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From: General Secretariat of the Council

To: Permanent Representatives Committee

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1092/2010, (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2021/523 as regards certain reporting requirements in the fields of financial services and investment support

- *Mandate for negotiations with the European Parliament*

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) No 1092/2010, (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2021/523 as regards certain reporting requirements in the fields of financial services and investment support

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, Article 173 and Article 175, third paragraph, 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 Committee¹,

After consulting the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

(1) Reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to improve, streamline and modernise those requirements to ensure that they fulfil their intended purpose and to limit the administrative burden.

(2) Streamlining reporting obligations and reducing the administrative burden is therefore a priority, regarding both reporting requirements in the financial sector and the frequency of reporting related to the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council³.

³ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

(3) Regulations (EU) No 1092/2010⁴, (EU) No 1093/2010⁵, (EU) No 1094/2010⁶, (EU) No 1095/2010⁷ of the European Parliament and of the Council and Regulation (EU) 2021/523 contain a number of reporting requirements that should be simplified, in line with the communication of the Commission of 16 March 2023 entitled ‘Long-term competitiveness of the EU: looking beyond 2030’.

⁴ Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1).

⁵ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁶ 3. Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(4) Financial institutions and other entities active on financial markets are required to report a wide range of information to enable Union and national authorities overseeing the financial system to monitor risks, ensure financial stability and market integrity, and protect investors and consumers of financial services in the Union. The European Supervisory Authority (European Banking Authority) (EBA) established by Regulation (EU) No 1093/2010⁸, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA) established by Regulation (EU) No 1094/2010⁹ and the European Supervisory Authority (European Securities and Markets Authority) (ESMA) established by Regulation (EU) No 1095/2010¹⁰ (known collectively as ‘European Supervisory Authorities’ or ‘ESAs’) should regularly review the reporting requirements adopted while applying Union law and propose, where appropriate, to streamline and remove redundant or obsolete requirements. The European Supervisory Authorities could coordinate that work through the Joint Committee.

⁸ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority).

⁹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority).

¹⁰ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).

(4b) The European Supervisory Authorities and the European Systemic Risk Board established by Regulation (EU) 2019/2176 of the European Parliament and of the Council¹¹ (the ‘ESRB’), in collaboration with the sectoral competent authorities, collect on a regular basis a wide range of information stemming from the reporting requirements adopted while applying Union law. Facilitating the sharing and reuse of this information collected by the European Supervisory Authorities and the ESRB with other Union and national authorities overseeing the financial system, while safeguarding data protection, professional secrecy and intellectual property, should reduce the burden on reporting entities and on authorities by avoiding duplicative requests, in line with the communication of the Commission of 15 December 2021 entitled ‘Strategy on supervisory data in EU financial services’. Information sharing should also contribute to better coordination of supervisory activities and to supervisory convergence.

(5) To that end, where the European Supervisory Authorities and the ESRB obtain information on a regular basis from other Union and national authorities overseeing the financial system or directly from financial institutions, and where other Union and national authorities overseeing the financial system are entitled to collect the same information from financial institutions or other reporting entities, they should be able to collect it only once and share it with each other, as opposed to both collecting the same information. That includes cases where those authorities are entitled to collect the information from different reporting entities or authorities. With the same objective of improving efficiency in the collection, processing and use of information, authorities that enhance information by cleaning or enriching it should also be able to share such enhanced information.

¹¹ Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1092/2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (EU) 2019/2176 (OJ L 334, 27.12.2019, p. 146).

5(a) The fact that specific rules regarding the facilitation of information sharing are established for the European Supervisory Authorities and the ESRB with other Union and national authorities overseeing the financial system should not limit the possibilities of those national and other Union authorities to share information with each other at their own discretion when deemed appropriate, while safeguarding data protection, professional secrecy and intellectual property.

(5b) Authorities, where the signing of collaboration arrangements or memorandums of understanding appears necessary to facilitate information sharing, are encouraged to sign such arrangements. Those collaboration arrangements or memorandums of understanding may detail the necessary technical details to enable efficient and seamless data sharing, as well as the necessary requirements with regards to data protection, including the provisions referred to in Regulation (EU) 2016/679 of European Parliament and of the Council¹², intellectual property and professional secrecy.

(6) Such sharing of information should be complementary to the existing possibilities of information exchange provided for in Union law and should not in any case restrict those existing possibilities.

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(7) The Commission requires accurate and comprehensive information to develop policies, evaluate existing legislation and assess the impact of potential legislative and non-legislative initiatives, including during negotiations of legislative proposals. In order to provide for an evidence-based approach with respect to setting out and evaluating Union policies, the authorities may, at their own discretion, share with the Commission the information that financial institutions or other entities have reported to them pursuant to their obligations under Union law. For that purpose, such information should be in a form that does not allow the identification of individual entities and does not contain personal data.

In cases where it would not be possible to ensure that the information to be shared meets those requirements, authorities should not share that information or take appropriate steps to ensure that identification of individual entities is no longer possible.

The Commission should use that information solely for the purpose of evaluation, fitness checks and impact assessment for policy setting. Before requesting information in accordance with this provision, the Commission should take into account information that is publicly available.

(7a) Establishing a possibility for the Commission to request information for the previously identified purposes should not prejudice the application of Union sectorial legislation, in particular the conditions and the requirements on which such exchange of information should be based under such specific Union Acts. This possibility to share information with the Commission does not prevail over the restrictions foreseen in Union sectorial legislation – e.g. CRD or BRRD – where it is not possible to share information covered by the Directive with entities other than the ones listed there and under the strict requirements described there.

(8) Innovation cycles in the financial sector are accelerating, becoming more open and increasingly collaborative. To that end, authorities should be able to share at their own discretion information with financial institutions, researchers, and other entities that can demonstrate to the relevant authority a legitimate interest to use that information for the purposes of research and innovation beyond the initial purpose for which the information was collected. A legitimate interest for sharing the information held by authorities should be understood to mean its use to enhance its utility by expanding the information available for financial sector research and provide more opportunities to test products and business models as well as greater collaboration between various financial market participants, including fintech, start-ups and incumbent financial institutions. The re-use of data shared by competent authority is governed by the general framework for the re-use of data set out in Chapter II of Regulation (EU) 2022/868 of the European Parliament and of the Council¹³. However, considering the sensitive nature of the data received for supervision purposes by the authorities in the financial sector, specific mandatory conditions should be introduced for the re-use of this data, including the anonymisation of personal and non-personal data which would not allow the identification of individual financial institutions and the protection of confidential information.

(9) The change of frequency of the reporting on the InvestEU Programme by implementing partners from biannual to annual should reduce the workload of the implementing partners, the financial intermediaries, SMEs and other companies without changing any of the substantive elements of Regulation (EU) 2021/523.

¹³ 1. Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act) (OJ L 152, 3.6.2022, p. 1).

(9a) Since the objective of this Regulation to improve, streamline and modernise the reporting requirements cannot be sufficiently achieved by the Member States as the reporting requirements concerned are imposed by Union law but can rather, by reason of legal certainty and the consistency of reporting, 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.

(10) Regulations (EU) No 1092/2010, (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010, and (EU) 2021/523 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1092/2010

Regulation (EU) No 1092/2010 is amended as follows:

1. in Article 8, paragraph 3 is replaced by the following:

‘

3. Without prejudice to Articles 15 and 16 and the application of criminal law, no confidential information received by the persons referred to in paragraph 1 whilst performing their duties shall be divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual financial institutions cannot be identified.;

2. in Article 15, the following paragraphs are added:

8. The ESRB shall share, on a regular or case-by-case basis, information it obtained from another authority referred to in paragraph 2 or other authorities in carrying out their duties following the reporting requirements adopted in the application of Union Law, when requested by other authorities, provided that the requesting authority has the power to obtain that same information from financial institutions or other authorities pursuant to Union law.

For the purpose of the first paragraph, “other authorities” means any of the following authorities:

- a. the European Banking Authority, as established by Regulation (EU) No 1093/2010;
- b. the European Insurance and Occupational Pensions Authority, as established by Regulation (EU) No 1094/2010;
- c. the European Securities and Markets Authority, as established by Regulation (EU) No 1095/2010;
- d. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1093/2010;
- e. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1094/2010;
- f. competent authorities, as defined in Article 4, point (3), of Regulation (EU) No 1095/2010;
- g. the Single Supervisory Mechanism, as defined in Article 2, point (9), of Regulation (EU) No 1024/2013;
- h. the Single Resolution Board, as established by Regulation (EU) No 806/2014;

9a. The request for exchange of information pursuant to paragraph 8 of this Article shall duly indicate the legal basis under Union law allowing the requesting authority to obtain the information from financial institutions or other authorities referred to in paragraph 8, first subparagraph, of this Article. The authority requesting to share the information and the ESRB shall be subject to the obligations of professional secrecy and data protection laid down in Article 8 and in sectoral legislation applicable to the sharing of data between the financial institution or other authorities referred to in paragraph 8, first subparagraph, of this Article and the requesting authority, as well as to the sharing of data between other authorities referred to in that subparagraph and the ESRB.

9b. The ESRB shall inform each relevant competent authority from which it has obtained the information; or when the ESRB received the information directly from them, the financial institution, about such an exchange of information without undue delay. In case of recurring or periodic exchange of information, the sharing authority may inform the financial institution or the other authority only once.

9c. By way of derogation from paragraph 9.b, the ESRB is not obliged to inform each relevant competent authority or the financial institution, when applicable, about such an exchange of information in case:

- (a) the information has been anonymised in such a manner that it does not relate to any identified or identifiable natural person and that the financial institution is not identifiable; or
- (b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets, and to protect personal data through appropriate technical and organisational measures in line with Regulation (EU) 2016/679 of the European Parliament and of the Council* and Regulation (EU) 2018/1725 of the European Parliament and of the Council**.

9d. By way of derogation from paragraph 9b, the ESRB shall not inform or notify the financial institution about the exchange of information when the sharing authority is informed by the requesting authority that such notification could compromise ongoing supervisory proceedings, actions, or investigations.

* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

10. Paragraphs 8 and 9(a), (b), (c) and (d) shall also apply to information that the ESRB has received from authorities referred to in paragraph 8, first subparagraph, and upon which the ESRB has subsequently performed quality checks or which the ESRB has otherwise processed.

11. With respect to the exchange of information as referred to in paragraphs 8, 9(a), (b), (c), (d) and 10, the authorities referred to in paragraph 8 may enter into memoranda of understanding to specify the modalities of the exchange of information. They may also specify arrangements for the sharing of resources for the collection and processing of such shared data.

12. Paragraphs 8, 9(a), (b), (c), (d) and 10 shall be without prejudice to the protection of intellectual property rights and shall not prevent or restrict the exchange of information between the authorities referred to in paragraph 8 in accordance with provisions of other Union legislation. Where paragraph 8, 9(a), (b), (c), (d) or 10 conflicts with provisions in other Union legislation that govern the exchange of information between the authorities referred to in paragraph 8, the provisions in such other Union legislation shall prevail.

13. Without prejudice to other obligations laid down in Union law for exchange of information, the ESRB may, upon justified request and at its own discretion, share with the Commission information that other authorities have reported to it pursuant to their obligations under Union law on a case-by-case basis.

The ESRB shall transmit that information in a form that does not allow the identification of individual financial institutions, individual entities and does not contain personal data.

The ESRB shall inform each relevant competent authority from which it has obtained the information before such an exchange of information takes place and without undue delay.

14. The ESRB may, at its own discretion, grant access to information obtained when carrying out its duties for re-use by financial institutions, researchers and other entities with a legitimate interest in such information for research and innovation purposes, provided that the ESRB has ensured that all of the following has been complied with:

(a) the information has been anonymised, in such a manner that it does not allow the identification of individual financial institutions, entities, Member States, and data subjects;

(b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets or content covered by intellectual property rights, and to protect personal data through appropriate measures in line with Regulation (EU) 2016/679;

(c) the information sharing does not threaten the economic security of the Union.

Information received from another authority shall only be shared with the agreement of the authority that initially obtained the information.

Article 2

Amendments to Regulation (EU) No 1093/2010

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

1. in Article 29(1), point (d) is replaced by the following:

‘
(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, including to remove redundant or obsolete reporting requirements;

2. in Article 30(3), the following point (e) is added:

‘
e) the effectiveness and the degree of convergence reached with regard to the implementation of reporting requirements adopted while applying Union law.

3. in Article 35, paragraph 4 is replaced by the following:

‘

4. Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take into account information collected by other authorities referred to in Article 35a(1) and any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks.;

4. the following Article 35a is inserted:

‘

Article 35a

Information exchange between authorities and with other entities

1. The Authority shall share with other authorities, on a regular or case-by-case basis, information it obtained from financial institutions or other authorities in carrying out their duties following the reporting requirements adopted in the application of Union Law, when requested by the other authorities, provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other authorities . For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010.

For the purpose of the first paragraph, “other authorities” means any of the following authorities:

- a. the European Systemic Risk Board, as established by Regulation (EU) No 1092/2010;
- b. the European Insurance and Occupational Pensions Authority, as established by Regulation (EU) No 1094/2010;
- c. the European Securities and Markets Authority, as established by Regulation (EU) No 1095/2010;
- d. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1093/2010;
- e. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1094/2010;
- f. competent authorities, as defined in Article 4, point (3), of Regulation (EU) No 1095/2010;
- g. the Single Supervisory Mechanism, as defined in Article 2, point (9), of Regulation (EU) No 1024/2013;
- h. the Single Resolution Board, as established by Regulation (EU) No 806/2014;

2a. The request for exchange of information shall duly indicate the legal basis under Union law allowing the requesting authority to obtain the information from financial institutions or other authorities, pursuant to paragraph 1 of this Article. The authority requesting to share the information and the sharing authority shall be subject to the obligations of professional secrecy and data protection laid down in Articles 70 and 71 and in sectoral legislation applicable to the sharing of data between the financial institution and the requesting authority as well as to the sharing of data between the financial institution and the sharing authority.

2b. The sharing authority shall inform each relevant competent authority from which it has obtained the information; or when the sharing authority received the information directly from them, the financial institution, about such an exchange of information without undue delay. In case of recurring or periodic exchange of information, the sharing authority may inform the financial institution or the other authority only once.

2c. By way of derogation from paragraph 2b, the sharing authority is not obliged to inform each relevant competent authority or the financial institution, when applicable, about such an exchange of information in case:

- (a) the information has been anonymised, in such a manner that it does not relate to any identified or identifiable natural person and that the financial institution is not identifiable; or
- (b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets, and to protect personal data through appropriate technical and organisational measures in line with Regulation (EU) 2016/679 of the European Parliament and of the Council and Regulation* and (EU) 2018/1725 of the European Parliament and of the Council and Regulation**.

2d. By way of derogation from paragraph 2b, the sharing authority shall not inform or notify the financial institution about the exchange of information when the sharing authority is informed by the requesting authority that such notification could compromise ongoing supervisory proceedings, actions, or investigations.

* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. Paragraphs 1 and 2(a), (b), (c) and (d) shall also apply to information that the sharing authority has received from a financial institution or authorities referred to in paragraph 1 first subparagraph and upon which the sharing authority has subsequently performed quality checks or which the sharing authority has otherwise processed.

4. With respect to the exchange of information as referred to in paragraphs 1, 2(a), (b), (c), (d) and 3, the authorities referred to in paragraph 1 may enter into memoranda of understanding to specify the modalities of the exchange of information. They may also specify arrangements for the sharing of resources for the collection and processing of such shared data.

5. Paragraphs 1 to 4 shall be without prejudice to the protection of intellectual property rights and shall not prevent or restrict the exchange of information between the authorities referred to in paragraph 1 in accordance with provisions of other Union legislation. Where the provisions in this Article conflict with provisions in other Union legislation that govern the exchange of information between the authorities referred to in paragraph 1, the provisions in such other Union legislation shall prevail.

6. Without prejudice to other obligations laid down in Union law for exchange of information, the Authority and the competent authorities may, upon justified request and at their own discretion, share with the Commission information that financial institutions have reported to them pursuant to their duties under Union law on a case-by-case basis.

The Authority and the competent authorities shall transmit that information in a form that does not allow the identification of individual financial institutions, individual entities and does not contain personal data.

Where the Authority transmits the information requested by the Commission, the Authority shall inform each relevant competent authority from which it has obtained the information before such an exchange of information takes place and without undue delay.

7. The Authority and the competent authorities may, at their own discretion, grant access to information obtained when carrying out their duties for re-use by financial institutions, researchers and other entities with a legitimate interest in such information for research and innovation purposes, provided that the Authority, and where applicable the Competent Authority, has ensured that all of the following has been complied with:

(a) Where the competent authority transmits the information, the competent authority shall take the necessary measures to anonymise the information, in such a manner that it does not allow the identification of individual financial institutions, entities, and data subjects. Where the Authority transmits the information, the Authority shall take the necessary measures to anonymise the information in such a manner that it does not allow the identification of the individual financial institutions, entities and Member States and data subjects.

(b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets or content covered by intellectual property rights, and to protect personal data through appropriate measures in line with Regulation (EU) 2016/679.

(c) the information sharing does not threaten the economic security of the Union.

Information received from another authority shall only be shared with the agreement of the authority that initially obtained the information.;

,

5. in Article 54(2), the following indent is added:

‘

— reporting requirements and the collection of information from financial institutions.;

,

6. In Article 70, paragraph 3 is replaced by the following:

‘

Paragraphs 1 and 2 shall not prevent the Authority from exchanging information with competent authorities and other authorities referred to in paragraph 1.b of Article 35a in accordance with this Regulation and other Union legislation applicable to financial institutions.

Article 3

Amendments to Regulation (EU) No 1094/2010

Regulation (EU) No 1094/2010 is amended as follows:

1. in Article 29(1), point (d) is replaced by the following:

‘
(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, including to remove redundant or obsolete reporting requirements;

2. in Article 30(3), the following point (e) is added:

‘
e) the effectiveness and the degree of convergence reached with regard to the implementation of reporting requirements adopted while applying Union law.

3. in Article 35, paragraph 4 is replaced by the following:

‘
4. Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take into account information collected by other authorities referred to in Article 35a(1) and any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks.;

4. the following Article 35a is inserted:

Article 35a

Information exchange between authorities and with other entities

1. The Authority shall share with other authorities, on a regular or case-by-case basis, information it obtained from financial institutions or other authorities in carrying out their duties following the reporting requirements adopted in the application of Union Law, when requested by the other authorities, provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010.

For the purpose of the first paragraph, “other authorities” means any of the following authorities:

- a. the European Systemic Risk Board, as established by Regulation (EU) No 1092/2010;
- b. the European Banking Authority, as established Regulation (EU) No 1093/2010;
- c. the European Securities and Markets Authority, as established by Regulation (EU) No 1095/2010;
- d. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1093/2010;
- e. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1094/2010;
- f. competent authorities, as defined in Article 4, point (3), of Regulation (EU) No 1095/2010;
- g. the Single Supervisory Mechanism, as defined in Article 2, point (9), of Regulation (EU) No 1024/2013;
- h. the Single Resolution Board, as established by Regulation (EU) No 806/2014;

2a. The request for exchange of information shall duly indicate the legal basis under Union law allowing the requesting authority to obtain the information from financial institutions or other authorities, pursuant to paragraph 1 of this Article. The authority requesting to share the information and the sharing authority shall be subject to the obligations of professional secrecy and data protection laid down in Articles 70 and 71 and in sectoral legislation applicable to the sharing of data between the financial institution and the requesting authority as well as to the sharing of data between the financial institution and the sharing authority.

2b. The sharing authority shall inform each relevant competent authority from which it has obtained the information; or when the sharing authority received the information directly from them, the financial institution, about such an exchange of information without undue delay. In case of recurring or periodic exchange of information, the sharing authority may inform the financial institution or the other authority only once.

2c. By way of derogation from paragraph 2.b, the sharing authority is not obliged to inform each relevant competent authority or the financial institution, when applicable, about such an exchange of information in case:

- (a) the information has been anonymised, in such a manner that it does not relate to any identified or identifiable natural person and that the financial institution is not identifiable; or
- (b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets, and to protect personal data through appropriate technical and organisational measures in line with Regulation (EU) 2016/679 of the European Parliament and of the Council and Regulation* and (EU) 2018/1725 of the European Parliament and of the Council and Regulation**.

2d. By way of derogation from paragraph 2b, the sharing authority shall not inform or notify the financial institution about the exchange of information when the sharing authority is informed by the requesting authority that such notification could compromise ongoing supervisory proceedings, actions, or investigations.

* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. Paragraphs 1 and 2(a), (b), (c) and (d) shall also apply to information that the sharing authority has received from a financial institution or authorities referred to in paragraph 1 first subparagraph and upon which the sharing authority has subsequently performed quality checks or which the sharing authority has otherwise processed.

4. With respect to the exchange of information as referred to in paragraphs 1, 2(a), (b), (c), (d) and 3, the authorities referred to in paragraph 1 may enter into memoranda of understanding to specify the modalities of the exchange of information. They may also specify arrangements for the sharing of resources for the collection and processing of such shared data.

5. Paragraphs 1 to 4 shall be without prejudice to the protection of intellectual property rights and shall not prevent or restrict the exchange of information between the authorities referred to in paragraph 1 in accordance with provisions of other Union legislation. Where the provisions in this Article conflict with provisions in other Union legislation that govern the exchange of information between the authorities referred to in paragraph 1, the provisions in such other Union legislation shall prevail.

6. Without prejudice to other obligations laid down in Union law for exchange of information, the Authority and the competent authorities may, upon justified request and at their own discretion, share with the Commission information that financial institutions have reported to them pursuant to their duties under Union law on a case-by-case basis.

The Authority and the competent authorities shall transmit that information in a form that does not allow the identification of individual financial institutions, individual entities and does not contain personal data.

Where the Authority transmits the information requested by the Commission, the Authority shall inform each relevant competent authority from which it has obtained the information before such an exchange of information takes place and without undue delay.

7. The Authority and the competent authorities may, at their own discretion, grant access to information obtained when carrying out their duties for re-use by financial institutions, researchers and other entities with a legitimate interest in such information for research and innovation purposes, provided that the Authority, and where applicable the Competent Authority, has ensured that all of the following has been complied with:

(a) Where the competent authority transmits the information, the competent authority shall take the necessary measures to anonymise the information, in such a manner that it does not allow the identification of individual financial institutions, entities, and data subjects. Where the Authority transmits the information, the Authority shall take the necessary measures to anonymise the information in such a manner that it does not allow the identification of the individual financial institutions, entities and Member States and data subjects.

(b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets or content covered by intellectual property rights, and to protect personal data through appropriate measures in line with Regulation (EU) 2016/679.

(c) the information sharing does not threaten the economic security of the Union.

Information received from another authority shall only be shared with the agreement of the authority that initially obtained the information.;

5. in Article 54(2), the following indent is added:

‘

— reporting requirements and the collection of information from financial institutions.;

6. in Article 70, paragraph 3 is replaced by the following:

‘

Paragraphs 1 and 2 shall not prevent the Authority from exchanging information with competent authorities and other authorities referred to in paragraph 1.b of Article 35a in accordance with this Regulation and other Union legislation applicable to financial institutions.

Article 4

Amendments to Regulation (EU) No 1095/2010

Regulation (EU) No 1095/2010 is amended as follows:

1. in Article 29(1), point (d) is replaced by the following:

‘
(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, including to remove redundant or obsolete reporting requirements;

2. in Article 30(3), the following point (e) is added:

‘
e) the effectiveness and the degree of convergence reached with regard to the implementation of reporting requirements adopted while applying Union law.

3. in Article 35, paragraph 4 is replaced by the following:

‘
4. Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take into account information collected by other authorities referred to in Article 35a(1) and any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks.;

4. the following Article 35a is inserted:

Article 35a

Information exchange between authorities and with other entities

1. The Authority shall share with other authorities, on a regular or case-by-case basis, information it obtained from financial institutions or other authorities in carrying out their duties following the reporting requirements adopted in the application of Union Law, when requested by the other authorities, provided that the authority requesting that information is, pursuant to Union law, entitled to obtain that same information from financial institutions or other authorities. For the purposes of this Article, ‘financial institution’ means a ‘financial institution’ as defined in Article 2, point (a), of Regulation (EU) No 1092/2010.

For the purpose of the first paragraph, “other authorities” means any of the following authorities:

- a. the European Systemic Risk Board, as established by Regulation (EU) No 1092/2010;
- b. the European Banking Authority, as established Regulation (EU) No 1093/2010;
- c. the European Insurance and Occupational Pensions Authority, as established by Regulation (EU) No 1094/2010;
- d. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1093/2010;
- e. competent authorities, as defined in Article 4, point (2), of Regulation (EU) No 1094/2010;
- f. competent authorities, as defined in Article 4, point (3), of Regulation (EU) No 1095/2010;
- g. the Single Supervisory Mechanism, as defined in Article 2, point (9), of Regulation (EU) No 1024/2013;
- h. the Single Resolution Board, as established by Regulation (EU) No 806/2014;

2a. The request for exchange of information shall duly indicate the legal basis under Union law allowing the requesting authority to obtain the information from financial institutions or other authorities, pursuant to paragraph 1 of this Article. The authority requesting to share the information and the sharing authority shall be subject to the obligations of professional secrecy and data protection laid down in Articles 70 and 71 and in sectoral legislation applicable to the sharing of data between the financial institution and the requesting authority as well as to the sharing of data between the financial institution and the sharing authority.

2b. The sharing authority shall inform each relevant competent authority from which it has obtained the information; or when the sharing authority received the information directly from them, the financial institution, about such an exchange of information without undue delay. In case of recurring or periodic exchange of information, the sharing authority may inform the financial institution or the other authority only once.

2c. By way of derogation from paragraph 2.b, the sharing authority is not obliged to inform each relevant competent authority or the financial institution, when applicable, about such an exchange of information in case:

- (a) the information has been anonymised, in such a manner that it does not relate to any identified or identifiable natural person and that the financial institution is not identifiable; or
- (b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets, and to protect personal data through appropriate technical and organisational measures in line with Regulation (EU) 2016/679 of the European Parliament and of the Council and Regulation* and (EU) 2018/1725 of the European Parliament and of the Council and Regulation**.

2d. By way of derogation from paragraph 2b, the sharing authority shall not inform or notify the financial institution about the exchange of information when the sharing authority is informed by the requesting authority that such notification could compromise ongoing supervisory proceedings, actions, or investigations.

* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. Paragraphs 1 and 2(a), (b), (c) and (d) shall also apply to information that the sharing authority has received from a financial institution or authorities referred to in paragraph 1 first subparagraph and upon which the sharing authority has subsequently performed quality checks or which the sharing authority has otherwise processed.

4. With respect to the exchange of information as referred to in paragraphs 1, 2(a), (b), (c), (d) and 3, the authorities referred to in paragraph 1 may enter into memoranda of understanding to specify the modalities of the exchange of information. They may also specify arrangements for the sharing of resources for the collection and processing of such shared data.

5. Paragraphs 1 to 4 shall be without prejudice to the protection of intellectual property rights and shall not prevent or restrict the exchange of information between the authorities referred to in paragraph 1 in accordance with provisions of other Union legislation. Where the provisions in this Article conflict with provisions in other Union legislation that govern the exchange of information between the authorities referred to in paragraph 1, the provisions in such other Union legislation shall prevail.

6. Without prejudice to other obligations laid down in Union law for exchange of information, the Authority and the competent authorities may, upon justified request and at their own discretion, share with the Commission information that financial institutions have reported to them pursuant to their duties under Union law on a case-by-case basis.

The Authority and the competent authorities shall transmit that information in a form that does not allow the identification of individual financial institutions, individual entities and does not contain personal data.

Where the Authority transmits the information requested by the Commission, the Authority shall inform each relevant competent authority from which it has obtained the information before such an exchange of information takes place and without undue delay.

7. The Authority and the competent authorities may, at their own discretion, grant access to information obtained when carrying out their duties for re-use by financial institutions, researchers and other entities with a legitimate interest in such information for research and innovation purposes, provided that the Authority, and where applicable the Competent Authority, has ensured that all of the following has been complied with:

(a) Where the competent authority transmits the information, the competent authority shall take the necessary measures to anonymise the information, in such a manner that it does not allow the identification of individual financial institutions, entities, and data subjects. Where the Authority transmits the information, the Authority shall take the necessary measures to anonymise the information in such a manner that it does not allow the identification of the individual financial institutions, entities and Member States and data subjects.

(b) the information has been modified, aggregated or treated by any other method of disclosure control to protect confidential information, including trade secrets or content covered by intellectual property rights, and to protect personal data through appropriate measures in line with Regulation (EU) 2016/679.

(c) the information sharing does not threaten the economic security of the Union.

Information received from another authority shall only be shared with the agreement of the authority that initially obtained the information.

,

5. in Article 54(2), the following indent is added:

— reporting requirements and the collection of information from financial market participants.;

6. in Article 70, paragraph 3 is replaced by the following:

Paragraphs 1 and 2 shall not prevent the Authority from exchanging information with competent authorities and other authorities referred to in paragraph 1.b of Article 35a in accordance with this Regulation and other Union legislation applicable to financial institutions.

Article 5

Amendments to Regulation (EU) 2021/523

In Article 28 of Regulation (EU) No 2021/523, paragraph 4 is replaced by the following:

4. Once a year, each implementing partner shall submit a report to the Commission on the financing and investment operations covered by this Regulation, broken down by EU compartment and Member State compartment, as appropriate. Each implementing partner shall also submit information on the Member State compartment to the Member State whose compartment it implements. The report shall include an assessment of compliance with the requirements on the use of the EU guarantee and with the key performance indicators laid down in Annex III to this Regulation. The report shall also include operational, statistical, financial and accounting data on each financing or investment operation and an estimation of expected cash flows, at the level of compartment, policy window and the InvestEU Fund. The report from the EIB Group and, where appropriate, from other implementing partners, shall also include information on barriers to investment encountered when carrying out financing and investment operations covered by this Regulation. The reports shall contain the information the implementing partners have to provide under point (a) of Article 155(1) of the Financial Regulation.

Article 5a

AMLA – Review clause

By [2 years from the date of entry in to force of this amending Regulation], the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA), established by Regulation (EU) No 2024/..., shall provide a cost-benefit analysis to the Commission on the future inclusion of AMLA within the scope of the authorities required to share information under this Regulation, as well as the scope of “other authorities” as referred to in Articles 1 to 4 of this Regulation.

On basis of that analysis, the Commission shall, if appropriate, submit a legislative proposal.”

Article 6

Entry into force

This Regulation shall enter into force on the twentieth 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
