, on a voluntary and rotating basis, by up to five representatives of different competent authorities excluding the competent*** authority ***under*** review. *(65 Balz, Berès****, 530, 922 Klinz et al, 1026 Cornillet******> applies to Art.1, 2 & 3****)*

The review shall include an assessment of, but shall not be limited to:

(a) the adequacy of resources, the degree of independence, and governance arrangements of the competent authority, with particular regard to the effective application of the Union acts referred to in Article 1(2) and the capacity to respond to market developments;

(b) ***the effectiveness and*** 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, ***including the objectives of common supervisory culture under Article 29 and of the Union Strategic Supervisory Plan under Article 29a***; *(66 Balz-Berès,* ***Berès 533, 1028 Cornillet > applies to Art.1, 2 & 3****)*

(c) ***the application of*** best practices developed by some competent authorities; *(67 Balz, Berès)*

(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.

3. The Authority shall produce a report setting out the results of the review. That report shall explain and indicate the follow-up measures that are ***deemed appropriate and necessary,*** as a result of the review. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 16***,*** and opinions pursuant to Article29(1)(a)***, addressed to the relevant competent authorities***. *(68 Balz-Berès* ***> applies to Art.1, 2 & 3****)*

The Authority shall issue a follow-up report ***regarding compliance with requested follow-up measures***. *(69 Balz****-****Berès****, 534 Giegold > applies to Art.1, 2 & 3****)*

When developing draft regulatory technical standards or draft implementing technical standards in accordance with Articles 10 to 15, or guidelines or recommendations in accordance with Article 16, the Authority shall take into account the outcome of the review, along with any other information acquired by the Authority in carrying out its tasks, in order to ensure convergence of the highest quality supervisory practices.

3a. The Authority shall submit an opinion to the Commission where, having regard to the outcome of the review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of ***Union*** rules applicable to financial institutions or competent authorities would be necessary ***from the Union perspective or where it considers that a competent authority has not applied the legislative acts referred to in Article 1(2), or has applied them in a way that appears to breach Union law***; *(70 Balz-Berès****, 535 Berès > applies to Art. 1, 2 & 3****)*

4. The Authority shall publish the reports referred to in paragraph 3 including any follow-up report, unless publication would involve risks to the stability of the financial system. The competent authority that is subject to the review shall be invited to comment before the publication of any report. ***Before publication, the Authority shall, where appropriate, take those comments into account. The Authority may publish*** those comments ***as an annex to the report*** unless publication would involve risks to the stability of the financial system ***or the competent authority objects to the publication***. ***The report produced by the Authority referred to in paragraph 3 and the guidelines, recommendations and opinions adopted by the Authority referred to in paragraph 3a shall be published simultaneously.*** *(71 Balz-Berès >* ***applies to Art. 1, 2 & 3****)*

*AMs tabled specifically to Article 30 of the EBA Regulation that fall if COMP is adopted: 64-70 Balz-Berès, 529 Giegold, 530 Klinz-Cornillet, 531 Kappel-Meuthen, 532 Giegold, 534 Giegold, 533 Berès, 535 Berès*

*AMs tabled specifically to Article 30 of the EIOPA Regulation that fall if COMP is adopted: 920 Klinz et al, 922 Klinz et al*

*AMs tabled specifically to Article 30 of the ESMA Regulation that fall if COMP is adopted: 1023 Cornillet, 1024 Cornillet, 1025 Cornillet, 1026 Cornillet, 1027 Cornillet, 1028 Cornillet, 1029 Cornillet, 1030 Cornillet, 1031 Cornillet*

*AMs not addressed in COMP:*

***COMP W***

*Article 31* ***[Post 21 November shadows’ meeting version]***

Coordination function

***1.*** 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 ***or in situations of significant cross-border business potentially affecting the protection of policyholders, pension scheme members and beneficiaries (924 Balz, 925 Cornillet et al > applies only to Art. 2)*** in the Union.

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

(a) facilitating the exchange of information between the competent authorities;

(b) 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) 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; *(72 Balz, Berès* ***> applies only to Art. 1 and 3****)*

(e)taking all appropriate measures***, including setting up and leading collaboration platforms under paragraph 3b*** in case of developments which may jeopardise the functioning of the financial markets ***or, in situations of significant cross-border business potentially affecting the protection of policyholders,*** with a view to facilitating ***and coordinating*** the actions undertaken by relevant competent authorities; ***537 Giegold,*** ***540 Berès et al,*** ***923 Morgano et al, 926 Balz, 927 Cornillet et al > applies only to Art. 2****)*

***(ea) taking appropriate measures to facilitate the uptake of technological innovation with a view to the coordination of actions undertaken by relevant competent authorities;*** *(73 Balz, Berès)*

(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.

***3. The Authority shall take appropriate measures*** to facilitate entry into the market of operators or products relying on technological innovation. ***In order to contribute to the establishment of ~~establish~~ a common European approach towards*** ***technological innovation*** the Authority shall promote supervisory convergence, ***with the support, where relevant, of the committee on financial innovation and,*** in particular, through the exchange of information and best practices. Where appropriate, the Authority may adopt guidelines or recommendations in accordance with Article 16. *(74 Balz, Berès****, 542 Berès, 543 Ferber > applies to Art. 1, 2 & 3)***

***3a. The supervisory authority of the home Member State shall notify both the Authority and the supervisory authorities of the host Member States where it intends to carry out an authorisation related to an insurance or reinsurance undertaking which is under its supervision in accordance with the acts referred to in Article 1(2) whose business plan entails that part of its activities will be done on the basis of the freedom to provide services or the freedom of establishment. ( > applies only to Art. 2)***

***The supervisory authority of the home Member State shall also notify without delay the Authority and the supervisory authorities of the host Member States where it identifies deteriorating financing conditions or other emerging risks posed by an insurance or reinsurance undertaking in the ongoing business, in particular when the business is conducted, for a significant part of its activity, on the basis of the freedom to provide services or the freedom of establishment that may have a significant cross-border effect. ( > applies only to Art. 2)***

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| ***These notifications to the Authority and to the supervisory authorities of the host Member States shall be sufficiently detailed to allow for a proper assessment. ( > applies only to Art. 2)*** |

***3b. In the cases mentioned in subparagraphs 1 and 2 of paragraph 3a, the Authority may, upon a request of one or more of the relevant competent authorities or on its own initiative, set up and coordinate a collaborative platform as referred to in point (e) of paragraph 1 in order to foster the exchange of information and enhance collaboration among the relevant competent authorities and, where relevant, to reach a common view on the cases referred to in subparagraph 2 of paragraph 3a. ( > applies only to Art. 2)***

***Where the Authority ascertains, on the basis of the information referred to in point (f) of paragraph 1, that a financial institution carries out its activity mainly or entirely in another Member State, it shall inform the concerned authorities and may set up, on its own initiative, coordinating with the relevant competent authorities a collaborative platform in order to facilitate the exchange of information between those authorities. ( > applies only to Art. 2)***

***Without prejudice to Article 35, the relevant competent authorities shall provide, at the request of the Authority, all the necessary information to allow a proper functioning of the collaborative platform. ( > applies only to Art. 2)***

***3c. In case the concerned competent authorities fail to reach a common view in the collaborative platform, the Authority may issue a recommendation to the competent authority concerned, including*** ***a deadline until which the competent authority should implement the recommended changes. Where the competent authority does not follow the recommendation by the Authority it shall state its reasons. In case the Authority deems that these reasons are not appropriate, it shall make public its recommendation together with the above mentioned reasons. ( > applies only to Art. 2)***

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| ***~~Where the competent authority concerned does not follow a recommendation of the Authority within 15 working days, the competent authority shall state the reasons including the steps it has taken or intends to take in order to address the concerns of the other competent authority involved. The Authority shall assess those steps and decide whether they are sufficient and appropriate within 15 working days. In case the Authority deems that they are not appropriate, it shall make public without delay its recommendation together with the above mentioned reasons and proposed~~***  ***(539 Berès et al, 923 Morgano et al, 928 Giegold, 936 Cornillet et al, 937 Cornillet et al)*** |

***Article 31b (> applies only to Art. 3) [Post 21 November shadows’ meeting version]***

***Coordination function in relation to orders, transactions and activities with significant cross-border effects***

***1. Where the Authority has evidence or clear indications from several different sources to suspect that orders, transactions or any other activity with significant cross-border effects threaten the orderly functioning and integrity of financial markets or the financial stability in the Union, it shall recommend that competent authorities of the Member States concerned initiate an investigation and shall provide those competent authorities with the relevant information.2. Where a competent authority has evidence or clear indications from several different sources to suspect that orders, transactions or any other activity with significant cross-border effects threaten the orderly functioning and integrity of financial markets or the financial stability in the Union, it shall promptly notify the Authority and provide the relevant information. The Authority may recommend the competent authorities of the Member States where the suspected activity has occurred to take action after transmitting the relevant information to those competent authorities.***

***3. The Authority shall facilitate electronic exchange of information between the Authority and the competent authorities and establish and maintain data storage facility designed for that purpose in order to ensure efficiency and to avoid any form of duplication in data flows, in reporting obligations, or in notifications, while taking existing provisions such as in Art. 26 MiFIR and in Art. 4 MAR into account. (577 Berès, 578 Giegold).***

***Article 31c (> applies only to Art. 1) [Post 8 January 2019 shadows’ meeting version]***

***Information exchange on fitness and propriety***

***The Authority shall, together with EIOPA and ESMA, establish a system for the exchange of information relevant to the assessment of the fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions by competent authorities in accordance with the acts referred to in Article 1(2). (577 Berès, 579 Giegold)***

*AMs tabled specifically to Article 9 of the EBA Regulation that fall if COMP is adopted: 72-74 Balz-Berès, 539 Berès-Fernandez, 540 Berès-Fernandez, 536 Berès-Fernandez, 537 Giegold, 538 Berès, 544 Giegold, 541 Berès, 542 Berès, 543 Ferber, 577 Berès, 579 Giegold, 578 Giegold*

*AMs tabled specifically to Article 9 of the EIOPA Regulation that fall if COMP is adopted: 923 Morgano et al, 924 Balz, 925 Cornillet et al, 926 Balz, 927 Cornillet et al*

*AMs tabled specifically to Article 9 of the ESMA Regulation that fall if COMP is adopted: 1048 Balz*

*AMs tabled specifically to MiFID/Solvency II that have to be aligned with the relevant parts of this COMP: 9 Giegold, 11 Cozzolino et al, 14 Cozzolino et al, 20 Berès et al, 21 Giegold, 25 Giegold, 26 Berès et al*

*AMs not addressed in COMP:*

***COMP X***

*Article 31a* ***(> applies to Art. 1, 2 & 3) [Post 24 October 2018 shadows’ version]***

Coordination on delegation and outsourcing of activities as well as of risk transfers

1. The Authority shall on an ongoing basis coordinate supervisory actions of competent authorities with a view to promoting supervisory convergence in the fields of delegation and outsourcing of activities by financial institutions as well as in relation to risk transfers conducted by them ***into third countries, to benefit from the EU passport while essentially performing substantial activities or functions outside the Union (Berès 551)*** in accordance with paragraphs2 ***and*** 3. ***Within their respective competences,*** ***the competent authorities bear ultimate responsibility for authorisation, supervision and enforcement decisions with regard to delegation and outsourcing of activities as well as of risk transfers. (Balz 550)***

*2.* The competent authorities shall notify the Authority where they intend to carry out an authorisation or registration ***of*** a financial institution which ***would be*** under supervision of the competent authority concerned in accordance with the acts referred to in Article 1(2) and where the business plan of the financial institution entails the outsourcing or delegation of a material part of its activities or any of the key functions or the risk transfer of a material part of its activitiesinto third countries, to benefit from the EU passport while essentially performing substantial activities or functions outside the Union. ***The notifications by competent authorities to the Authority shall be sufficiently detailed. ~~allow for a proper assessment by the Authority.~~*** *(75 Balz-Berès****, 552 Balz, 553 Berès, 555 Klinz, 575 Berès et al)***

***~~Where the Authority considers it necessary to issue an opinion to a competent authority regarding the non-compliance of an authorisation or registration notified pursuant to the first subparagraph with Union law or guidelines, recommendations or opinions adopted by the Authority, the Authority shall inform that competent authority thereof within 20 working days of the receipt of the notification by that competent authority. In that case the competent authority concerned shall await the opinion of the Authority before carrying out the registration or authorisation.~~ (76 Balz-Berès, 557 Langen, 558 Balz, 559 Klinz***

***~~At the request of the Authority, the competent authority shall within 15 working days of the receipt of such a request provide information related to its decisions to authorise or register a financial institution which is under its supervision in accordance with the acts referred to in Article 1(2).~~ (77 Balz-Berès, 560 Balz, 561 Langen, 562 Klinz et al)***

***~~The Authority shall issue the opinion, without prejudice to any time limits set out in Union law, at the latest within 2 months of the receipt of the notification pursuant to the first subparagraph.~~ (78 Balz-Berès, 563 Balz, 564 Klinz, 565 Langen, 566 Hübner)***

***3.*** ***Where the Union legislation referred to in Article 1(2) applies and where it does not impose any specific requirement to the notification of outsourcing, delegation or risk transfer, a (567 Berès)*** financial institution shall notify the competent authority of the outsourcing or delegation of a material part of its activities or any of its key functions, and the risk transfer of a material part of its activities, to another entity or its own branch established in a third country. The competent authority concerned shall inform the Authority of such notifications on a semi-annual basis.

Without prejudice to Article 35, at the request of the Authority, the competent authority shall provide information in relation to the outsourcing, delegation or risk transfer arrangements by financial institutions.

The Authority shall monitor whether the competent authorities concerned verify that outsourcing, delegation or risk transfer arrangements referred to in the first subparagraph are concluded in accordance with Union law, comply with guidelines, recommendations or opinions from the Authority and do not prevent effective supervision by the competent authorities and enforcement in a third country.

***(571 Klinz, 572 Balz)***

***~~3a. If the outsourcing, delegation or risk transfer arrangements prevent effective supervision by the competent authorities and enforcement in a third country or, on the supervisory convergence aspects linked to these arrangements, entail risks for regulatory arbitrage across Member States, the Authority may issue recommendations to the competent authority concerned at the latest one month after the Authority has received the notification.~~***

***3a. If a competent authority’s verification arrangements prevent effective supervision or enforcement and entail risks for regulatory arbitrage across Member States, the Authority may issue recommendations to the competent authority concerned on how to improve its verification arrangements including a deadline until which the competent authority should implement the recommended changes. If the concerned competent authority does not follow the recommendations, it shall state the reasons and the Authority shall make its recommendations public together with those reasons.***

***3b. The Commission shall within [one year from the entry into force of this amending regulation] draw up a report, which takes stock of the different approaches in sectoral legislation with regards to assessing, the materiality of the activity to be outsourced or delegated and which investigates the possibility for a more harmonised approach in this regard via the potential specification of common criteria and methodology. The Commission shall submit this report to the European Parliament and the Council.***

***In doing so, the Commission shall take into account:***

***(a) the continuity of activity,***

***(b) the effective management capacity,***

***(c) effective capacity to audit delegated and outsourced activities as well as risk transfers.*** ***(576 Berès, 574 Hübner).***

*AMs tabled specifically to Article 31a of the EBA Regulation that fall if COMP is adopted: 75-78 Balz-Berès, 545 Hayes, 546 Kappel-Meuthen, 547 Swinburne, 548 Delvaux-Gill, 549 Balz, 550 Balz, 552 Balz, 558 Balz, 560 Balz, 563 Balz, 568 Balz, 569 Balz 570 Balz, 572 Balz, 573 Balz, 551 Berès, 553 Berès, 567 Berès, 554 Langen, 557 Langen, 561 Langen, 565 Langen, 555 Klinz-Cornillet, 556 Berès-Fernández, 575 Berès-Fernández, 576 Berès-Fernández, 559 Klinz, 571 Klinz-Torvalds-Cornillet, 562 Klinz-Torvalds, 564 Klinz-Torvalds, 566 Hübner, 574 Hübner*

*AMs tabled specifically to Article 31a of the EIOPA Regulation that fall if COMP is adopted: 929 Hayes, 930 Delvaux-Gill, 931 Klinz-Cornillet, 932 Klinz-Torvalds-Cornillet, 933 Klinz-Torvalds-Cornillet, 934 Klinz-Torvalds-Cornillet, 935 Klinz-Torvalds-Cornillet*

*AMs tabled specifically to Article 31a of the ESMA Regulation that fall if COMP is adopted:* *1032 Delvaux-Gill, 1033 Hayes, 1034 Lamassoure-Sander, 1035 Lamassoure-Sander, 1036 Klinz-Cornillet, 1037 Lamassoure-Sander, 1038 Klinz-Torvalds-Cornillet, 1039 Lamassoure-Sander, 1040 Klinz-Torvalds-Cornillet, 1041 Klinz-Torvalds-Cornillet, 1042 Lamassoure-Sander, 1043 Lamassoure-Sander, 1044 Lamassoure-Sander, 1045 Lamassoure-Sander, 1046 Klinz-Torvalds-Cornillet, 1047 Lamassoure-Sander*

*AM not addressed in COMP:*

***COMP Y***

*Article 32****(>*** ***applies to Art. 1, 2 & 3)******[Post 18 October 2018 shadows’ meeting]***

Assessment of market developments***,*** ***including stress tests*** *(79 Balz-Berès)*

1.  The Authority shall monitor and assess market developments in the area of its competence and, where necessary, inform the ***two other ESAs***, 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. *(80 Balz-Berès,* ***583 Berès et al > applies to Art. 1, 2 & 3)***

2.  The Authority shallinitiate and coordinate Union-wide assessments of the resilience of financial institutions to adverse market developments ***in a realistic manner***. To that end it shall develop: *(81 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

(a) common methodologies for assessing the effect of economic scenarios on an institution's financial position;

***(aa) common methodologies for identifying financial institutions to be included in Union-wide assessments;*** *(82 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

(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.

***(d a) common methodologies for assessing the effect of environmental risks on the financial stability of institutions; (584 Berès et al > applies to Art. 1, 2 & 3)***

***For the purposes of this paragraph, the Authority shall cooperate with the ESRB, which shall avoid any potential conflict of interest with regard to the conduct of monetary policies.*** *(83 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

2a. At least annually, the Authority***, in cooperation with the SSM,*** *(****> only applies to Art. 1****)* shall consider whether it is appropriate to carry out Union-wide assessments referred to in paragraph 2 ***(deletion applies to Art. 1, 2 & 3)*** and shall inform the European Parliament, the Council and the Commission of its reasoning. Where such Union-wide assessments are carried out***,*** the Authority shall disclose the results for each participating financial institution***,*** ***unless it considers such disclosure to be inappropriate having regard to the financial stability of the Union or of one or more of its Member States, market integrity or the functioning of the internal market***. *(84 Balz-Berès****, 587 Berès, 588 Karas, 590 Giegold, 940 Berès, 941 Karas, 1049 Hayes > applies to Art. 1, 2 & 3****)*

Professional secrecy obligations of competent authorities shall not prevent the competent authorities from publishing the outcome of Union-wide assessments referred to in paragraph 2 or from transmitting the outcome of such assessments to the Authority for the purpose of the publication by the Authority of the results of Union-wide assessments of the resilience of financial institutions.

3.  Without prejudice to the tasks of the ESRB set out in Regulation (EU) No 1092/2010, the Authority shall, once a year, and more frequently ***if*** 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***, in combination with the risk dashboard referred to in Article 22(2)***. *(85 Balz-Berès* ***> applies to Art. 1, 2 & 3****)*

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

***3a. ~~The Authority may 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.~~*** *(86 Balz-Berès,* ***592 Swinburne > applies to Art. 1, 2 & 3****)*

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.

*AMs tabled specifically to Article 32 of the EBA Regulation that fall if COMP is adopted: 79-86 Balz-Berès, 580 Pietikäinen, 581 Wierinck, 582 Giegold, 583 Berès-Tang, 584 Berès-Fernández-Tang, 585 Pietikäinen, 586 Wierinck, 587 Berès-Fernández, 588 Karas, 589 Swinburne, 592 Swinburne, 590 Giegold, 591 Giegold, 593 Kappel-Meuthen*

*AMs tabled specifically to Article 32 of the EIOPA Regulation that fall if COMP is adopted:* *938 Pietikainen, 939 Pietikainen, 940 Berès, 941 Karas*

*AMs tabled specifically to Article 32 of the ESMA Regulation that fall if COMP is adopted: 1049 Hayes*

*AM not addressed in COMP:*

***COMP Z***

*Article 33* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

International relations ***including equivalence (594 Berès)***

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 ***regulatory,*** supervisory ***and, where applicable, resolution (595 Berès et al)*** 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.

***Where a third country, in accordance with a delegated act in force adopted by the Commission pursuant to Article 9 of Directive (EU) 2015/849 of the European Parliament and of the Council, is on the list of jurisdictions which have strategic deficiencies in their national anti-money laundering and countering the financing of terrorism regimes that pose significant threats to the financial system of the Union, the Authority shall not conclude cooperation arrangements with the regulatory, supervisory and, where applicable, resolution authorities of that third country. (595 Berès)***

2. The Authority shall assist the Commission in preparing equivalence decisions pertaining to regulatory and supervisory regimes in third countries following a specific request for advice from the Commission***, on their own initiative,*** or where required to do so by the acts referred to in Article 1(2). *(87 Balz, Berès****, 596 Klinz et al, 597 Swinburne, 598 Lamassoure et al, 942 Klinz et al, 943 Lamassoure et al, 1050 Klinz et al, 1051 Lamassoure at al)***

2a. The Authority shall***, on an ongoing basis, (602 Ferber)*** monitor regulatory and supervisory ***and, where applicable, resolution (601 Berès et al)*** developments and enforcement practices and relevant market developments in third countries for which equivalence decisions have been adopted by the Commission pursuant to the acts referred to in Article 1(2) in order to verify whether the criteria, on the basis of which those decisions have been taken and any conditions set out therein, are still fulfilled. The Authority shall submit a confidential report on its findings to the ***European Parliament, the Council, the*** Commission ***and the two other ESAs every three years or more frequently where appropriate or where requested by the European Parliament, the Council ~~and~~ or the Commission. The report shall focus in particular on implications for financial stability, market integrity, investor protection or the functioning of the internal market***. *(88 Balz, Berès,* ***600 Swinburne,******601 Berès et al, 602 Ferber, 613 Klinz, 945 Klinz, 1054 Klinz)***

Without prejudice to specific requirements set out in the ***legislative*** acts referred to in Article 1(2) and subject to the conditions set out in the second sentence of paragraph 1, the Authority shall cooperate with the relevant competent authorities, and where ***applicable***, also with resolution authorities, of third countries whose ***regulatory*** and supervisory regimes have been recognised as equivalent. That cooperation shall be pursued on the basis of administrative arrangements concluded with the relevant authorities of those third countries. When negotiating such administrative arrangements, the Authority shall include provisions on the following: *(89 Balz, Berès****, 605 Berès)***

(a) the mechanisms which allow the Authority to obtain relevant information, including information on the regulatory regime, the supervisory approach, relevant market developments and any changes that may affect the decision on equivalence;

(b) to the extent necessary for the follow-up of such decisions on equivalence, the procedures concerning the coordination of supervisory activities including on-site inspections ***conducted under the responsibility of the Authority, where appropriate, accompanied and supported by up to five representatives of different competent authorities on a voluntary and rotating basis, and by the competent authority of the third country***. *(90 Balz, Berès****, 607 Berès****)*

The Authority shall inform the ***European Parliament, the Council, the*** Commission***, and the other ESAs*** where a third-country competent authority refuses to conclude such administrative arrangements or when it refuses to effectively cooperate. The Commission shall take this information into account when reviewing the relevant equivalence decisions. *(91 Balz, Berès,* ***609 Ferber****)*

2b. Where the Authority identifies developments in relation to the regulation, supervision ***or, where applicable, resolution, (611 Berès)*** or the enforcement practices in the third countries referred to in paragraph 2a that may impact the financial stability of the Union or of one or more of its Member States, market integrity or investor protection or the functioning of the internal market, it shall inform the ***European Parliament, the Council and the*** Commission on a confidential basis and without delay. *(92 Balz, Berès****, 610 Swinburne****)*

~~The Authority shall on an annual basis submit a confidential report to the Commission on the regulatory, supervisory, enforcement and market developments in the third countries referred to in paragraph 2a with a particular focus on their implications for financial stability, market integrity, investor protection or the functioning of the internal market..~~ *(93 Balz, Berès)*

2c. The competent authorities shall inform the Authority in advance of their intentions to conclude any administrative arrangements with third-country supervisory authorities in any of the areas governed by the acts referred to in Article 1(2), including in relation to branches of third country entities. They shall provide to the Authority a draft of such planned arrangements ***as soon as possible***. ***(614 Giegold)***

The Authority may ***cooperate with the competent authorities to*** develop model administrative arrangements, with a view to establishing consistent, efficient and effective supervisory practices within the Union and to strengthening international supervisory coordination. The competent authorities shall follow such model arrangements ***as closely as possible***. *(94 Balz, Berès****, 615 Berès)***

***Where the Authority in cooperation with the competent authorities develops such model administrative arrangements, the competent authorities shall not conclude administrative arrangements with third country authorities before the completion of the model arrangement. (618 Giegold)***

In the report referred to in Article 43(5), the Authority shall include information on the administrative arrangements agreed upon with supervisory authorities, international organisations or administrations in third countries, the assistance provided by the Authority to the Commission in preparing equivalence decisions and the monitoring activity pursued by the Authority in accordance with paragraph 2a.

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~~. *(95 Balz, Berès)*

***3a. The Authority shall seek full membership of the Basel Committee on Banking Supervision and of the Financial Stability Board, and shall seek observer status on the International Accounting Standards Monitoring Board. (620 Berès, 946 Berès, 1055 Berès)***

***Any position to be taken by the Authority in international fora shall first be discussed and approved by the Board of Supervisors.*** *(96 Balz, Berès,* ***619 Giegold****)*

***3b. The Authority shall, where appropriate, monitor regulatory, supervisory and where applicable, resolution developments and enforcement practices and relevant market developments in third countries for which international agreements have been concluded. (621 Berès et al, 1056 Berès)***

***Without prejudice to the specific requirements of the legislative acts referred to in Article 1(2) and subject to the conditions set out in the second sentence of paragraph 1 of this Article, the Authority shall cooperate with the relevant competent authorities and, where applicable, also with resolution authorities, of the third countries referred to in the first subparagraph of this paragraph.*** *(97 Balz, Berès)*

*AMs tabled specifically to Article 33 of the EBA Regulation that fall if COMP is adopted: 87-97 Balz, Berès, 594 Berès, 599 Berès, 605 Berès, 607 Berès, 611 Berès, 595 Berès et al, 596 Klinz Tremosa i Balcells, Cornillet, 597 Swinburne, 600 Swinburne, 606 Swinburne, 608 Swinburne, 610 Swinburne, 617 Swinburne, 598 Lamassoure-Sander, 604 Lamassoure-Sander, 601 Berès-Fernandez, 615 Berès-Fernandez, 621 Berès-Fernandez, 602 Ferber, 609 Ferber, 603 Gill, 612 Gill, 613 Klinz, 614 Giegold, 616 Giegold, 618 Giegold, 619 Giegold, 620 Berès*

*AMs tabled specifically to Article 33 of the EIOPA Regulation that fall if COMP is adopted: 942 Klinz et al, 943 Lamassoure et al, 944 Lamassoure et al, 945 Klinz, 946 Berès*

*AMs tabled specifically to Article 33 of the ESMA Regulation that fall if COMP is adopted: 1050 Kinz et al, 1051 Lamassoure at al, 1052 Klinz et al, 1053 Lamassoure et al, 1054 Klinz, 1055 Berès, 1056 Berès*

*AMs not addressed in COMP:*

***COMP AA***

*Article 35* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Collection of information

1. At the request of the Authority, the competent authorities shall provide the Authority with all the necessary information to carry out the tasks conferred on it by this Regulation, provided that they have legal access to the relevant information.

The information provided shall be accurate, complete and submitted within the time limit prescribed by the Authority.

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, ***always*** where possible, be made using ***existing*** common reporting formats ***and shall respect the principle of proportionality provided for in national and Union law, including in the legislative acts referred to in Article 1(2);”***. *(100 Balz, Berès****, 623 Karas, 624 Berès et al, 625 Langen, 626 Ferber > applies to Art. 1, 2 & 3****)*

3. ***At the*** request ***of*** a competent authority, the Authority shall provide any information ***it holds*** that is necessary to enable the competent authority to carry out its tasks. *(101 Balz, Berès)*

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 requested in accordance with paragraph 1 is not available or is not made available by the competent authorities within the time limit set by the Authority, the Authority may address a duly justified and reasoned request to any of the following:

(a) other authorities with supervisory functions;

(b) to the ministry responsible for finance in the Member State concerned where it has at its disposal prudential information;

(c) to the national central bank of the Member State concerned;

(d) to the statistical office of the Member State concerned.

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.

*AMs tabled specifically to Article 35 of the EBA Regulation that fall if COMP is adopted: 100-101 Balz-Berès, 623 Karas, 624 Berès-Fernandez-Tang, 625 Langen, 626 Ferber*

*AMs tabled specifically to Article 35 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AB***

*Article 35a* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Exercise of the powers referred to in Article 35b

1. The powers conferred on the Authority, any of its officials or another person authorised by the Authority in accordance with Article ***35*** shall not be used to require the disclosure of information or documents that are subject to legal privilege. *(102 Balz, Berès)*

***1a. Articles 35a and 35b shall apply without prejudice to national law.*** *(103 Balz, Berès****, 628 Karas > applies to Art. 1, 2 & 3****)*

*AMs tabled specifically to Article 35a of the EBA Regulation that fall if COMP is adopted: 102-103 Balz-Berès, 627 Kappel-Meuthen, 628 Karas*

*AMs tabled specifically to Article 35a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AC***

*Article 35b* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Request for information to financial institutions, holding companies or branches of relevant financial institutions and non-regulated operational entities within a financial group or conglomerate

1. Where information requested under paragraph 1 or paragraph 5 of Article 35 is not available or is not made available within the time limit set by the Authority, it may ~~by simple request or by decision~~***, without creating any data duplicates,*** require the following institutions and entities to provide ***the*** necessary information to enable the Authority to carry out its duties under this Regulation: *(104 Balz, Berès)*

(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.

~~2. Any simple request for information referred to in paragraph 1shall:~~

~~(a) refer to this Article as the legal base of that request;~~

~~(b) state the purpose of the request;~~

~~(c) specify the information required;~~

~~(d) include a time limit within which the information is to be provided;~~

~~(e) include a statement that there is no obligation on the person from whom the information is requested to provide that information but that in case of a voluntary reply to the request, the information provided must not be incorrect or misleading;~~

~~(f) indicate the amount of the fine to be issued in accordance with Article 35c where the information provided is incorrect or misleading information.~~ *(105 Balz, Berès)*

~~3. When requesting information by decision, the Authority shall:~~

~~(a) refer to this Article as the legal base of that request;~~

~~(b) state the purpose of the request;~~

~~(c) specify the information required;~~

~~(d) set a time limit within which the information is to be provided;~~

~~(e) indicate the periodic penalty payments provided for in Article 35d where the production of the required information is incomplete;~~

~~(f) indicate the fine provided for in Article 35c where the answers to the questions are incorrect or misleading information;~~

~~(g) indicate the right to appeal the decision before the Board of Appeal and to have the decision reviewed by the Court of Justice of the European Union in accordance with Articles 60 and 61.~~ *(106 Balz, Berès****, 636 Langen > applies to Art. 1, 2 & 3****)*

4. ***Within a reasonable time limit set by the Authority,*** the relevant institutions and entities listed in paragraph 1 or their ***legal*** representatives shall supply the information requested. *(107 Balz, Berès)*

5. The authority shall send, without delay, a copy of the ~~simple~~ request ~~or of its decision~~ to the competent authority of the Member State where the relevant entity listed in paragraph 1 concerned by the request for information is domiciled or established. *(108 Balz, Berès)*

6. The Authority may use confidential information received in accordance with this Article only for the purposes of carrying out the tasks assigned to it by this Regulation.

*AMs tabled specifically to Article 35b of the EBA Regulation that fall if COMP is adopted: 104-108 Balz-Berès, 629 Ferber, 630 Kappel-Meuthen, 638 Kappel-Meuthen, 631-637, 639 Langen*

*AMs tabled specifically to Article 35b of the EIOPA Regulation that fall if COMP is adopted: 947 Ferber*

*AMs tabled specifically to Article 35b of the ESMA Regulation that fall if COMP is adopted: 1058 Ferber*

*AMs not addressed in COMP:*

***COMP AD***

*Article 35c* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Procedural rules for imposing fines

1. Where, in carrying out its duties under this Regulation, the Authority finds that there are serious indications of the possible existence of facts liable to constitute an infringement as referred to in Article 35d(1), the Authority shall ***request the Commission*** to investigate the matter. *(109 Balz, Berès)*

~~2. The investigation officer referred to in paragraph 1 shall investigate the alleged infringements, taking into account any comments submitted by the persons who are subject to the investigations, and shall submit a complete file with his or her findings to the Board of Supervisors.~~ *(110 Balz, Berès)*

~~3. In order to carry out his or her tasks, the investigation officer shall have the power to request information in accordance with Article 35b.~~ *(111 Balz, Berès)*

~~4. Where carrying out his or her tasks, the investigation officer shall have access to all documents and information gathered by the Authority in its supervisory activities.~~ *(112 Balz, Berès)*

~~5. Upon completion of his investigation and before submitting the file with his or her findings to the Board of supervisors, the investigation officer shall give the persons subject to the investigations the opportunity to be heard on the matters being investigated. The investigation officer shall base his or her findings only on facts on which the persons concerned have had the opportunity to comment.~~ *(113 Balz, Berès)*

~~6. The rights of defence of the persons subject to the investigations shall be fully respected during investigations undertaken pursuant to this Article.~~ *(114 Balz, Berès)*

~~7. Upon submission of the file with his finding to the Board of Supervisors, the investigation officer shall notify the persons who are subject to the investigations. The persons subject to the investigations shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties.~~ *(115 Balz, Berès)*

~~8. On the basis of the file containing the investigation officer's findings and, when requested by the persons subject to the investigations, after having heard those persons in accordance with Article 35f, the Authority shall decide if one or more of the infringements as referred to in Article 35d(1) has been committed by the persons subject to the investigations and, in such a case, shall take a measure in accordance with that Article.~~ *(116 Balz, Berès)*

~~9. The investigation officer shall not participate in the deliberations of the Board of Supervisors or intervene in any way in the decision-making process of the Board of Supervisors.~~ *(117 Balz, Berès)*

~~10. The Commission shall adopted delegated acts in accordance with Article 75a to specify the rules of procedure for the exercise of the power to impose fines or periodic penalty payments, including rules on the following:~~

~~(a) rights of defence~~

~~(b) temporal provisions,~~

~~(c) provisions specifying how fines or periodic penalty payments are to be collected,~~

~~(d) provisions specifying the limitation periods for the imposition and enforcement of fines and periodic penalty payments.~~ *(118 Balz, Berès)*

~~11. The Authority shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, the Authority shall refrain from imposing fines or periodic penalty payments where a prior acquittal or conviction arising from identical fact or facts which are substantially the same has already acquired the force of res judicata as the result of criminal proceedings under national law.~~ *(119 Balz, Berès)*

*AMs tabled specifically to Article 35c of the EBA Regulation that fall if COMP is adopted: 109-119 Balz-Berès, 640 Kappel-Meuthen*

*AMs tabled specifically to Article 35c of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35c of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AE***

*Article 35d* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Fines ***and periodic penalty payments*** *(120 Balz, Berès)*

***-1. Before taking any decision to impose a fine or a periodic penalty payment, the Commission shall give the institution or entity subject to the request for information the opportunity to be heard.***

***The Commission shall base its decision*** ***to impose a fine or a periodic penalty payment only on the findings on which the institutions or entities concerned have had the opportunity to comment.*** *(121 Balz, Berès,* ***644 Karas****)*

1. The ***Commission*** shall adopt a decision to impose a fine where it finds that an institution or entity listed in Article 35b(1) has, intentionally or negligently, failed to provide information ***required*** or has provided incomplete, incorrect or misleading information pursuant to ***Article 35b(1).*** *(122 Balz, Berès,* ***643 Karas****)*

2. The ***basic*** fine referred to in paragraph 1 shall amount to at least EUR ***[X; lower than EUR*** 50 000***]*** and shall not exceed EUR ***[Y; lower than EUR*** 200 000***] and shall be dissuasive, effective and proportionate to the size of the institution or entity and the nature and significance of the infringement***. *(123 Balz, Berès****, 646 Giegold****)*

***The Authority, together with ESMA and EIOPA, shall develop draft regulatory technical standards specifying the methodology for setting fines in accordance with this paragraph.* *(646 Giegold)***

~~3. When setting the basic amount of the fine referred to in paragraph 2, the Authority shall have regard to the annual turnover of the institution or entity concerned for the preceding business year and shall be:~~

~~(a) at the lower end of the limit for entities with an annual turnover below EUR 10 million;~~

~~(b) the middle of the limit for entities with an annual turnover between EUR 10 and 50 million;~~

~~(c) the higher end of the limit for entities with an annual turnover higher than EUR 50 million.~~

~~The basic amounts defined within the limits set out in paragraph 2 shall be adjusted, where necessary, by taking into account aggravating or mitigating factors in accordance with the relevant coefficients set out in paragraph 5.~~

~~The relevant aggravating coefficient shall be applied one by one to the basic amount. Where more than one aggravating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual aggravating coefficient shall be added to the basic amount.~~

~~The relevant mitigating coefficient shall be applied one by one to the basic amount. Where more than one mitigating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual mitigating coefficient shall be subtracted from the basic amount.~~ *(124 Balz, Berès****, 647, 648 Giegold****)*

~~4. The following adjustment coefficients shall be applied cumulatively to the basic amount referred to in paragraph 2, based on the following:~~

~~(a) the adjustment coefficients linked to aggravating factors are as follows:~~

~~(i) where the infringement has been committed repeatedly, an additional coefficient of 1.1 shall apply each time the infringement has been repeated;~~

~~(ii) where the infringement lasted for more than six months, a coefficient of 1.5 shall apply;~~

~~(iii) where the infringement has been committed intentionally, a coefficient of 2 shall apply;~~

~~(iv) where no remedial action has been taken since the infringement has been identified, a coefficient of 1.7 shall apply;~~

~~(v) where the entity’s senior management has not cooperated with the Authority, a coefficient of 1.5 shall apply.~~

~~(b) the adjustment coefficients linked to mitigating factors are as follows:~~

~~(i) where the infringement lasted fewer than 10 working days, a coefficient of 0.9 shall apply;~~

~~(ii) where the institution's or entity’s senior management can demonstrate that they have taken all the necessary measures to prevent the failure to comply with a request pursuant to Article 35(6a), a coefficient of 0.7 shall apply;~~

~~(iii) where the entity has brought the infringement to the Authority’s attention quickly, effectively and completely, a coefficient of 0.4 shall apply;~~

~~(iv) where the entity has voluntarily taken measures to ensure that similar infringement cannot be committed in the future, a coefficient of 0.6 shall apply.~~ *(125 Balz, Berès****, 649 Giegold****)*

5. The total fine shall not exceed ***[X%; lower than 20%]*** of the annual turnover of the entity concerned in the preceding business year unless the entity has directly or indirectly benefitted financially from the infringement. In that case, the total fine shall be at least equal to that financial benefit. *(126 Balz, Berès)*

***5a. The Commission may impose a periodic penalty payment until the infringement is corrected. The periodic penalty payment shall be proportionate to the size of the institution or entity and the nature and significance of the infringement.*** *(127 Balz, Berès)*

***5b. The rights of defence of the institution or entity shall be fully respected during the procedure. The institution or entity shall be entitled to have access to the files of the Authority and of the Commission, subject to the legitimate interest of other persons in protecting their business secrets. The right of access to file shall not extend to confidential information or internal preparatory documents of the Authority or the Commission.*** *(128 Balz, Berès)*

***5c. Enforcement of the fine or periodic penalty payment may only be suspended by a decision of the Court of Justice of the European Union. The institutions or entities subject to a fine or periodic penalty payment may institute proceedings before the Court of Justice of the European Union against a decision of the Commission to impose a fine or periodic penalty payment. The Court may, among others, annul, reduce or increase the fine or periodic penalty payment imposed by the Commission.*** *(129 Balz, Berès)*

***5d. The Commission shall disclose to the public every fine and periodic penalty payment that has been imposed, unless such disclosure to the public would seriously jeopardise financial markets or cause disproportionate damage to the parties involved.*** *(130 Balz, Berès)*

***5e. The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the Union.*** *(131 Balz, Berès)*

***Article 35da (> applies only to Art. 3) [Post 21 November shadows’ meeting version]***

***Fines specific to CCPs***

***Notwithstanding the fines referred to in Article 35d, CCPs may be fined in accordance with Regulation (EU) No 648/2012, notably pursuant to Articles 25f, 25g, 25h, 25i and 25j and Annexes III and IV. (1059*** ***Berès)***

*AMs tabled specifically to Articles 35d and 35da of the EBA Regulation that fall if COMP is adopted: 120-131 Balz-Berès, 641-642, 645, 651 Kappel-Meuthen, 643-644 Karas, 646-650 Giegold*

*AMs tabled specifically to Articles 35d and 35da of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Articles 35d and 35da of the ESMA Regulation that fall if COMP is adopted: 1059 Berès*

*AMs not addressed in COMP:*

***COMP AF***

*~~Article 35e~~* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

~~Periodic penalty payments~~

~~1. The Authority shall adopt decisions to impose a periodic penalty payment in order to compel institutions or entities referred to in Article 35b(1) to provide information requested by decision in accordance with Article 35b(3)..~~

~~2. A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed on a daily basis until the institution or entity concerned complies with the relevant decision referred to in paragraph 1.~~

~~3. Notwithstanding paragraph 2, the amount of a periodic penalty payment shall be 3% of the average daily turnover of the institution or entity concerned in the preceding business year. It shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.~~

~~4. A periodic penalty payment may be imposed for a period of no more than six months following the notification of the Authority's decision.~~ *(132 Balz, Berès)*

*AMs tabled specifically to Article 35e of the EBA Regulation that fall if COMP is adopted: 132 Balz-Berès, 652 Giegold*

*AMs tabled specifically to Article 35e of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35e of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AG***

*~~Article 35f~~* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

~~Right to be heard~~

~~1. Before taking any decision to impose a fine and periodic penalty payment under Articles 35d and 35e, the Authority shall give the institution or entity subject to the request for information the opportunity to be heard.~~

~~The Authority shall base its decisions only on the findings on which the institutions or entities concerned have had the opportunity to comment.~~

~~2. The rights of defence of the institution or entity referred to in paragraph 1 shall be fully respected during the procedure. The institution or entity shall be entitled to have access to the Authority's file, subject to the legitimate interest of other persons in protecting their business secrets. The right of access to the file shall not extend to confidential information or internal preparatory documents of the Authority.~~ *(133 Balz, Berès)*

*AMs tabled specifically to Article 35f of the EBA Regulation that fall if COMP is adopted: 133 Balz-Berès*

*AMs tabled specifically to Article 35f of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35f of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AH***

*~~Article 35g~~* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

~~Disclosure, nature, enforcement and allocation of fines and periodic penalty payments~~

~~1. Fines and periodic penalty payments imposed pursuant to Articles 35d and 35e shall be of an administrative nature and shall be enforceable.~~

~~2. Enforcement of the fine and periodic penalty payment shall be governed by the rules of procedure in force in the Member State in the territory of which the enforcement is carried out. The enforcement order shall be appended to the decision imposing a fine or a periodic penalty payment without the requirement for any other formality than the verification of the authenticity of the decision by an authority which each Member State shall designate for that purpose and shall make known to the Authority and to the Court of Justice of the European Union.~~

~~3. Where the formalities referred to in paragraph 2 have been completed on application by the party concerned, the party concerned may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent body.~~

~~4. Enforcement of the fine or periodic penalty payment may only be suspended by a decision of the Court of Justice of the European Union. However, the courts of the Member State concerned shall have jurisdiction over complaints that the enforcement of the fine or periodic penalty payment is being carried out in an irregular manner.~~

~~5. The Authority shall disclose to the public every fine and periodic penalty payment that has been imposed pursuant to Articles 35d and 35e, unless such disclosure to the public would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.~~

~~6. The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the European Union.~~ *(134 Balz, Berès)*

*AMs tabled specifically to Article 35g of the EBA Regulation that fall if COMP is adopted: 134 Balz-Berès*

*AMs tabled specifically to Article 35g of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35g of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

*~~Article 35h~~* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

~~Review by the Court of Justice of the European Union~~

~~The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Authority has imposed a fine or a periodic penalty payment. It may annul, reduce or increase the fine or periodic penalty payment imposed by the Authority.~~ *(135 Balz, Berès)*

*AMs tabled specifically to Article 35h of the EIOPA Regulation that fall if COMP is adopted: 135 Balz-Berès*

*AMs tabled specifically to Article 35h of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 35h of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AI***

*Article 36* ***(>*** ***applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

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.~~ *(136 Balz, Berès)*

4. On receipt of a warning or recommendation from the ESRB addressed to the Authority, the Authority shall ***discuss that warning or recommendation at the next*** meeting of the Board of Supervisors ***or, where appropriate, earlier, in order to*** assess the implications ***of, and possible follow-up to,*** such a warning or recommendation for the fulfilment of its tasks.

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

If the Authority does not act on a ***warning or*** recommendation, it shall explain 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. ***The ESRB shall also inform the Council and the Commission thereof.*** *(137 Balz, Berès + ~~Am~~ 653* ***Berès et al****)*

5.  On receipt of a warning or recommendation from the ESRB addressed to a competent authority, the Authority ***may***, where relevant, use the powers conferred upon it by this Regulation to ensure a timely follow-up. *(138 Balz, Berès)*

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. ***(654, Berès et al)***

~~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.~~ *(139 Balz, Berès)*

~~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.~~ *(140 Balz, Berès)*

*AMs tabled specifically to Article 36 of the EBA Regulation that fall if COMP is adopted: 136-140 Balz, Berès, 653-654 Berès, Fernandez*

*AMs tabled specifically to Article 36 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 36 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AJ***

*Article 37* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

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***, Article 16a concerning opinions and Article 16b concerning questions and answers***. If actions must be taken urgently and consultation becomes impossible, the Banking Stakeholder Group shall be informed as soon as possible. *(141 Balz, Berès)*

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, ***13 members*** representing in balanced proportions credit and investment institutions operating in the Union, ***three of whom shall represent cooperative and savings banks, 13 members representing*** their employees’ representatives***,*** consumers, users of banking services and representatives of SMEs ***and four*** of its members shall be independent top-ranking academics. *(142 Balz, Berès)*

3. The members of the Banking Stakeholder Group shall be appointed by the Board of Supervisors following ***an open and transparent selection procedure***. In making its decision, the Board of Supervisors shall, to the extent possible, ensure an appropriate ***reflection of diversity of the banking sector,*** geographical and gender balance and representation of stakeholders across the Union. ***Members of the Banking Stakeholder Group shall be selected according to their qualifications, skills, relevant knowledge and proven expertise.*** *(143 Balz, Berès****, 663 Giegold, 662 Klinz et al, 950 Klinz et al, 1063 Klinz et al> applies to Art. 1, 2 & 3****)*

***3a. Members of the Banking Stakeholder Group shall elect the Chair of that Group from among its Members. The position of Chair shall be held for a period of two years.***

***The European Parliament may invite the Chair of the Banking Stakeholder Group to make a statement before it and answer any questions put by its Members whenever so requested.*** *(144 Balz, Berès)*

4.  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. ***This compensation shall take into account the members' preparatory and follow-up work and (665 Klinz et al)*** 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 ([13](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0013)) (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 four 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 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 ***16b*** and Articles 29, 30, 32 ***and 35***. *(145 Balz, Berès)*

Where members of the Banking Stakeholder Group cannot ***agree on*** advice, ***one third of its*** members ***or the members representing one group of stakeholders*** shall be permitted to issue a separate advice. *(146 Balz, Berès****, 672 Berès, 673 Giegold > applies to Art. 1, 2 & 3****)*

The Banking Stakeholder Group, the Securities and Markets Stakeholder Group, the Insurance and Reinsurance Stakeholder Group, and the Occupational Pensions Stakeholder Group may issue joint advice on issues related to the work of the European Supervisory Authorities under Article 56 of this Regulation on joint positions and common acts. *(147 Balz, Berès)*

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 advice of the Banking Stakeholder Group***, the separate advice of its Members,*** and the results of its consultations ***as well as how advice and results of consultations have been taken into account***. *(148 Balz, Berès****, 674 Klinz et al, 675 Berès, 953 Klinz et al, 1066 Klinz et al, 1067 Pietikainen > applies to Art. 1, 2 & 3****)*

*AMs tabled specifically to Article 37 of the EBA Regulation that fall if COMP is adopted: 141-148 Balz-Berès, 676 Pietikäinen, 657 Giegold, 663 Giegold, 655 Pietikäinen, 656 Wierinck, 658 Pietikäinen, 659 Carthy, 660 Wierinck, 661 Berès, 668 Giegold, 673 Giegold, 664 Carthy, 662 Klinz-Tremosa i Balcells-Cornillet, 665 Klinz-Tremosa i Balcells, Cornillet, 666 Pietikäinen, 669 Wierinck, 674 Klinz-Tremosa i Balcells-Cornillet, 667 Berès, 672 Berès, 675 Berès, 670-671 Kappel-Meuthen*

*AMs tabled specifically to Article 37 of the EIOPA Regulation that fall if COMP is adopted: 949 Balz, 950 Klinz-Tremosa i Balcells, 951 Klinz-Cornillet, 952 Klinz-Tremosa i Balcells-Cornillet, 953 Klinz-Tremosa i Balcells-Cornillet*

*AMs tabled specifically to Article 37 of the ESMA Regulation that fall if COMP is adopted: 948 Pietikäinen, 1060 Pietikäinen, 1061 Pietikäinen, 1062 Carthy, 1063 Klinz-Tremosa i Balcells-Cornillet, 1064 Klinz-Tremosa i Balcells-Cornillet, 1065 Pietikäinen, 1066 Klinz-Tremosa i Balcells-Cornillet, 1067 Pietikainen*

*AMs not addressed in COMP:*

***COMP AK = AM 149***

*Article 38* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Safeguards

1. The Authority shall ensure that no decision adopted pursuant to Article 18***, 19 or 20*** impinges in any way on the fiscal responsibilities of Member States. *(149 Balz, Berès)*

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-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.

*AMs tabled specifically to Article 38 of the EBA Regulation that fall if COMP is adopted: 149 Balz, Berès*

*AMs tabled specifically to Article 38 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 38 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AL = AM 150-152***

*Article 39* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Decision-making procedures

1. The Authority shall act in accordance with paragraphs 2 to 6 when adopting decisions ***pursuant to*** Articles ***17, 18 and 19***. *(150 Balz, Berès)*

2. The Authority shall inform any addressee of a decision of its intention to adopt the decision, ***in the official language of the addressee***, setting a time limit within which the addressee may express its views on the subject-matter of the decision, taking full account of the urgency, complexity and potential consequences of the matter. The ***addressee may express its views in its official language. The*** provision laid down in the first sentence shall apply *mutatis mutandis* to recommendations as referred to in Article 17(3). *(151 Balz, Berès)*

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

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

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

6. The adoption of the decisions which the Authority takes pursuant to Articles 18 or 19 shall ***be made public. The adoption of decisions that the Authority takes pursuant to Article 17 may*** be made public. The publication shall disclose 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 interest of those financial institutions or with 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. *(152 Balz, Berès)*

*AMs tabled specifically to Article 39 of the EBA Regulation that fall if COMP is adopted: 150-152 Balz, Berès, 677 Kappel Meuthen*

*AMs tabled specifically to Article 39 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 39 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AN***

*Article 41* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Internal committees

The Board of Supervisors may establish internal committees for specific tasks attributed to it. The Board of Supervisors may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Executive Board or to the Chairperson.

*AMs tabled specifically to Article 41 of the EBA Regulation that fall if COMP is adopted:* *695 Giegold, 694 Balz, 696 Berès, 697 Klinz*

*AMs tabled specifically to Article 41 of the EIOPA Regulation that fall if COMP is adopted: 956 Balz, 957 Klinz-Cornillet*

*AMs tabled specifically to Article 41 of the ESMA Regulation that fall if COMP is adopted: 1070 Klinz-Cornillet*

*AMs not addressed in COMP:*

***COMP AO***

*Article 42* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Independence ***of the Board of Supervisors*** *(159 Balz, Berès)*

When carrying out the tasks conferred upon them by this Regulation***,*** ***the Chairperson and*** the members of the Board of Supervisors shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government or from any other public or private body; *(160 Balz, Berès,* ***698 Giegold, 699 Balz, 1071 Berès****)*

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the members of the Board of Supervisors in the performance of their tasks.

~~The first and second paragraphs are without prejudice to the tasks conferred on the European Central Bank by Regulation (EU) No 1024/2013.~~ *(161 Balz, Berès****, 700 Giegold****)*

***When the degree of independence referred to in point (a) of Article 30(2) has been assessed to be insufficient in accordance with that Article, the Board of Supervisors may decide either to temporarily suspend the voting rights of the individual member or to temporarily suspend his or her membership of the Authority until the deficiency has been remedied.*** *(162 Balz, Berès,* ***698 Giegold****)*

*AMs tabled specifically to Article 42 of the EBA Regulation that fall if COMP is adopted: 159-162 Balz-Berès, 698 Giegold, 700 Giegold, 699 Balz*

*AMs tabled specifically to Article 42 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 42 of the ESMA Regulation that fall if COMP is adopted: 1071 Berès*

*AMs not addressed in COMP:*

***COMP AQ***

***Article 43a (> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

***Transparency of decisions adopted by the Board of Supervisors***

***Notwithstanding Article 70, within at most six weeks from the date of a meeting of the Board of Supervisors, the Authority shall, at the minimum, provide the European Parliament with a comprehensive and meaningful record of the proceedings of that meeting of the Board of Supervisors that enables a full understanding of the discussions, including an annotated list of decisions.*** *(164 Balz, Berès)*

*AMs tabled specifically to Article 43a of the EBA Regulation that fall if COMP is adopted: 164 Balz-Berès*

*AMs tabled specifically to Article 43a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 43a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AY***

*Article 49* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Independence ***of the Chairperson*** *(171 Balz, Berès)*

Without prejudice to the role of the Board of Supervisors in relation to the tasks of the Chairperson, the Chairperson shall neither seek nor take instructions from the Union institutions or bodies, from any government or from any other public or private body. *(172 Balz, Berès****, 804 Giegold****)*

Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Chairperson in the performance of his tasks.

In accordance with the Staff Regulations referred to in Article 68, the Chairperson shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.

*AMs tabled specifically to Article 49 of the EBA Regulation that fall if COMP is adopted: 171-172 Balz-Berès, 804 Giegold*

*AMs tabled specifically to Article 49 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 49 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP AZ***

*Article 49a* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Expenses

The Chairperson shall make public all meetings held ***with external stakeholders within a period of two weeks following the meeting*** and any hospitality received. Expenses shall be recorded publicly in accordance with the Staff Regulations. *(173 Balz, Berès)*

*AMs tabled specifically to Article 49a of the EBA Regulation that fall if COMP is adopted: 173 Balz-Berès*

*AMs tabled specifically to Article 49a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 49a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BA***

*Article 54* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Establishment

1.  The Joint Committee of the European Supervisory Authorities is hereby established.

2. The Joint Committee shall serve as a forum in which the Authority shall cooperate regularly and closely ***to*** ensure cross-sectoral consistency***, while taking full account of sectoral specificities,*** with the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), in particular***, where required by Union law,*** regarding: *(175 Balz, Berès)*

— financial conglomerates ***and cross-border consolidation***, ***(807 Giegold)***

— accounting and auditing,

— micro-prudential analyses of cross-sectoral developments, risks and vulnerabilities for financial stability,

— retail investment products,

— measures combating money laundering and ***terrorist financing,*** *(176 Balz, Berès)*

***— cybersecurity*** *(810 Berès)*

— information ***and best practice*** exchange with the ESRB and the ESAs*(177 Balz, Berès****, 811 Berès et al****)*

***— retail financial services and*** consumer protection issues *(178 Balz, Berès)*

***— the application of the principle of proportionality.***

3.  The Joint Committee shall have a dedicated staff provided by the ESAs that shall act as a secretariat. The Authority shall contribute adequate resources to administrative, infrastructure and operational expenses.

4.  In the event that a financial institution reaches across different sectors, the Joint Committee shall resolve disagreements in accordance with Article 56.

*AMs tabled specifically to Article 54 of the EBA Regulation that fall if COMP is adopted: 175-178 Balz, Berès, 807, 810 Berès-Fernandez, 811 Berès-Fernandez, 812 Berès et al*

*AMs tabled specifically to Article 54 of the EIOPA Regulation that fall if COMP is adopted: 808 Berès, 809 Giegold*

*AMs tabled specifically to Article 54 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BB***

*Article 55* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Composition

1. The Joint Committee shall be composed of the Chairpersons of the ESAs. *(179 Balz, Berès)*

2. ***One member of the*** ***Executive*** Board, ***a*** representative of the Commission and the ***second chair of*** the ESRB ***and, where relevant, the Chairperson of any Sub-Committee of the Joint Committee*** shall be invited to the meetings of the Joint Committee, as well as ***where relevant*** of any Sub-Committees referred to in Article 57, as observers. *(180 Balz, Berès)*

3. The Chairperson of the Joint Committee shall be appointed on an annual rotational basis from among the Chairpersons of the ESAs. The Chairperson of the Joint Committee shall be ***the second*** Vice-Chair of the ESRB. *(181 Balz, Berès)*

4. The Joint Committee shall adopt and publish its own rules of procedure. ***The Joint Committee may invite observers***. The Joint Committee ***shall reach joint positions by consensus***. (182 Balz, Berès, 816 Berès)

The Joint Committee shall meet at least once every ***three*** months. *(182 Balz, Berès)*

***4a. The Chairperson of the Authority shall regularly consult and inform the Board of Supervisors on any position taken in the meetings of the Joint Committee and its sub-committees.*** *(183 Balz, Berès)*

*AMs tabled specifically to Article 55 of the EBA Regulation that fall if COMP is adopted: 179-183 Balz, Berès, 813, 815-816 Berès,* *814 Balz, 817 Giegold*

*AMs tabled specifically to Article 55 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 55 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BC = AM 184***

*Article 56* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Joint positions and common acts

Within the scope of its tasks in Chapter II, and in particular with respect to the implementation of Directive 2002/87/EC, where relevant, the Authority shall ***seek to*** reach joint positions with the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and with the European Supervisory Authority (European Securities and Markets Authority), as appropriate.

***Where required by Union law,*** acts pursuant to Articles 10 ***to*** 19 of this Regulation in relation to the application of Directive 2002/87/EC and of any other Union acts referred to in Article 1(2) that also fall within the area of competence of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) or the European Supervisory Authority (European Securities and Markets Authority) shall be adopted, in parallel, by the Authority, the European Supervisory Authority (European Insurance and Occupational Pensions Authority), and the European Supervisory Authority (European Securities and Markets Authority)***.***

***Where the decision of the Authority deviates from the joint position referred to in paragraph 1, or where no decision could be taken, the Authority shall without delay inform the European Parliament, the Council and the Commission of its reasons***. *(184 Balz, Berès)*

*AMs tabled specifically to Article 56 of the EBA Regulation that fall if COMP is adopted: 184 Balz, Berès*

*AMs tabled specifically to Article 56 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 56 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BD***

*Article 57* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Sub-Committees

***1a. The Joint Committee may establish sub-committees for the purposes of preparing draft joint positions and common acts to the Joint Committee.*** *(185 Balz, Berès)*

~~1.  For the purposes of Article 56, a Sub-Committee on Financial Conglomerates to the Joint Committee shall be established.~~ *(186 Balz, Berès)*

2. The Sub-Committees shall be composed of the ***Chairpersons of the ESAs***, and one high-level representative from the current staff of the relevant competent authority from each Member State. *(187 Balz, Berès)*

3. The Sub-Committees shall elect a Chairperson from among ***representatives of the relevant competent authorities***, who shall also be ***an observer in*** the Joint Committee. *(188 Balz, Berès)*

***3a. For the purposes of Article 56, a Sub-Committee on financial conglomerates to the Joint Committee shall be established.*** *(189 Balz, Berès****, 819 Berès****)*

~~4.  The Joint Committee may establish further Sub-Committees.~~ *(190 Balz, Berès)*

***The Joint Committee shall make public on its website all established Sub-Committees including their mandates and a list of their members with their respective functions in the Sub-Committee. (818 Giegold)***

*AMs tabled specifically to Article 57 of the EBA Regulation that fall if COMP is adopted: 185-190 Balz-Berès, 818 Giegold, 819 Berès*

*AMs tabled specifically to Article 57 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 57 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BF***

*Article 59* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Independence and impartiality

1. The members of the Board of Appeal shall be independent in making their decisions. They shall not be bound by any instructions. They shall not perform any other duties in relation to the Authority, its Executive Board or its Board of Supervisors.

2. Members of the Board of Appeal ***and staff of the Authority providing operational and secretariat support*** shall not take part in any appeal proceedings in which they have any personal interest, if they have previously been involved as representatives of one of the parties to the proceedings, or if they have participated in the decision under appeal. *(195 Balz, Berès)*

3.  If, for one of the reasons referred to in paragraphs 1 and 2 or for any other reason, a member of a Board of Appeal considers that another member should not take part in any appeal proceedings, he shall inform the Board of Appeal accordingly.

4.  Any party to the appeal proceedings may object to the participation of a member of the Board of Appeal on any of the grounds referred to in paragraphs 1 and 2, or if suspected of bias.

No objection may be based on the nationality of members nor shall it be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has nonetheless taken a procedural step other than objecting to the composition of the Board of Appeal.

5.  The Board of Appeal shall decide on the action to be taken in the cases specified in paragraphs 1 and 2 without the participation of the member concerned.

For the purpose of taking that decision, the member concerned shall be replaced on the Board of Appeal by his alternate. Where the alternate is in a similar situation, the Chairperson shall designate a replacement from among the available alternates.

6.  The members of the Board of Appeal shall undertake to act independently and in the public interest.

For that purpose, they shall make a declaration of commitments and a declaration of interests indicating either the absence of any interest which may be considered prejudicial to their independence or any direct or indirect interest which might be considered prejudicial to their independence.

Those declarations shall be made public, annually and in writing.

*AMs tabled specifically to Article 59 of the EBA Regulation that fall if COMP is adopted: 195 Balz-Berès, 823 Balz*

*AMs tabled specifically to Article 59 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 59 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BH***

*Article 62* ***(applies to Art. 1, 2 & 3) [Post 6 December shadows’ meeting version]***

Budget of the Authority

1. The revenues of the Authority shall consist, without prejudice to other types of revenue, of any combination of the following:

(a) a balancing contribution from the Union, entered in the General Budget of the Union (Commission section) which shall ***be at least 35%*** of the estimated revenues of the Authority; *(198 Balz-Berès****, 832 Langen****)*

***(aa) obligatory contributions of up to 65% of the estimated revenues of the Authority from the national public authorities competent for the supervision of financial institutions.*** *(199 Balz-Berès****, 834 Langen****)*

(b) ***depending on the evolution of the scope of institution-specific supervision,*** annual contributions from financial institutions, based on the annual estimated expenditure relating to the activities required by this Regulation and by the Union Acts referred to in Article 1(2) for each category of participants within the remit of the Authority; *(200 Balz-Berès)*

(c) any fees paid to the Authority in the cases specified in the relevant instruments of Union law.

(d) contribution***s*** from Member States or observers; ***(837 Ferber)***

(e) charges for publications, training and for any other services requested by competent authorities***.***

***1a. The revenue received by the Authority shall not compromise its independence or objectivity. (838, 973, 1097 Klinz et al)***

2.  The expenditure of the Authority shall include, at least, staff, remuneration, administrative, infrastructure, professional training and operational expenses.

3.  Revenue and expenditure shall be in balance.

4.  Estimates of all Authority revenue and expenditure shall be prepared for each financial year, corresponding to the calendar year, and shall be presented in the budget of the Authority.

***Estimates shall be based on the objectives and the expected results of the annual work programme referred to in Article 47(2) and shall take into account the financial resources necessary to achieve those objectives and expected results. (840, 974, 1098 Klinz et al)***

~~5. The annual contributions referred to in paragraph 1(b) shall be collected each year from individual financial institutions by the authorities designated by each Member State. By 31 March of each financial year, each Member State shall pay to the Authority the amount that it is required to collect in accordance with the criteria set out in the delegated act referred in to Article 62a.~~ *(201 Balz-Berès)*

6. Voluntary contributions from Members States and observers as referred to in point (d) of paragraph 1 shall not be accepted if such acceptance would cast doubt on the independence and impartiality of the Authority.

*AMs tabled to Article 62 of the EBA Regulation that fall if COMP is adopted: 198-201 Balz-Berès, 829 Berès, 836 Berès, 839 Berès, 830 Hayes, 833 Hayes, 835 Hayes, 831 Ferber, 837 Ferber, 832 Langen, 834 Langen, 838 Klinz-Tremosa i Balcells-Cornillet, 840 Klinz-Tremosa i Balcells-Cornillet*

*AMs tabled to Article 62 of the EIOPA Regulation that fall if COMP is adopted: 973 Klinz-Tremosa i Balcells-Cornillet, 974 Klinz-Tremosa i Balcells-Cornillet*

*AMs tabled to Article 62 of the ESMA Regulation that fall if COMP is adopted: 1097 Klinz-Tremosa i Balcells-Cornillet, 1098 Klinz-Tremosa i Balcells-Cornillet*

*AMs not addressed in COMP:*

***COMP BI***

*~~Article 62a~~* ***(applies to Art. 1, 2 & 3) [Post 6 December shadows’ meeting version]***

~~Delegated acts on the calculation of annual contributions by financial institutions~~

~~The Commission shall be empowered, in accordance with Article 75a, to adopt delegated acts determining how annual contributions by individual financial institutions referred to in point (e) of Article 62 are to be calculated, establishing the following:~~

~~(a) a methodology to allocate the estimated expenditure to categories of financial institutions as a basis for determining the share of contributions to be made by financial institutions of each category;~~

~~(b) appropriate and objective criteria to determine the annual contributions payable by individual financial institutions within the scope of the Union Acts referred to in Article 1(2) based on their size so as to approximately reflect their importance in the market.~~

~~The criteria referred to in point (b) of the first paragraph may establish either de minimis thresholds below which no contribution is due or minima below which contributions must not fall.~~ *(202 Balz-Berès)*

*AMs tabled to Article 62a of the EBA Regulation that fall if COMP is adopted: 202 Balz-Berès*

*AMs tabled to Article 62a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 62a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BJ***

***Article 62b ( > applies only to Art. 3) [Post 6 December shadows’ meeting version]***

***Supervisory fees for CCPs***

***1. ESMA shall charge, in accordance with this Regulation and in accordance with the delegated acts adopted pursuant to paragraph 3, the following fees:***

***(a) fees associated with applications for authorisation referred to in Article 17 or with applications for recognition pursuant to Article 25, and***

***(b) annual fees associated with ESMA's tasks in accordance with this Regulation.***

***2. The fees referred to in paragraph 1 shall be proportionate to the turnover of the CCP concerned and shall fully cover ESMA’s necessary expenditure relating to either the authorisation or recognition of the CCP, as applicable, and to the performance of its tasks in accordance with this Regulation.***

***3. The Commission shall adopt a delegated act in accordance with Article 82 in order to further specify the following:***

***(a) the types of fees;***

***(b) the matters for which fees are due;***

***(c) the amount of the fees;***

***(d) the manner in which fees are to be paid by the following entities:***

***(i) CCPs established in the Union which are authorised or applying for authorisation;***

***(ii) CCPs established in a third country which are recognised in accordance with Article 25(2) of Regulation 648/2012;” (1099 Berès)***

*AMs tabled to Article 62a of the EBA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 62a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 62a of the ESMA Regulation that fall if COMP is adopted: 1099 Berès*

*AMs not addressed in COMP:*

***COMP BK***

*Article 63* ***(applies to Art. 1, 2 & 3) [Post 6 December shadows’ meeting version]***

Establishment of the budget

1. Each year, the Member in charge shall draw up a provisional draft single programming document of the Authority for the three following financial years setting out the estimated revenue and expenditure, as well as information on staff, from its annual and multi-annual programming and shall forward it to the Executive Board and the Board of Supervisors, together with the establishment plan.

1a. The ***Chairperson shall present the draft single programming document to the European Parliament and the Council, after which the*** Board ***of Supervisors*** shall, on the basis of the draft which has been approved by ***Executive*** Board***,*** adopt the draft single programming document for the three following financial years. *(203 Balz, Berès)*

1b. The single programming document shall be transmitted by the ***Executive*** Board to the Commission, the European Parliament and the Council ***and the European Court of Auditors*** by 31 January. ***Without prejudice to the adoption of the annual budget, the European Parliament shall approve the single programming document.*** *(204 Balz-Berès****, 842 Langen****)*

2. ***Taking account*** of the single programming document, the Commission shall enter in the draft budget of the Union the estimates it deems necessary in respect of the establishment plan and the amount of the balancing contribution to be charged to the general budget of the Union in accordance with Articles 313 and 314 of the Treaty. *(205 Balz-Berès)*

3. The budgetary authority shall adopt the establishment plan for the Authority. The budgetary authority shall authorise the appropriations for the balancing contribution to the Authority ***and approve the limit for the total expenditures of the Authority***. *(206 Balz-Berès)*

4. The budget of the Authority shall be adopted by the Board of Supervisors. It shall become final after the final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.

5. The Executive Board shall, without delay, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its budget, in particular any project relating to property, such as the rental or purchase of buildings.

5. The budgetary authority ***shall authorise*** any project which may have significant financial ***or long term*** implications for the funding of ***the Authority’s*** budget, in particular any project relating to property, such as the rental or purchase of buildings***, including break clauses***. *(207 Balz-Berès)*

*AMs tabled to Article 63 of the EBA Regulation that fall if COMP is adopted: 203-207 Balz-Berès, 841 Berès-Fernandez, 842 Langen, 843 Kappel-Meuthen*

*AMs tabled to Article 63 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 63 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BL = AM 208-211***

*Article 64* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Implementation and control of the budget

1. The ***[***Member in ***charge/Executive Director]*** shall act as authorising officer and shall implement the Authority’s ***annual*** budget. *(208 Balz, Berès)*

2. The Authority’s accounting officer***, who shall be independent,*** shall send the provisional accounts to the Commission’s accounting officer and to the Court of Auditors by 1 March of the following year. ***Article 70 shall not preclude the Authority from providing to the European Court of Auditors any information requested by the Court that is within the Court’s competence.*** *(209 Balz, Berès)*

3. The Authority's accounting officer shall send by 1 March of the following year the required accounting information for consolidation purposes to the accounting officer of the Commission, in the manner and format laid down by that accounting officer.

4. The Authority’s accounting officer shall also send the report on budgetary and financial management to the members of the Board of Supervisors, the European Parliament, the Council and the Court of Auditors by 31 March of the following year.

5. After ***taking account of*** the observations of the Court of Auditors on the provisional accounts of the Authority in accordance with Article 148 of the Financial Regulation, the Authority's accounting officer***, acting on its own responsibility,*** shall draw up the Authority's final accounts. The Member in charge shall send them to the Board of Supervisors, which shall deliver an opinion on these accounts. *(210 Balz, Berès)*

6. The Authority's accounting officer shall send the final accounts, accompanied by the opinion of the Board of Supervisors, by 1 July of the following year to the accounting officer of the Commission, the European Parliament, the Council and the Court of Auditors.

The Authority's accounting officer shall also send by 1 July, a reporting package to the Commission's accounting officer, in a standardised format as laid down by the Commission's accounting officer for consolidation purposes.

7. The final accounts shall be published in the Official Journal of the European Union by 15 November of the following year.

8. The Member in charge shall send the Court of Auditors a reply to the latter’s observations by 30 September. He shall also send a copy of that reply to the Executive Board and the Commission.

9. The Member in charge shall submit to the European Parliament, at the latter’s request and as provided for in Article 165(3) of the Financial Regulation, any information necessary for the smooth application of the discharge procedure for the financial year in question.

10. The European Parliament, following a recommendation from the Council acting by qualified majority, shall, before 15 May of the year N + 2, grant a discharge to the Authority for the implementation of the budget for the financial year N.

***10a. The Authority shall provide a reasoned opinion on the position of the European Parliament and on any other observations made by the European Parliament provided in the discharge procedure.*** *(211 Balz, Berès)*

*AMs tabled specifically to Article 64 of the EBA Regulation that fall if COMP is adopted: 208-211 Balz, Berès*

*AMs tabled specifically to Article 64 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 64 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BM (Article 64a + Article 65)***

***Article 64a (> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

***Internal Audit of the Authority***

***The Authority shall establish an Internal Audit Committee which shall provide an opinion to the European Parliament and the Council on the discharge of that part of the budget which is not financed by the Union budget.*** *(212 Balz, Berès****, 844 Berès et al****)*

*AMs tabled specifically to Article 64a of the EBA Regulation that fall if COMP is adopted: 212 Balz-Berès, 844 Berès-Fernandez*

*AMs tabled specifically to Article 64a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 64a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

*Article 65* ***(applies to Art. 1, 2 & 3) [Post 6 December shadows’ meeting version]***

Financial rules

The financial rules applicable to the Authority shall be adopted by the Executive Board after consulting the Commission. Those rules may not depart from Commission Delegated Regulation (EU) No 1271/2013\* for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 unless the specific operational needs for the functioning of the Authority so require and only with the prior agreement of the Commission.

\* Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

*AMs tabled to Article 65 of the EBA Regulation that fall if COMP is adopted: 845 Balz*

*AMs tabled to Article 65 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled to Article 65 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BN***

*Article 68* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Staff

1. The Staff Regulations, the Conditions of Employment of Other Servants and the rules adopted jointly by the Union institutions for the purpose of applying them shall apply to the staff of the Authority, including the full time members of the Executive Board and its Chairperson.

2. The Executive Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations.

3.  In respect of its staff, the Authority shall exercise the powers conferred on the appointing authority by the Staff Regulations and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants.

4. The Executive Board shall adopt provisions to allow national experts from Member States to be seconded to the Authority.

*AMs tabled specifically to Article 68 of the EBA Regulation that fall if COMP is adopted: 846 Balz, 847 Balz, 848 Balz*

*AMs tabled specifically to Article 68 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 68 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BO***

*Article 70* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Obligation of professional secrecy

1. Members of the Board of Supervisors and all members of the staff of the Authority including officials seconded by Member States on a temporary basis and all other persons carrying out tasks for the Authority on a contractual basis shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and the relevant provisions in Union legislation, even after their duties have ceased.

***Article 16 of the Staff Regulations shall apply to all members of staff of the Authority, including officials seconded by Member States on a temporary basis and all other persons carrying out tasks for the Authority on a contractual basis.*** *(213 Balz, Berès)*

2.  Without prejudice to cases covered by criminal law, any confidential information received by persons referred to in paragraph 1 whilst performing their duties may not be divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual financial institutions cannot be identified.

~~Moreover,~~ ***The*** obligation under paragraph 1 and the first subparagraph of this paragraph shall not prevent the Authority and the competent authorities from using the information for the enforcement of the acts referred to in Article 1(2), and in particular for legal procedures for the adoption of decisions. *(214 Balz, Berès)*

2a. The Executive Board and the Board of Supervisors shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, relating to the tasks of the Authority, including officials and other persons authorised by the Executive Board and the Board of Supervisors or appointed by the competent authorities for that purpose, are subject to the requirements of professional secrecy equivalent to those in the previous paragraphs.

The same requirements for professional secrecy shall also apply to observers who attend the meetings of the Executive Board and the Board of Supervisors who take part in the activities of the Authority.

3. Paragraphs 1 and 2 shall not prevent the Authority from exchanging information with competent authorities in accordance with this Regulation and other Union legislation ~~applicable to financial institutions.~~ *(215 Balz, Berès)*

***Paragraphs 1 and 2 shall not apply to any person who reports or discloses information on a threat or harm to the public interest in the context of their work-based relationship***. *(216 Balz, Berès****, 851 Giegold****)*

***The*** information ***referred to in paragraph 2*** shall be subject to the conditions of professional secrecy referred to in paragraphs 1 and 2. The Authority shall lay down in its internal rules of procedure the practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2. *(217 Balz, Berès)*

4.  The Authority shall apply Commission Decision (EU, Euratom) 2015/444, Euratom([16](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0016)).

***5. The Authority shall have in place dedicated reporting channels for receiving and handling information provided by a reporting person on actual or potential breaches of Union acts or abuse of law or cases of maladministration. (853 Giegold)***

*AMs tabled specifically to Article 70 of the EBA Regulation that fall if COMP is adopted: 213-217 Balz, Berès,* *849 Balz, 850 Balz, 851 Giegold, 853 Giegold*

*AMs tabled specifically to Article 70 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 70 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BP***

*Article 72* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Access to documents

1.  Regulation (EC) No 1049/2001 shall apply to documents held by the Authority.

2. The Executive Board shall adopt practical measures for applying Regulation (EC) No 1049/2001.

3.  Decisions taken by the Authority pursuant to Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or of proceedings before the Court of Justice of the European Union, following an appeal to the Board of Appeal, as appropriate, in accordance with the conditions laid down in Articles 228 and 263 TFEU respectively.

*AMs tabled specifically to Article 72 of the EBA Regulation that fall if COMP is adopted: 852 Balz*

*AMs tabled specifically to Article 72 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 72 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BQ***

*Article 73* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Language arrangements

1.  Council Regulation No 1 determining the languages to be used by the European Economic Community ([17](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1093-20160112&qid=1505486270928&from=en#E0017)) shall apply to the Authority.

2. The Executive Board shall decide on the internal language arrangements for the Authority.

3.  The translation services required for the functioning of the Authority shall be provided by the Translation Centre for the Bodies of the European Union.

*AMs tabled specifically to Article 73 of the EIOPA Regulation that fall if COMP is adopted: 854 Balz*

*AMs tabled specifically to Article 73 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 73 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BR***

*Article 74* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Headquarters Agreement

The necessary arrangements concerning the accommodation to be provided for the Authority in the Member State where its seat is located and the facilities to be made available by that Member State, as well as the specific rules applicable in that Member State to the staff of the Authority and members of their families shall be laid down in a Headquarters Agreement between the Authority and that Member State concluded after obtaining the approval of the Executive Board.

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

*AMs tabled specifically to Article 74 of the EBA Regulation that fall if COMP is adopted: 855 Balz*

*AMs tabled specifically to Article 74 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 74 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BS***

*Article 75* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Participation of third countries

1.  Participation in the work of the Authority shall be open to third countries which have concluded agreements with the Union whereby they have adopted and are applying Union law in the areas of competence of the Authority as referred to in Article 1(2).

2. The Authority ***shall*** cooperate with the countries referred to in paragraph 1, applying legislation which has been recognised as equivalent in the areas of competence of the Authority referred to in Article 1(2), as provided for in international agreements concluded by the Union in accordance with Article ***218*** TFEU. *(218 Balz, Berès)*

3. Under the relevant provisions of the agreements referred to in paragraphs 1 and 2, arrangements shall be made specifying, in particular, the nature, scope and procedural aspects of the involvement of the countries referred to in paragraph 1***, in particular in relation to countries that are members of the European Economic Area,*** in the work of the Authority, including provisions relating to financial contributions and to staff. They may provide for representation, as an observer, ***in the governance of the Authority***, but shall ensure that those countries do not attend any discussions relating to individual financial institutions, except where there is a direct interest. *(219 Balz, Berès)*

*AMs tabled specifically to Article of the EBA Regulation that fall if COMP is adopted: 218-219 Balz-Berès*

*AMs tabled specifically to Article 75 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 75 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BT***

*Article 75a* ***(> applies to Art. 1, 2 & 3) [Post 21 November shadows’ meeting version]***

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

~~2. The power to adopt delegated acts referred to in Article 35c and Article 62a shall be conferred for an indeterminate period of time.~~

3. The delegation of power referred to in ***the second subparagraph of*** Article 35***d(2)[]*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to ***the second subparagraph of*** Article 35***d(2)[]*** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council. *(220 Balz, Berès)*

*AMs tabled specifically to Article 75a of the EIOPA Regulation that fall if COMP is adopted: 220 Balz-Berès, 856 Berès-Fernandez, 860 Berès-Fernandez, 857-858, 861 Kappel-Meuthen, 859 Berès*

*AMs tabled specifically to Article 75a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 75a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BTa***

*Article 77a* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Transitional provisions

The tasks and position of the Executive Director appointed in accordance with ***this Regulation*** ***as last amended by Directive (EU) 2015/2366*** and in office on [PO: please insert date 3 months after the entry into force of this Regulation] shall cease on that date.

The tasks and position of the Chairperson appointed in accordance with ***this Regulation*** ***as last amended by Directive (EU) 2015/2366*** and in office on [PO: please insert date 3 months after the entry into force of this Regulation] shall continue until its expiry.

The tasks and position of the members of the Management Board appointed in accordance with ***this Regulation*** as last amended by Directive (EU) 2015/2366 and in office on [PO: please insert date 3 months after the entry into force of this Regulation] shall cease on that date.

*AMs tabled specifically to Article 77a of the EBA Regulation that fall if COMP is adopted: 862 Balz*

*AMs tabled specifically to Article 77a of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 77a of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BU***

*~~Article 79~~* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

~~Amendments~~

~~Decision No 716/2009/EC is hereby amended in so far as CEBS is removed from the list of beneficiaries set out in Section B of the Annex to that Decision.~~ *(221 Balz, Berès)*

*AMs tabled specifically to Article 79 of the EBA Regulation that fall if COMP is adopted: 221 Balz-Berès*

*AMs tabled specifically to Article 79 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 79 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BV***

*~~Article 80~~* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

~~Repeal~~

~~Commission Decision 2009/78/EC, establishing CEBS, is hereby repealed with effect from 1 January 2011.~~ *(222 Balz, Berès)*

*AMs tabled specifically to Article 80 of the EBA Regulation that fall if COMP is adopted: 222 Balz-Berès*

*AMs tabled specifically to Article 80 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 80 of the ESMA Regulation that fall if COMP is adopted:*

*AMs not addressed in COMP:*

***COMP BW***

*Article 81* ***(> applies to Art. 1, 2 & 3) [Post 21 November 2018 shadows’ version (including comments by lawyers-linguists)]***

Review

1.  By ***... [18 months after the date of entry into force of this Regulation]***, and every 3 years thereafter, the Commission shall publish a general report on the experience acquired as a result of the operation of the Authority and the procedures laid down in this Regulation. That report shall evaluate, inter alia: ***(864 Berès)***

(a) the ***effectiveness and*** convergence in supervisory practices reached by competent authorities: ***(864 Berès)***

(i) the ~~convergence in functional~~ independence of the competent authorities and ***convergence*** in standards equivalent to corporate governance;

(ii) the impartiality, objectivity and autonomy of the Authority;

(b) the functioning of the colleges of supervisors;

(c) the progress achieved towards convergence in the fields of crisis prevention, management and resolution, including Union funding mechanisms;

(d) the role of the Authority as regards systemic risk;

(e) the application of the safeguard clause established in Article 38;

(f) the application of the binding mediation role established in Article 19;

***(fa) the functioning of the decision-making of the Joint Committee; (863 Giegold)***

***(fb) the obstacles or impact to cross-border consolidation pursuant to Article 8 of this Regulation. (386 Cornillet et al > applies only to Art. 1)***

2.  The report referred to in paragraph 1 shall also examine whether:

(a) it is appropriate to continue separate supervision of banking, insurance, occupational pensions, securities and financial markets;

(b) it is appropriate to undertake prudential supervision and supervise the conduct of business separately or by the same supervisor;

(c) it is appropriate to simplify and reinforce the architecture of the ESFS in order to increase the coherence between the macro and the micro levels and between the ESAs;

(d) the evolution of the ESFS is consistent with that of the global evolution;

(e) there is sufficient diversity and excellence within the ESFS;

(f) accountability and transparency in relation to publication requirements are adequate;

(g) the resources of the Authority are adequate to carry out its responsibilities;

(h) it is appropriate for the seat of the Authority to be maintained or to move the ESAs to a single seat to enhance better coordination between them.

***2a. As part of the general report referred to in paragraph 1 the Commission shall, after consulting all relevant authorities and stakeholders, conduct a comprehensive assessment on the implementation, functioning and effectiveness of the issuance of no-action letters pursuant to Article 9a of this Regulation. (413, 889, 993 Klinz et al, 414 Hübner, 421, 891, 994 Lamassoure et al > applies to Art. 1, 2 & 3)***

***2b. As part of the general report referred to in paragraph 1 of the Commission shall, after consulting all relevant authorities and stakeholders, conduct a comprehensive assessment on the potential supervision of third-county trading venues by ESMA exploring aspects such as recognition based on systemic importance, organisational requirements, ongoing compliance, fines and periodic penalty payments as well as staff and resources. In its assessment, the Commission shall take into account the effects on liquidity, including the availability of best price for investors, best execution for EU clients, access barriers and economic benefits for EU counterparties to trade globally as well as the development of the Capital Markets Union. (1111, 1113, 1115, 1117, 1118, 1119, 1120, 1124, 1125, 1126, 1132, 1133, 1134, 1135, 1136, 1137, 1183 Berès et al > applies only to Art. 3)***

***2c. As part of the general report referred to in paragraph 1 of the Commission shall, after consulting all relevant authorities and stakeholders, conduct a comprehensive assessment on the potential supervision of third-county CSDs by ESMA exploring aspects such as recognition based on systemic importance, organisational requirements, ongoing compliance, fines and periodic penalty payments as well as staff and resources. (1182 Berès et al > applies only to Art. 3)***

***2d. The Commission shall submit the assessments referred to in paragraphs 2a, 2b and 2c together with legislative proposals, if appropriate, to the European Parliament and the Council by [18 months after the date of entry into force of this Regulation].***

3.  Concerning the issue of direct supervision of institutions or infrastructures of pan-European reach and taking account of market developments, the stability of the internal market and the cohesion of the Union as a whole, the Commission shall draw up an annual report on the appropriateness of entrusting the Authority with further supervisory responsibilities in this area.

4.  The report and any accompanying proposals, as appropriate, shall be forwarded to the European Parliament and to the Council.

*AMs tabled specifically to Article 81 of the EBA Regulation that fall if COMP is adopted: 863 Giegold, 864 Berès*

*AMs tabled specifically to Article 81 of the EIOPA Regulation that fall if COMP is adopted:*

*AMs tabled specifically to Article 81 of the ESMA Regulation that fall if COMP is adopted: 1111 Berès et al, 1113 Berès et al, 1115 Berès et al, 1117 Berès et al, 1118 Berès et al, 1119 Berès et al, 1120 Berès et al, 1124 Berès et al, 1125 Berès et al, 1126 Berès et al, 1132 Berès et al, 1133 Berès et al, 1134 Berès et al, 1135 Berès et al, 1136 Berès et al, 1137 Berès et al,* *1182 Berès et al, 1183 Berès et al*

*AMs not addressed in COMP:*

***COMP CB***

***Recitals***

***Recital 8 is replaced by the following:***

(8) It is therefore crucial that the financial system plays its full part in meeting critical sustainability challenges. This will require an active contribution ***of the ESAs*** to create the right regulatory and supervisory framework. ***(286 Klinz et al, 287 Karas > applies to Art. 1, 2 & 3)***