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**AMANDMANI 001-001**

podnositelj Odbor za ekonomsku i monetarnu politiku

**Izvješće**

**Sven Giegold**

**A7-0393/2012**

Europsko nadzorno tijelo za bankarstvo i bonitetni nadzor kreditnih institucija

Prijedlog uredbe (COM(2012)0512 – C7-0289/2012 – 2012/0244(COD))

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**Amendment 1**

**1**

**AMENDMENTS BY THE EUROPEAN PARLIAMENT\***

to the Commission proposal

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**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No.../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

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

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

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■.

Having regard to the opinion of the European Central Bank,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) On 29 June 2012, the Euro area Heads of State or Government called on the Commission to present proposals to provide for a single supervisory mechanism involving the European Central Bank (ECB). The European Council in its conclusions of 29 June 2012 invited the President of the European Council to develop, in close collaboration with the President of the Commission, the President of the Eurogroup and the President of the ECB, a specific and time-bound road map for the achievement of a genuine Economic and Monetary Union, which includes concrete proposals on preserving the unity and integrity of the Single Market in financial services. ■

***(1a) It is critical that the banking union should contain democratic accountability mechanisms. There should be consideration of the function of national parliaments.***

(2) The provision for a single supervisory mechanism is the first step towards the creation of a European banking union, underpinned by a true single rulebook for financial services and ***comprising also harmonisation of the various national deposit insurance systems and a common European*** resolution framework.

***(2a) The banking union should be underpinned by proper checks and balances and accountability mechanisms between political institutions at EU and national level and those bodies exercising supervisory responsibilities at both EU and national level.***

***(2b) The implementation of the banking union should at all its different stages ensure that due consideration be given to the potential mutual spill-over effects of the banking union in the euro area for non-euro area members. To this aim, appropriate preventive measures should be put in place to avoid possible disruption of the internal market. In particular, the ECB should be required to ensure that it performs its supervisory tasks in a manner that is non-discriminatory and is consistent with the proper functioning of the internal market.***

(3) In order to ***involve the ECB appropriately in*** the single supervisory mechanism, Council Regulation (EU) No .../...[127(6) Regulation] confers specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions in the Member States whose currency is the euro. Other Member States may enter in a close cooperation with the ECB. Under that Regulation, the ECB is to coordinate the position of those Member States on the decisions to be taken by the Board of Supervisors of the European Banking Authority (EBA) falling within the scope of the ECB tasks. ***The participating authorities shall, in this respect, act independently and exclusively in the European Union's interest.***

(4) The conferral of supervisory tasks to the ECB in the banking sector for part of the Member States of the Union should not in any way hamper the functioning of the internal market in the field of financial services. ***The EBA should therefore maintain its role and retain all its existing powers and tasks: it should continue developing and ensuring the implementation of the single rulebook applicable to all Member States and enhance convergence of supervisory practices across the whole Union.***

- (4a) In order to prevent the risk that the establishment of a supervisory mechanism which covers only some of the Member States could lead to a fragmentation of supervisory practices within the internal market, it is fundamental that the single rulebook is accompanied by a European supervisory handbook, drawn up by EBA in consultation with national supervisory authorities, in order to identify the practices of the highest quality across the Union as regards supervisory methodologies and processes so that core Basel and Union principles are not undermined. The handbook should not restrict judgement led supervision and should also include, where appropriate and within the remit of EBA, the areas of consumer protection and efforts against money laundering. In addition to clear guidelines for the implementation of sectoral legislation, including technical standards, the handbook should set out metrics and methodologies for risk assessment, identification of early warnings and criteria for supervisory action. Competent authorities should apply the handbook strictly and should not treat it as a tick-box exercise. Any divergence in their practices should be considered as a significant element in the assessment of malpractices or breaches of Union law.*
- (4b) Recent experience has highlighted the need to ensure that credit institutions fully comply with the information requests of the European Supervisory Authorities with regard to stress testing and other tasks conferred upon it by this Regulation. It is therefore necessary to strengthen the provisions relating to such requests, streamline the processes associated with them and, in the case of obstruction or other non-compliance it is appropriate that Member States concerned afford such assistance to EBA as is necessary for it to obtain the information requested, including access to business premises of credit institutions or other legal persons holding relevant information, such as those to whom a credit institution may have outsourced functions.*
- (4c) The single market and the cohesion of the EU must be secured. With regard to this, concerns such as governance and voting arrangements in the EBA should be considered carefully and equal treatment of Member States participating in the SSM and other Member States must be guaranteed.*
- (4d) Bearing in mind that the EBA, in works of which all Member States participate with equal rights, was established with an aim to develop the single rulebook and ensure the coherence of supervisory practices within the EU and given the establishment of the single supervisory mechanism with a leading role of the ECB, the EBA needs to be equipped with adequate instruments, which will enable it to efficiently perform its entrusted tasks concerning the integrity of the single market in the area of financial services.*
- (4e) In areas not covered by regulatory or implementing technical standards, the Authority should have the power to issue guidelines and recommendations on the application of Union law. In order to ensure transparency and to strengthen compliance by the ECB's Supervisory Board and European Union national competent authorities with those guidelines and recommendations, it should be possible for the Authority to publish the reasons provided by supervisory authorities for not complying with those guidelines and recommendations.*
- (4f) EBA should, within the scope of its powers conferred by this Regulation, give guidance to the ECB's Supervisory Board and any other European Union competent authority in case they impose any discretionary prudential requirement as specifically provided for in*

*a Union act.*

- (5) In view of the supervisory tasks conferred on the ECB by Council Regulation (EU) No .../... [127(6) Regulation], EBA should be able to carry out its tasks also in relation to the ECB ***in the same manner as in relation to the other competent authorities.***
- (5a) The mandate of the EBA to settle disagreements involving the ECB with regard to cases concerning prudential supervision can be inferred from the fact that both the establishment of the EBA and the conferment of specific supervisory tasks on the ECB have been introduced through secondary law.***
- (6) In order to ensure that interests of all Member States are adequately taken into account and to allow for the proper functioning of the EBA with a view to maintain and deepen the internal market in the field of financial services, the voting modalities within the Board of Supervisors should be adapted **■**.
- (7) Decisions concerning breaches of Union law and settlement of disagreements should be examined by an independent panel composed of voting members of the Board of Supervisors which do not have any conflicts of interest ***and appropriately qualified experts***, appointed by the Board of Supervisors. The decisions proposed by the panel to the Board of Supervisors should be **■** adopted **■** by a simple majority, **■** of votes **■** from Member States participating in the SSM and from Member States that do not participate in the SSM. ***Furthermore, in order to maintain the necessary incentives for closer integration of Member States within a single Union-wide supervisory mechanism, where disagreements occur between home and host competent authorities, a balance should be maintained in the decision-making process to ensure that the ability of host Member States to apply stricter prudential standards is not undermined in particular where the entity in the host Member State is of systemic importance or size.***
- (8) **■** The EBA should develop rules of procedure for the panel that ensure its independence and objectivity.
- (9) The composition of the Management Board should be balanced and proper representation of Member States ***participating in the SSM, Member States that have entered into close cooperation and Member States*** not participating in the SSM should be ensured.
- (9a) The head of the Management Board should be different from the respective heads of the European System of Financial Supervision (ESFS).***
- (9b) When the EBA, EIOPA and ESMA regulations are jointly reviewed in 2014, this should include a review of the composition of the management board and an assessment of the necessity and possibility to create a European body to control a mechanism to resolve banks that includes a European Fund.***
- (10) In order to ensure the proper functioning of the EBA and adequate representation of all Member States, the voting modalities, the composition of the Management Board, and the composition of the independent panel should be reviewed after an appropriate period of time ***of two years from the entry into force of this Regulation***, taking into account any experience gained and further developments.
- (10a) When national deposit guarantee schemes merge they should be under the supervision***

*of a college of supervisors pursuant to Article 21.*

***(10b) The Authority should act with a view to improving the functioning of the internal market, in particular by ensuring an effective level of regulation and efficient supervision in the EU. The Authority should protect public values such as the stability of the financial system, the transparency of markets and financial products, and the protection of depositors and investors. The Authority should also prevent regulatory arbitrage and guarantee a level playing field, and strengthen international supervisory coordination, for the benefit of the EU economy, including financial institutions and consumers. In accordance with the fundamental principle of the equality of the Member States before the EU Treaties, the Authority should respect the differences in supervisory culture adopted by competent authorities. In this regard no Member States or group of Member States should be discriminated against, directly or indirectly, as a venue for financial services, whether by reference to their currency or otherwise. The Authority should have regard to the need for competent authorities to be able to exercise judgement effectively in order to determine the appropriate action to take in any particular circumstances. The tasks of the Authority should also include promoting supervisory convergence and providing advice to the Union institutions in the areas of banking, payments, e-money regulation and supervision, and related corporate governance, auditing and financial reporting issues.***

***(10c) The EBA should be provided with the appropriate financial and human resources, in order to adequately fulfil any additional tasks assigned to it under this Regulation. For this purpose, the procedure for the establishment, implementation and control of its budget as set out in Articles 63 and 64 of Regulation (EU) No 1093/2010 should take due account of these tasks. The budgetary authority should ensure that the best standards of efficiency are met.***

***(11) Since the objectives of this Regulation, namely ensuring **the highest level of** effective, consistent and fair implementation of prudential regulation and supervision across all Member States, protecting the integrity, efficiency and orderly functioning of **the internal market in** financial services and maintaining the stability of the financial system, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.***

***(11a) An effective single, Union-wide supervisory mechanism should include not only an authority with the power to design and ensure the consistent Union-wide implementation of a single rulebook, but also the harmonised execution by competent authorities of that single rulebook. While the ECB component of the SSM can perform this role for some Member States, it is not feasible for it to do so for all as there are institutional obstacles to ensuring equal treatment of non-euro area participants and a possibility of conflict between euro area monetary policy and Union-wide supervisory policy. Therefore, harmonised execution through a single supervisory body can only be achieved by other means. It is imperative that where there is a conflict between Euro-area monetary policy and Union-wide supervisory policy the requirements of Euro-area monetary policy are not imposed on non-Euro area countries where it would be damaging to their monetary policy. Any analysis of such conflict may not be made solely by the ECB, but must be***

*referred inter alia to the ESRB. The monetary policy of the ECB must be conducted independently.*

*(11b) Given the necessity to be able to oversee highly complex and inter-connected markets and institutions, including conglomerates, which requires close and daily exchanges, it is important that the Supervisory board, the EBA and the EIOPA be located in Frankfurt am Main, where the ECB has its seat.*

HAVE ADOPTED THIS REGULATION:

Article 1

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

**-1. Article 1 is amended as follows:**

**(a) paragraph 2 is replaced by the following:**

***"2. The Authority shall act within the powers conferred by this Regulation, by Council Regulation (EU) No .../... [conferring specific tasks on the ECB] and within the scope of Directive 2006/48/EC, Directive 2006/49/EC, Directive 2002/87/EC, Regulation (EC) No 1781/2006, Directive 94/19/EC 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 2005/60/EC, Directive 2002/65/EC, Directive 2007/64/EC and Directive 2009/110/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority."***

**(b) in paragraph 5 the following point is inserted after point b:**

***"(ba) strengthening the integration of the Supervisory Unit of the European Central Bank into the European System of Financial Supervision ;***

**(c) in paragraph 5 the second subparagraph is replaced by the following:**

***"For those purposes, the Authority shall contribute to the consistent, efficient and effective application of the acts referred to in paragraph 2, foster supervisory convergence, provide opinions to the European Parliament, the Council, and the Commission, and undertake economic analyses of the markets to promote the achievement of the Authority's objective."***

**(d) in paragraph 5 the fourth subparagraph is replaced by the following:**

***"When carrying out its tasks, the Authority shall act independently and objectively and in a non discriminatory way in the interests of the Union as a whole and shall:***

***(a) have regard to the need for competent authorities to be able to exercise judgement effectively in order to determine the appropriate action to take in any particular circumstances;***

***(b) have regard to the international character of financial services and the desirability of maintaining the competitive position of the Union."***

**-1a. In Article 2(2) the following point shall be added after point f:**

***"(fa) the European Central Bank as a competent authority for prudential supervision within***

*the single supervisory mechanism (SSM)."*

**-1b. Article 3 is replaced by the following:**

**Article 3**

**"Accountability of the Authorities**

***The Authorities comprising the ESFS referred to in Article 2(2) (a) to (d) as well with regards to the tasks conferred upon it by Council Regulation (EU) No.../... [127(6) TFEU Council Regulation] the ECB, shall be accountable to the European Parliament and the Council.***

***For the competent or supervisory authorities referred to in Article 2(2)(f), the first paragraph shall apply without prejudice to their accountability to national parliaments.***

***For the European Central Bank, this shall apply without prejudice to Article 130 TFEU and only for matters related to the tasks conferred upon it by Regulation (EU) No.../...[conferring specific tasks on the ECB]."***

**1. Article 4 is amended as follows:**

**(a) point 1 is replaced by the following:**

***"(1) "financial institutions" means "credit institutions" as defined in Article 4(1) of Directive 2006/48/EC, "investment firms" as defined in Article 3(1)(b) of Directive 2006/49/EC, "financial conglomerates" as defined in Article 2(14) of Directive 2002/87/EC and "deposit guarantee schemes" officially recognised in accordance with Directive 94/19/EEC, save that, with regard to Directive 2005/60/EC, "financial institutions" means credit institutions and financial institutions as defined, respectively, in Article 3(1) and (2) of that Directive;"***

**(b) in point 2 point (i) is replaced by the following:**

***"(i) Competent authorities as defined in Directives 2006/48/EC and 2006/49/EC, including the ECB for matters related to the tasks conferred upon it by Council Regulation (EU) No .../...\*[127(6) TFEU Council Regulation], in Directive 2007/64/EC, and as referred to in Directive 2009/110/EC. "***

**1a. Article 7 is replaced by the following:**

**"Article 7**

**Seat**

***The Authority shall have its seat in Frankfurt am Main."***

**1b. Article 8 is amended as follows:**

**(a) paragraph 1 is replaced by the following:**

***"1. The Authority shall have the following tasks:***

***(a) to establish high-quality common regulatory and supervisory standards and practices, in particular by contributing to the development of guidelines, recommendations, and draft***

*regulatory and implementing technical standards and other decisions which shall be based on the legislative acts referred to in Article 1(2);*

- (aa) to ensure the implementation of a single supervisory rulebook by all supervisory authorities in respect to all financial institutions in the Union;*
- (ab) to develop and update, taking into account changing business practices and market structures, a Single Supervisory Handbook across the whole Union with the core of methodologies and processes to identify and measure risks at banks;*
- (b) to enforce the consistent application of legally binding Union acts, in particular by establishing a common supervisory culture, ensuring consistent, efficient and effective application of the acts referred to in Article 1(2), preventing regulatory arbitrage, mediating and settling disagreements between competent authorities, ensuring effective and consistent supervision of financial institutions, ensuring a coherent functioning of colleges of supervisors and taking actions, inter alia, in emergency situations;*
- (c) to facilitate the delegation of tasks and responsibilities among competent authorities;*
- (d) to cooperate closely with the ESRB, in particular by providing the ESRB with the necessary information for the achievement of its tasks and by ensuring a proper follow up to the warnings and recommendations of the ESRB;*
- (e) to organise and conduct peer review analyses of competent authorities, including issuing guidelines and recommendations and identifying best practices, in order to strengthen consistency in supervisory outcomes;*
- (f) to monitor and assess market developments in the area of its competence, including where appropriate trends in credit, in particular, to households and SMEs;*
- (g) to undertake economic analyses of markets to inform the discharge of the Authority's functions;*
- (h) to foster depositor and investor protection;*
- (i) to ensure 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, in accordance with Articles 21 to 26;*
- (j) to fulfil any other specific tasks set out in this Regulation or in other legislative acts;*
- (k) to publish on its website, and to update regularly, information relating to its field of activities, in particular, within the area of its competence, on registered financial institutions, in order to ensure information is easily accessible by the public;*
- (ka) to promote cooperation between competent authorities involved in the management of crisis concerning cross-border institutions that have the potential to pose a systemic risk;*
- (kb) to take into account the nature, scale and complexity of the activities of institutions and the risks inherent in their business models and preserve the pluralistic nature of the*



*European banking industry and respect especially the business model of small credit institutions in the application of this Regulation."*

*(b) in paragraph 2 the following subparagraph is added:*

*"When exercising the powers referred to in this paragraph and undertaking the tasks referred to in paragraph 1, the Authority shall have due regard to the principles of better regulation, including to the results of the analysis of costs and benefits produced in compliance with the requirements of this Regulation."*

*1c. Article 9 is amended as follows:*

*(a) paragraph 4 is replaced by the following:*

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

*(b) in paragraph 5 the first subparagraph is replaced by the following:*

*"5. The Authority may temporarily prohibit or restrict certain financial activities not falling in the remit of ESMA that threaten the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union in the cases specified and under the conditions laid down in the legislative acts referred to in Article 1(2) or, if so required, in the case of an emergency situation in accordance with and under the conditions laid down in Article 18."*

*(c) in paragraph 5 the fourth subparagraph is replaced by the following:*

*"The Authority may also assess the need to prohibit or restrict certain types of financial activity and, where there is such a need, inform the Commission and the Supervisory Unit of the European Central Bank in order to facilitate the adoption of any such prohibition or restriction."*

*1d. In Article 16, paragraph 1 is replaced by the following:*

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

*1e. Article 17 is amended as follows:*

*(a) paragraph 3 is replaced by the following:*

*"3. The Authority may address a recommendation to the competent authority concerned setting out the action necessary to comply with Union law. Such a recommendation shall include a deadline for the authority to comply with the recommendation. Except in cases of urgency the deadline shall be no sooner than 10 days after receipt of the recommendation by the competent authority."*

*The competent authority shall, within the deadline referred to in the first subparagraph, inform the Authority of the steps it has taken or intends to take to ensure compliance with Union law."*

*(b) in paragraph 4 the first subparagraph is replaced by the following:*

*"4. Where the competent authority has not complied with Union law within the deadline referred to in paragraph 3, 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."*

2. Article 18 is amended as follows:

(a) paragraph 1 is replaced by the following:

*"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 █ in any relevant gathering by the relevant **national** competent supervisory authorities."*

*(aa) paragraph 2 is replaced by the following:*

*"2. The Council or the Commission in consultation with 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 Supervisory Unit of the ECB or the ESRB, or on their own initiative. The Council shall in cooperation with the Commission 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. Council and Commission may agree to 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 the Commission and provide it with an assessment of the situation. The Council and the Commission shall then assess the need for a meeting. In that process, due care of confidentiality shall be guaranteed.*

*If the Council or the Commission determines the existence of an emergency situation, they shall duly inform the European Parliament without delay."*

*(ab) paragraph 3 is replaced by the following:*

*"3. Where the Council or the Commission has adopted a decision pursuant to paragraph 2 and in exceptional circumstances where coordinated action by national authorities is necessary to respond to adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, the Authority may adopt individual decisions requiring competent authorities to take the necessary action in accordance with the legislation referred to in Article 1(2) to address any such developments by ensuring that financial*

*institutions and competent authorities satisfy the requirements laid down in that legislation."*

(b) the following paragraph is inserted after paragraph 3:

*"3a. Where the Authority requests **a** competent authority to take the necessary action **or to refrain from specific action** in accordance with paragraph 3 **that authority** shall comply with it or shall provide within 48 hours at the latest adequate justification to the Authority for its non-compliance. **This justification shall be made available without delay to the European Parliament, and the Council for the sake of greater transparency of the decision making.**"*

*(ba) paragraph 4 is replaced by the following:*

*"4. Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the decision of the authority referred to in paragraphs 3 and 3a 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."*

3. In Article 19(1) *the first subparagraph is replaced by the following:*

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

3a. *The following Article is inserted after Article 20:*

*"Article 20a*

*Convergence of Pillar 2*

*The Authority shall ensure that the supervisory review and evaluation process ("Pillar 2") according to which competent authorities shall set higher own fund requirements in accordance with Directive .../....EU [CRD4] is as convergent as necessary to bring about strong supervisory standards in the Union."*

3b. *Article 21 is amended as follows:*

*(a) paragraph 1 is replaced by the following:*

*"1. The Authority shall ensure the promotion and monitoring of the efficient, effective and consistent functioning of the colleges of supervisors referred to in Directive 2006/48/EC and foster the coherence 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 be able to participate in the activities of the colleges of supervisors, including on-site examinations, carried out jointly by two or more competent authorities."*

*(b) in paragraph 2 the first subparagraph is replaced by the following:*

*"2. The Authority may, on its own initiative take the lead 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."*

*3c. In Article 22, the following paragraph is inserted after paragraph 1:*

*"1a. The Authority shall conduct at least annual Union-wide stress tests in accordance with Article 32 and provide appropriate disclosures of the results for each participating financial institution."*

*3d. In Article 25 paragraph 1 is replaced by the following:*

*"1. The Authority shall ensure that effective and consistent recovery and resolution plans for all financial institutions are developed and kept up to date. The Authority shall also where appropriate and foreseen in the EU legislation assist in developing procedures in emergency situations and preventive measures to minimise the systemic impact of any failure."*

*3e. In Article 26, paragraph 1 is replaced by the following:*

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

*3f. In Article 27(2) first subparagraph is replaced by the following:*

*"2. The Authority shall assess the need for a system of coherent, robust and credible funding mechanisms, with appropriate financing instruments linked to a set of coordinated national or multi-national crisis management arrangements."*

*3g. Article 29 is amended as follows:*

*(a) in paragraph 1 points (b) and (c) are replaced by the following:*

*"(b) promoting an effective bilateral and multilateral exchange of information between competent authorities;*

*(c) contributing to the development of high-quality and uniform supervisory standards, including disclosure and reporting standards;"*

*(b) in paragraph 2 the following subparagraph is added:*

*"For this purpose the Authority shall issue a European supervisory handbook in order to identify the practices to be considered of the highest quality as regards supervisory methodologies and processes."*

*3h. Article 30 is amended as follows:*

*(a) paragraph 3 is replaced by the following:*

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

*(b) the following paragraph is inserted after paragraph 3:*

*"3a. The Authority shall address an opinion to the Commission whenever the peer review or any other information acquired in the conduct of its tasks shows that a legislative initiative is necessary to ensure the full harmonisation of prudential definitions and rules. The opinion shall be adopted by the Board of Supervisors."*

*3i. In Article 31, the second subparagraph is replaced by the following:*

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

- (a) coordinating the exchange of information between the competent authorities;*
- (b) determining the scope and verifying where possible the reliability of information that should be made available to all the competent authorities concerned;*
- (c) without prejudice to Article 19, mediating between competent authorities;*
- (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 necessary actions;*
- (f) centralising information received from competent authorities in accordance with Articles 21 and 35 as the result of the regulatory reporting obligations for institutions. The Authority shall share that information with the other competent authorities concerned;*
- (fa) establishing sub-committees to the board of supervisors where deemed necessary;*
- (fb) issuing a single European supervisory handbook."*

*3j. Article 32 is amended as follows:*

*(a) paragraph 2 is replaced by the following:*

*"2. The Authority shall, in cooperation with the ESRB, initiate and coordinate Union-wide*

*assessments of the resilience of financial institutions to adverse market developments. To that end it shall develop:*

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

*(b) common approaches to communication on the outcomes of these assessments of the resilience of financial institutions;*

*(c) common methodologies for assessing the effect of particular products or distribution processes on an institution; and*

*(ca) in cooperation with the competent authorities, common methodologies for asset evaluation as deemed necessary for the purpose of the stress testing."*

*(b) the following paragraphs are inserted after paragraph 3:*

*"3a. For the purpose of running the Union-wide risk assessment exercise as described in this Article, the Authority may require all the information needed directly from financial institutions. During the exercise, the Authority may interact directly with financial institutions, request directly information from them and require competent authorities to conduct specific reviews, including through on-site inspections envisaging also the participation of the Authority, to ensure comparability and reliability of methods, practices and results. The financial institutions and competent authorities shall comply with the Authority's requests."*

*"3b. On request of the Authority competent authorities shall order the financial institutions to be subject to an external independent audit of the information referred to in paragraph 3a following specific criteria set by the Authority."*

4. Article 35 is replaced by the following:

"1. At the request of the Authority, the competent authorities shall provide the Authority with all the necessary information ***in specified formats*** to carry out the duties assigned to it by this Regulation, provided that they have legal access to the relevant information **1. The information must be accurate, integral, complete and timely.**

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

3. Upon a duly justified request from a competent authority, the Authority ***shall*** provide any information that is necessary to enable the competent authority to carry out its duties, in accordance with the professional secrecy obligations laid down in sectoral legislation and in Article 70.

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

***5. Where information is not available or is not made available by the competent authorities in a timely fashion, the Authority may address a request to other supervisory authorities, to the***

*ministry responsible for finance where it has at its disposal prudential information, to the national central bank or to the statistical office of the Member State concerned.*

*6. Where information is not available or is not forthcoming in a timely fashion, the Authority may, by simple request or by decision request information from:*

- relevant financial institutions,*
- holding companies and/or branches of a relevant financial institution,*
- non-regulated operational entities within a financial group or conglomerate that are significant to the financial activities of the relevant financial institutions,*
- persons involved in the activities of the relevant financial institutions,*
- auditors, credit rating agencies, financial infrastructures and any other third parties that have provided services or to whom the financial institutions have outsourced operational functions or activities.*

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

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

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

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

*7a. In order to receive the information necessary in order to carry out the tasks conferred upon it, the Authority may conduct all necessary investigations of persons referred to in paragraph 6. To that end the Authority may require the submission of documents, examine the books and records, take copies of the books and records and obtain written or oral explanations. When addressees of any request for information under this Article obstruct the conduct of investigation the Member State where the relevant premises or persons are located shall afford the necessary assistance including access by the Authority to business premises."*

*4a. Article 36 is amended as follows:*

*(a) in paragraph 4 the third subparagraph is replaced by the following:*

*"If the Authority does not act on a recommendation, it shall explain to the ESRB, the European Parliament, the Council and the Commission its reasons for not doing so."*

*(b) in paragraph 5 the third subparagraph is replaced by the following:*

*"The competent authority shall take due account of the views of the Board of Supervisors when informing the Council and the ESRB in accordance with Article 17 of Regulation (EU) No 1092/2010. Where the competent authority thus informs the Council and the ESRB, it shall also inform the Commission."*

*4b. Article 37 is amended as follows:*

*(a) in paragraph 1 the second subparagraph is replaced by the following:*

*"The Banking Stakeholder Group shall meet on its own initiative whenever deemed necessary, but at least four times a year."*

*(b) in paragraph 4 the first subparagraph is replaced by the following:*

*"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. Such compensation shall be at least equivalent to the reimbursement rates of officials pursuant to Annex V, Section 2 of the Staff Regulations of Officials of the European Communities. The Banking Stakeholder Group may establish working groups on technical issues. Members of the Banking Stakeholder Group shall serve for a period of 2 1/2 years, following which a new selection procedure shall take place."*

*4c. In Article 38, the following paragraphs are added after paragraph 5:*

*"5a. This Article is not applicable to Member States which are subject to Regulation (EU) No .../... [conferring specific tasks on the ECB].*

*5b. Where a decision of the Authority is revoked by the Council, the Authority may take the case before the Court of Justice of the European Union."*

*4d. In Article 39, paragraph 1 is replaced by the following:*

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

*4e. In Article 40(1) point d is replaced by the following:*

*"(d) one representative of the European Central Bank representing its activities other than those conferred upon it by Regulation (EU) No .../... [conferring specific tasks on the ECB], who shall be non-voting;"*

*5. Article 41 is amended as follows:*

*(a) the following paragraph is inserted after paragraph 1:*

*"1a. For the purposes of Article 17, the Board of Supervisors shall convoke an independent panel, consisting of the Chairperson and six other members, who are not representatives of the competent authority alleged to have breached Union law and who have neither any interest in the matter nor direct links to the competent authority concerned.*

*Each member of the panel shall have one vote.*

*Decisions of the panel shall be taken where at least 5 members of the panel vote in favour of the decision."*

*(b) paragraphs 2, 3 and 4 are replaced by the following:*



"2. For the purposes of Article 19, the Board of Supervisors shall *convoke* an independent panel to facilitate the consistent, fair and impartial settlement of the disagreement, consisting of the Chairperson, *two appropriately qualified independent experts and at least two of its members, who are not representatives of the competent authorities which are party to the disagreement and who have neither any interest in the conflict nor direct links to the competent authorities concerned.*

*If the European Central Bank as competent authority and a Member State which is not a participating Member State in accordance with Regulation (EU) No .../... [conferring specific tasks on the ECB] nor has entered into close cooperation with the European Central Bank in accordance with that Regulation are subject to a settlement process pursuant to Article 19, at least one member of the independent panel shall be from a Member State which is not a participating Member State in accordance with Regulation (EU) No .../... [conferring specific tasks on the ECB] nor has entered into close cooperation with the European Central Bank in accordance with that Regulation.*

3. The members of the *panels* shall act independently and objectively in accordance with Article 42, *and* shall not be *in a situation of conflict of interest*. . The *panels* shall propose a decision for final adoption by the Board of Supervisors, in accordance with the procedure set out in the third subparagraph of Article 44(1).

4. The Board of Supervisors shall adopt rules of procedure for the panels referred to in paragraph 2, including rules implementing the requirement set out in the second subparagraph of that paragraph."

■

7. Article 44(1) is replaced by the following:

"1. Decisions of the Board of Supervisors shall be taken by a simple majority of its members. Each member shall have one vote.

With regard to the acts specified in Articles 10 to 16 and measures and decisions adopted under the third subparagraph of Article 9(5) and Chapter VI and by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a qualified majority of its members, as defined in Article 16(4) of the Treaty on European Union and in Article 3 of the Protocol (No 36) on transitional provisions. *For as long as five or more Member States are not taking part in the ECB supervisory mechanism in accordance with Regulation (EU) No .../...[conferring specific tasks on the ECB] that qualified majority shall include at least half of the Member States taking part in the ECB supervisory mechanism as well as at least half of the Member States not taking part in the ECB supervisory mechanism. In any case, no eventual 'blocking minority' can be composed only of three or less competent authorities.*

With regard to decisions in accordance with Articles 17 and 19 *and by way of derogation from the first subparagraph of this paragraph*, the decision proposed by the panel shall be considered as adopted unless it is rejected by simple majority *of its* members. *For as long as five or more Member States are not taking part in the ECB supervisory mechanism in accordance with Regulation (EU) No .../...[conferring specific tasks on the ECB], that simple majority shall include at least half of the Member States taking part in the ECB supervisory mechanism as well as at least half of the Member States not taking part in the ECB*

*supervisory mechanism. In any case, no eventual 'blocking minority' can be composed only of three or less competent authorities.*

*The Member of the board that is the head of the competent authority of the Member State that is subject to the decision of the panel shall not vote.*

**I**

With regard to the composition of the panel in accordance with Article 41(2), the Board of Supervisors shall strive for consensus. In the absence of consensus, decisions of the Board of Supervisors shall be taken by a majority of three quarters of its members. Each member shall have one vote."

8. Article 45 *is amended as follows:*

*(a) in paragraph 1 the first subparagraph is replaced by the following:*

*"1. The Management Board shall be composed of the Chairperson and six other members appointed by the European Parliament following a hearing of the candidates designated by the Council from among persons of recognised standing and professional experience in financial matters. The list of candidates shall be gender-balanced and sufficiently diverse with regards to expertise and geographical balance."*

*(b) in paragraph 1 the third subparagraph is replaced by the following:*

"The term of office of the members elected by the Board of Supervisors shall be 2 1/2 years. That term may be extended once. The composition of the Management Board shall **sufficiently diverse with regards to expertise, gender and geographical balance** and shall reflect the Union as a whole. The Management Board shall include at least two representatives from Member States which are not participating Member States in accordance with Regulation (EU) No .../... **[conferring specific tasks on the ECB]** nor have **opted-in for the participation** with the ECB in accordance with that Regulation. **One additional representative from those Member States shall be included if the number of Member States which are not participating Member States in accordance with Regulation (EU) No .../... [conferring specific tasks on the ECB] nor have opted-in for the participation with the ECB supervisory scheme is lower than five.** Mandates shall be overlapping and an appropriate rotating arrangement shall apply."

8a. *In Article 48, the following paragraph is inserted after paragraph 2:*

*"2a. In an emergency situation, the Board of Supervisors may decide to delegate certain specified decision-making powers to the Chairperson. The rules concerning the delegation of those powers and the revocation of such delegation shall be laid down in the rules of procedure adopted by the Board of Supervisors."*

8b. *The following Article is inserted after Article 53:*

*"Article 53a*

*The Chair and Executive Director shall make public meetings held and hospitality received. Expenses shall be recorded publicly in accordance with the staff regulation of the European Commission."*

8c. *Article 60(5) is replaced by the following:*

***"5. The Board of Appeal may confirm the decision taken by the competent body of the Authority, or remit the case to the competent body of the Authority. That body shall confirm the decision of the Board of Appeal and adopt an amended decision regarding the case concerned, or the Authority shall bring the case before the Court of Justice of the European Union."***

***8d. In Article 63, paragraph 7 is deleted.***

***8e. Article 81(3) is replaced by the following:***

***"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 assessment report on the Authority with supervisory responsibilities in this area. The report shall determine whether Article 114 TFEU as legal basis of this Regulation establishing the Authority is appropriate for any future change in its role."***

***8f. The following Article is inserted after Article 81:***

***"Article 81a***

***Review of the impact of the SSM on branches and subsidiaries***

***"The Authority shall closely monitor the impact of the SSM on bank branches and subsidiaries and report to the European Parliament, Council and Commission on any pattern of changes. Competent authorities shall also be provided with the report."***

## *Article 2*

Without prejudice to Article 81 of Regulation (EU) No 1093/2010, by 1 January 2016, the Commission shall publish a report on the application of the provisions of this Regulation in relation to:

- (a) the suitability of the voting modalities;
- (b) the composition of the Management Board; ■
- (c) the composition of the independent panel preparing decisions for the purposes of Articles 17 and 19 ***and***

***(ca) the relation between EBA and the SSM***

The report shall take into account in particular any developments in the number of Member States whose currency is the Euro or whose competent authorities have entered into a close cooperation in accordance with Article 6 of Regulation .../... and shall examine whether in light of such developments any further adjustments of those provisions are necessary to ensure that EBA decisions are taken in the interest of maintaining and strengthening the internal market for financial services.

***The report shall be forwarded to the European Parliament and to the Council. The Commission shall make accompanying proposals, including, but not limited to any required Treaty changes, if deemed necessary.***

*Article 3*

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

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

Done at Brussels,

For the European Parliament  
The President

For the Council  
The President