Council of the European Union

Brussels, 14 June 2024
(OR. en)

10949/24

Interinstitutional File:
2023/0205 (COD)

LIMITE

EF 209
ECOFIN 668
CODEC 1490

REPORT

From:	Presidency
To:	Permanent Representatives Committee (Part 2)
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554 - Progress report

I. GENERAL REMARKS

1. On the 28th of June 2023, the European Commission adopted a Proposal for a Regulation on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554 (hereinafter, "the FiDA Regulation Proposal").

2. Building on the introduction of the open banking regime in Directive (EU) 2015/2366 in payments services in the internal market, the FiDA Regulation Proposal intends to establish a framework for the sharing of data beyond payment accounts, contributing to the development of a more holistic open finance. The objective is to give customers of financial services more control of their data, and increase the quality of data sharing, which could encourage the entrance of new competitors in the market and foster the development of new data-driven and more cost-efficient business models in the financial sector that better serve customers' needs.

3. The FiDA Regulation Proposal is composed of 8 Titles: Title I (Subject Matter, Scope, and Definitions), Title II (Data Access), Title III (Responsible Data Use and Permissions Dashboards), Title IV (Financial Data Sharing Schemes), Title V (Eligibility for Data Access and Organisation), Title VI (Competent authorities and Supervision Framework), Title VII (Cross Border access to data) and Title VIII (Final provisions). The Spanish Presidency of the Council of the EU, during the second semester of 2023, addressed Titles I to V, and proposed first drafting suggestions on Titles I, II, III and V.

4. During the first semester of 2024, the Belgian Presidency of the Council of the EU (hereinafter, "the Belgian Presidency") held three Council Working Party meetings, while continuously engaging with Member States, the Commission and stakeholders in the industry.

5. At the first Working Party meeting (5 March 2024), the Belgian Presidency started by addressing Titles VI, VII and VIII, including some first drafting suggestions on the related articles, so as to complete the first reading of the whole FiDA Regulation proposal. During that meeting, the Presidency also decided to deepen the discussions on the so-called "step-by-step approach", which was supported by a majority of Member States. Discussions on the step-by-step approach continued during the second and third Working Party meetings, in particular on the basis of non-papers submitted by some Member States.

6. During the second Working Party meeting (10 April 2024), the Belgian Presidency proposed to deepen the discussions on the working of the Financial Data Sharing Schemes, and launched discussions on possible safeguards to be introduced with regard to Gatekeepers and their economic power in the digital economy, as this issue had been raised by several Member States. Furthermore, the Belgian Presidency asked specific questions related to Article 2 on scope and Article 3 on definitions, notably concerning credit agreements, pension schemes, suitability and appropriateness data or sensitive data. The Belgian Presidency also built on the work done previously under the Spanish Presidency to provide further drafting suggestions on Titles I, II, III and V.

7. Many elements of the FiDA Regulation Proposal were discussed during the third Working Party (16 May 2024), including the gradual approach to phasing in customer data in scope, the functioning of the Financial Data Sharing Schemes, safeguards against Gatekeepers and the exclusion of third-country Financial Information Service Providers. Regarding the scope, a Member State presented a non-paper on "How to tackle the risk of demutualization", proposing among others the exclusion from the scope of the FiDA Regulation Proposal of some data related to natural risks and to damages caused by natural disasters. At the occasion of that last Working Party meeting, the Belgian Presidency also proposed a draft consolidated version of the text, incorporating all the drafting proposals made so far and covering the whole proposal. This document - attached to this report - was shared for the sake of facilitating the reading of the text and as a help for the Hungarian incoming Presidency. It should not be considered as a compromise text, especially as there are still comments from Member States that have not yet been addressed.

8. The following sections of this report provide more details on the progress achieved under the Belgian Presidency regarding the FiDA Regulation Proposal, focusing on the most important discussions that have been held. It does not preclude any future decision by the Council regarding the content of the FiDA Regulation Proposal. During the Belgian Presidency, the Working Party has been able to make important progress and the Presidency believes that many of the drafting suggestions shared at the Working Party meeting of 16 May and attached to this report can serve as a good basis for further discussions. However, there are still important elements in the FiDA Regulation Proposal that need to be agreed upon, and many Member States have insisted that time was needed to fine-tune several key elements of the file.

9. The work under the Belgian Presidency has allowed to promote a convergence of views and therefore sets the basis for future discussions at the Council on the FiDA Regulation Proposal. The Belgian Presidency will share with the incoming Hungarian Presidency the technical work that has been prepared during the Belgian semester.

CONTENT OF THE DISCUSSIONS

Gradual approach to customer data in scope

10. It appeared from discussions under the Spanish Presidency that a majority of Member States were in favour of introducing a gradual step-by-step approach to phase-in customer data in Article 2, but how this would happen in practice was not clear. The Belgian Presidency decided to tackle this issue, which was discussed at the three Working Party meetings.

11. Member States were asked whether they would agree on a step-by-step approach with a broad scope, where the phasing-in would be embedded in the regulation with a clear end-date by when all data in scope would be accessible, as opposed to a use-case approach such as the DLT pilot regime, where only some data would be selected to be shared and other use cases would be considered later on (e.g., when revising the regulation). There was a general agreement on having a step-by-step approach, while several Member States stressed that the way in which the gradual phasing-in would be defined in the text would remain crucial, including which product groups are to be included and when.

12. Two options were proposed for introducing the phasing-in approach: (i) a market-led approach, where it would be up to the schemes to decide which data to share first and which to share later, with a final date set for the sharing of all data foreseen in the Regulation, and (ii) a legislator-led approach, where the phasing-in would be defined ex-ante in the regulation. In addition, two ways to implement a legislator-led approach were mentioned: one based on sectors/entities, another one based on products. During the discussions, some Member States highlighted the possibility of developing a "hybrid approach", combining the market-led and the legislative-led approaches identified by the Belgian Presidency.

13. There was initially no clear majority in favour of either the market-led or the legislator-led approach. While the market-led approach was considered as the preferred option by several Member States, and a relative majority of Member States were open to the idea, the lack of clarity on how this would work in practice was highlighted. Moreover, some Member States also pointed out that data users and data holders might not agree on the prioritisation of data, which could lead to fragmentation in the functioning of the schemes, and that in such a context some form of legislative guidance would be needed anyway. Responses on the legislator-led approach were similar: this was the preferred option for several Member States, and most Member States were open for discussion on such an approach. However, it was clear that a legislator-driven approach should be product-based rather than entity-based, as the latter would be likely to raise level-playing-field issues.

14. The concept of “FiDA-readiness” of data was introduced by some Members States during the discussions, meaning that some criteria could be used to determine which type of data could be phased-in first and which could be phased-in after. Two elements were identified by several Member States as important in this respect: (i) the degree of product standardization and (ii) the degree of digitization/digital availability. However, several Member States also highlighted that FiDA-readiness of data might diverge from one country to another, as there is no perfect homogeneity in the financial markets throughout the EU.

15. The Presidency received a non-paper on the gradual applicability of FiDA by Art. 2(1) data categories. This non-paper proposed to introduce a legislator-led phasing-in of data within the FiDA Regulation Proposal. In particular, this proposal introduces a product-based approach, where data are categorized in three levels that would enter in scope progressively, based on the "FiDA-readiness" of the data.

16. Almost all Member States accepted the non-paper on the gradual applicability of FiDA by Art. 2(1) data categories as a good basis for discussion on the gradual approach. Questions were raised, particularly around the fact that 'FiDA-readiness' for a given product/service is likely to vary from Member State to Member State. Other comments focused on the need to take account of the demand aspect and the usefulness for customers, and some Member States argued for letting the market select the use cases that would be launched in priority; this would allow for a hybrid solution where the legislator-led would be complemented by market-led elements.

17. The Belgian Presidency proposed drafting suggestions to illustrate how such a gradual approach could be implemented, starting from the amendments proposed in the non-paper on the gradual applicability of FiDA by Art. 2(1) data categories, with some adjustments to take into account the comments received from Member States.

18. The Belgian Presidency also received and put on the agenda of the third Working Party meeting a non-paper about a market-led phasing-in of the FiDA Regulation Proposal, which notably proposed that it would be up to the Financial Data Sharing Schemes to decide which specific data points to include in the Scheme and for which of them to standardize data and develop Application Programming Interfaces.

19. The Belgian Presidency sees the proposed approach in that non-paper as complementary to the proposed legislator-led gradual phasing-in. The next step in the discussions on the gradual approach will be to, based on the latest comments by the Member States, agree on the products that would be present in the different levels – recognizing that discussions might particularly need to be held on data that are more complex, and expensive to digitize and make shareable through APIs –, and to assess how complementary elements of the market-led phasing-in approach could be further integrated in the wording of the FiDA Regulation Proposal.

Financial data sharing schemes.

20. While there had been a first round of discussion on the Financial Data Sharing Schemes (Articles 9, 10 and 11 of the FiDA Regulation proposal) during the Spanish Presidency, the Belgian Presidency decided to hold another round of discussion during the second Working Party meeting as this was an area where there seem to still be many questions among Members States. For instance, some Member States would consider that one single Scheme for a given product or a given service would be needed in order to ensure maximum standardization, while others insisted on the necessity to let schemes develop both at European and national levels to take into account the variety of markets.

21. Discussions were held around various topics, including the time period envisaged for Schemes to develop, the setting-up of Schemes in several stages, the boundaries of the Schemes (in terms of data in scope as well as of its members), the assessment byand the notifications to be made to the Authorities, the principles to determine compensation or the timeframe determining the moment where the Commission could adopt a delegated act in case no Scheme has been set up for a given product or service.

22. Based on the discussions held and the comments received from the Member States, the Belgian Presidency has made drafting proposals for discussions at the third Working Party meeting. Those proposals mainly kept the proposed market-led approach from the original FiDA Regulation proposal concerning the functioning of the schemes, where it is up to the Schemes to determine the data and the geographical scope they intend to cover, and aimed at providing clarity where this seemed to be needed (e.g., with regards to what would constitute a 'significant proportion of the market" or to what is meant by "consumer associations" and "customer organization" or to the role they should play within the Schemes).

23. On compensation rules in Article 10(1), the Belgian Presidency proposes to keep the reference to the Data Act, but to make it clearer by adding it to the text and not only to the Recital, and to mention explicitly that reasonable compensation to data holders may include a margin, except when data users are SMEs. The Belgian Presidency also proposes to exclude from the cap those SMEs that are part of a larger group of companies in line with the final adopted text of the Data Act.

24. While some Member States were of the view that the assessment of the Schemes should be directly conducted at the European Supervisory Authorities level, because of their prospective cross-border character and in order to foster a consistent application throughout the Union, they did not represent a majority, so the Belgian Presidency proposed to keep the assessment at the National Competent Authority level. However, in case of cross-border Schemes where several National Competent Authorities could be involved, the Belgian Presidency proposes to give a role to the European Supervisory Authorities in case of disagreement between National Competent Authorities.

25. It also appeared from the discussion on the Schemes that there seemed to be some confusion regarding the way to interpret the interplay between Title II (data access) and Title IV (Schemes) of the original FiDA Regulation Proposal. It seemed logical for several Member States that Schemes needed to be set up before any sharing could take place (which would be implied by the fact that the Title IV on Schemes would be applicable before other Titles become applicable, as foreseen in Article 36 of the FiDA Regulation Proposal). Some Member States had asked what the National Competent Authorities would do if the outcome of the assessment of the Schemes was that the criteria for setting up the Schemes were not met, so the Belgian Presidency asked whether Member States would agree to add a provision stating that data sharing under FiDA can only take place after a Scheme has been assessed as compliant. Based on the positive response by a majority of Member States, the Belgian Presidency eventually proposed a drafting suggestion related to Title II (Data Access), in particular to Article 6(1), stipulating that a data user can access customer data only if this happens in accordance with the rules and modalities of a Financial Data Sharing Scheme (thereby using the same wording as used under Article 5(2), which determines when a data holder may claim compensation).

26. The Commission expressed readiness to deliver written clarifications of the Commission´s view of the interplay of Title II on data access and Tile IV on schemes in future Council Working Party meetings under the Hungarian Presidency. The Commission is of the view that the amendment proposed by the Belgian Presidency to Article 6(1) could weaken a customer's ability to control their data by making data access dependent on Schemes rather than on the permission of the customer. The view of the Commission is that Title II on data access and Title IV on Schemes are separate but complementary chapters of the FiDA Regulation Proposal.

27. The Belgian Presidency understands that some discussions around this issue might need to be held in further iterations on the file. Those clarifications are probably also needed in light of the ideas put forward in the non-paper about a market-led phasing-in which has been mentioned under point 18 above.

Scope and definitions.

28. There had already been several proposals for amendments to Articles 1 (Subject Matter), 2 (Scope) and 3 (Definitions) under the Spanish Presidency. These proposals had led to reactions from several Member States, and the Belgian Presidency proposed to elaborate the discussions further. Such discussions will need to be continued.

29. There had been question raised about the scope of 'credit agreements' and of providers of those agreements. Indeed, given that entities in the scope of Article 2(2) of the FiDA Regulation Proposal are limited to those authorized under Union law, this means that certain "other creditors" regulated under national law, notably credit intermediaries, are out of the scope of the FiDA Regulation Proposal. The Belgian Presidency has proposed drafting suggestions so that the definition of credit agreement does not make a link with a specific provider.

30. There are a couple of definitions (Article 3) or elements in scope (Article 2) for which the Belgian Presidency has made drafting suggestions (e.g., with regards to 'insurance-based investment products', 'pension rights', 'customer data' and 'financial information service'), which will probably need to be further fine-tuned, as some drafting suggestions were considered not to be clear and, given that those concepts are at the core of the FiDA Regulation Proposal and determinant for the final scope, they thus need a correct understanding among Member States. This is the case, especially, of 'financial information service' since this concept affects what a Financial Information Service Provider can or cannot do.

31. There have been discussions about the inclusion in the scope of the FiDA Regulation Proposal of data related to suitability and appropriateness assessment (which were included in the original FiDA Regulation Proposal). Some Member States argued for their exclusion, notably as those data are both unstructured and not harmonized at EU level, and the reverse engineering could endanger intellectual property and business secrets. However, a clear majority of Member States were in favour to include data on suitability and appropriateness assessment in the scope of the FiDA Regulation Proposal; those countries still insisted that it is only raw data, not enriched data, which should be in scope. One Member State proposed to also refer to the entry knowledge test of Regulation (EU) 2020/1503, given the similarity with the suitability and appropriateness assessments. Accordingly, the Belgian Presidency proposed to: (i) include a reference to the entry knowledge test under Article 2(1) (b), and (ii) to include a new Recital (12a) to make it clear that data in FiDA only includes data collected for the purposes of suitability, appropriateness or entry knowledge assessments, rather than the output data of those assessments. It was also argued that the same reasoning about raw data would also need to apply to creditworthiness assessment.

32. Several Member States have expressed concerns about the interaction between the FiDA Regulation Proposal and existing national tracking systems for pension data. Under the Spanish Presidency, it was suggested to clarify that the FiDA Regulation Proposal does not preclude the sharing of the data by different means, for example with reference to national law, and the drafting suggestion that was then proposed to Article 2(4) did not raise objections from Member States. However, for reasons of legal certainty a Member State suggested adding national pension tracking systems to Article 2(3). This would ensure that current national pension tracking systems could continue to operate without falling under the FiDA Regulation Proposal and would therefore not need to develop financial data sharing schemes under the FiDA Regulation Proposal.

The Belgian Presidency also introduced an amendment to Recital 15 to make it clear that data holders that contribute to existing national pension tracking schemes should be permitted to use existing technical interfaces and common standards that have already been developed as part of these schemes in order to fulfil the obligations under the FiDA Regulation Proposal. Besides that, some Member States advocate for the exclusion of occupational pension schemes which are not accessible to all interested consumers from the FiDA Regulation Proposal, arguing that the benefits of including them would not outweigh the costs. In general, it appears that more discussions seem to be needed regarding the scope of inclusion in the FiDA Regulation Proposal of occupational pension schemes.

33. Discussions were also held around the so-called sensitive data. The Spanish Presidency had proposed to exclude from the scope of the FiDA Regulation Proposal the data referred to in Articles 9 and 10 of Regulation (EU) 2016/679, and this was not objected by Member States, so the Belgian presidency did not propose any other modification in this regard. However, the Commission underlined the need to further analyse this provision and its implications.

34. Some Member State consider that other types of data might also carry some risks if they are shared. A non-paper presented at the third Working Party meeting proposes the exclusion of certain data in relation to mutualisation of risks; this concerns the individual and granular data related to climate risks and to damages caused by natural disasters. The non-paper also suggests to introduce in the FiDA Regulation Proposal safeguards in order to prevent data users from performing “reverse engineering” (i.e., to be able to infer the risk assessment and pricing models of some data holders), to develop RTS with regards to impact on risk sharing and to limit the accessibility of customer data to historical data from the last 5 years. While there are several provisions in the current version of the amended text that may be able to address some of the questions raised by the non-paper, the Belgian Presidency understands that some more discussion on those issues will be needed and some

Member States agreed the issue on mutualisation of risks should be further discussed. While certain Member States agreed with exclusion of certain data sets related to natural disaster and climate risks, other Member States noted that access to climate risk data through FiDA could help address the existing climate "insurance gap" by making it easier for insurance providers to identify exposures and increase insurance coverage. As regards the time limit for the accessibility of the data, it seems that any limit would probably be dependent on the type of products (as for instance long-term products with a duration of 20 or 30 years, such as mortgage credit agreements, would likely not benefit from a 5-year time limit).

Gatekeepers.

35. With respect to big techs and their economic power in the digital economy as a result of the build-up and aggregation of massive quantities of data, combined with the development of the technological infrastructure needed to leverage that data, some Member States have called for strong safeguards beyond those included in the FiDA Regulation Proposal (i.e. Article 6(4)(f) that limits how a data user that is part of a group of companies can access and process data).

36. Accordingly, during the second Working Party meeting, the Belgian Presidency opened the debate on the Gatekeepers and the questions of the related safeguards. For the sake of transparency, the term "Gatekeeper" was considered in the light of the definition provided by Regulation (EU) 2022/1925 (i.e., the Digital Markets Act): "Gatekeeper" means an undertaking providing core platform services, designated pursuant to Article 3 of Regulation (EU) 2022/1925.

37. In this context, some Member States have suggested looking into the option of preventing entities designated as Gatekeepers under Regulation (EU) 2022/1925 from becoming Financial Information Service Providers and thus gaining access to financial data. Under the Digital Markets Act, the Commission can designate a provider as a "Gatekeeper" and impose a number of obligations on these designated "Gatekeepers". These obligations include, for instance, the prohibition on combining certain data without consent of the end user, or the obligation to guarantee effective data portability rights under Article 20 of Regulation (EU) 2016/679.

38. The Belgian Presidency highlighted that the introduction of such an approach (i.e. entities designated as "Gatekeepers" under the Digital Markets Act should not be eligible to become Financial Information Service Providers) would be concordant with existing provisions in the Regulation (EU) 2023/2854 (i.e., the Data Act). The Belgian Presidency noted, however, that provisions in the Data Act only cover a specific type of data (i.e. data generated by the use of a connected product or related service or by a virtual assistant pursuant to this Regulation), and that this does not prevent Gatekeepers from obtaining data through other lawful means, including voluntary agreements.

39. In the light of the various Member States comments and the limits of the provisions under the Data Act (i.e. a prohibition on Gatekeepers would indeed not exclude them from the market nor prevent them from offering its services, as voluntary agreements between them and the data holders would remain unaffected), the Belgian Presidency proposed, during the third Working Party meeting, to keep the possibility for Gatekeepers to become Financial Information Service Providers, while strengthening safeguards to protect customers and giving special powers to the competent authorities.

40. In a nutshell, the Belgian Presidency submitted several drafting suggestions on how to deal with Gatekeepers. For instance, the Belgian Presidency proposed to add a safeguard in Article 6, namely that data users that are designated as a Gatekeeper or that are owned or controlled by an undertaking that has been designated as a Gatekeeper are prohibited from combining customer data shared under FiDA with other data relating to the customer that the designated gatekeeper may already have outside of FiDA. Moreover, the Belgian Presidency suggested adding an Article (Article 18b) focusing on the powers of National Competent Authorities and the role of the ESAs in relation to Gatekeepers or entities owned or controlled by a Gatekeeper. The aim of this Belgian Presidency proposal was to give strong powers to National Competent Authorities and the ESAs to protect customers against potential abuse of Gatekeepers or entities owned/controlled by Gatekeepers. The Belgian Presidency also proposed to explicitly require an assessment of the activities of Gatekeepers or entities owned/controlled by a Gatekeeper and to propose additional measures, up to and including exclusion, in the review clause in Article 31(1).

41. These drafting suggestions were broadly well received by Member States, but still need to be fine-tuned, further discussed and adapted. Some Member States indicated that they needed more time to take a formal position, including on whether the Gatekeepers should be granted access to customer data through the FiDA Regulation Proposal. Concerns have been raised by some Member States regarding the proportionality and appropriateness of the additional Gatekeeper safeguards, while additional safeguards might also be considered. Considering the cross-border and supranational dimension nature of Gatekeepers, some Member States also proposed the assessment of the activities of Gatekeepers or entities owned/controlled by a Gatekeeper be made by the ESAs; other Member States disagreed with such a proposal.

Eligibility for data access and organisations.

42. During the second Working Party meeting, the Belgian Presidency submitted drafting proposals concerning Title V and, in particular, proposed the exclusion of Financial Information Service Providers not established in the EU. The proposal was received very favourably by most Member States.

43. However, the Commission objected to the proposal to exclude Financial Information Service Providers not established in the EU (i.e. third-country Financial Information Service Providers) because of the potential conflict of this ban with international trade agreements. An opinion from the Council General Secretariat Legal Service was therefore requested by the Belgian Presidency.

44. In a first preliminary and informal advice, the Council General Secretariat Legal Service was of the opinion that excluding third-country Financial Information Service Providers would be a prima facie violation of commitments under Articles XVI and XVII General Agreement on Trade in Services of the World Trade Organization (GATS), as well as the financial services specific schedule of GATS, and that the prudential carve-out would be difficult to justify objectively and apply in practice.

45. Consequently, during the third Working Party meeting, the Belgian Presidency asked Member States to provide arguments justifying that this measure pursues a prudential objective, that it is the most appropriate and proportionate measure to achieve this objective and that it is not aimed at circumventing Members' obligations under the GATS.

46. The majority of Member States have confirmed their position in favour of excluding third-country Financial Information Service Providers and have confirmed that they considered that the prudential carve-out from GATS would be fully applicable in that case. The main arguments put forward were that (1) exclusion will ensure proper enforcement and supervision and therefore contribute to the protection of clients and policyholders, and (2) exclusion will avoid major risks of data leaks and/or misuse for European customers. Since problems regarding data in the scope of FiDA (for instance, leaks) could pose a threat to the integrity of the European financial system (due to reputation risks, operational risks, customer flights…), those Member States believe that there is a sufficient justification for requiring third-country Financial information Service Providers to establish a legal entity within the EU. The possibility was also raised that limitations on third-country entities to access the EU market as Financial Information Service Providers may be justified not only on grounds of prudential reasons, but also, inter alia, to protect the privacy of individuals (Art. XIV, (ii)) and essential security interests (Art. XIVbis). The Belgian Presidency understands that these arguments could be highlighted, where appropriate, in the Recitals of the FiDA Regulation Proposal.

II. CONCLUSIONS

47. During the Belgian Presidency, the discussions about the FiDA Regulation Proposal have progressed further on several aspects. Member States in general agree on several parts of the scope of customer data in the FiDA Regulation Proposal and there is broad agreement amongst Member States that data categories in scope should be phased-in by the legislator in line with the concept of "FiDA-readiness". Moreover, regarding the Scheme governance and content, Member States largely support the market-based approach of Financial Data Sharing Schemes. However, as summarized above, some critical elements of this proposal still need to be discussed and the drafting amended in order to reach a compromise. Discussions continue for example on the inclusion or exclusion of several specific data categories. Besides that, as already highlighted by the Spanish Presidency in its progress report, there is and remains a general desire in the Council to proceed with caution. The innovative nature of the data sharing activity, the sensitivity of some of the data in scope and the implications it could have on the financial sector and on consumer protection call for a thorough and well-thought approach when reviewing the FiDA Regulation Proposal.

ANNEX

PRESIDENCY CONSOLIDATED DRAFTING PROPOSALS

Drafting conventions are as follows: **REV 1 (ES PCY) in bold black** **REV 2 (BE PCY) in bold red** **REV 3 (BE PCY) in bold green** **REV 4 (BE PCY) in bold purple**

Commission proposal (July 2023)	Presidency drafting proposals - v 16 05 24	Rationale for drafting proposals
2023/0205 (COD) **Proposal for a** **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** **on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554** **(Text with EEA relevance)**	**2023/0205 (COD)** **Proposal for a** **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** **on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554** **(Text with EEA relevance)**	
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	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 Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	
Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	

Having regard to the opinion of the European Economic and Social Committee[1],	Having regard to the opinion of the European Economic and Social Committee[2],	
Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
Whereas:	Whereas:	
(1) A responsible data economy, which is driven by the generation and use of data, is an integral part of the Union internal market that can bring benefits to both Union citizens and the economy. Digital technologies relying on data are increasingly driving change in financial markets by producing new business models, products and ways for firms to engage with customers.	(1) A responsible data economy, which is driven by the generation and use of data, is an integral part of the Union internal market that can bring benefits to both Union citizens and the economy. Digital technologies relying on data are increasingly driving change in financial markets by producing new business models, products and ways for firms to engage with customers.	
(2) Customers of financial institutions, both consumers and firms, should have effective control over their financial data and the opportunity to benefit from open, fair, and safe data-driven innovation in the financial sector. Those customers should be empowered to decide how and by whom their financial data is used and should have the option to grant firms access to their data for the purposes of obtaining financial and	(2) Customers of financial institutions, both consumers and firms, should have effective control over their financial data and the opportunity to benefit from open, fair, and safe data-driven innovation in the financial sector. Those customers should be empowered to decide how and by whom their financial data is used and should have the option to grant firms access to their data for the purposes of obtaining financial and	

[1] OJ C , , p. .
[2] OJ C , , p. .

information services should they wish.	information services should they wish.	
(3) The Union has a stated policy interest in enabling access of customers of financial institutions to their financial data. The Commission confirmed in its communication on a digital finance strategy and Communication on a capital markets union adopted in 2021 an intention to put in place a framework for financial data access to reap the benefits for customers of data sharing in the financial sector. Such benefits include the development and provision of data-driven financial products and financial services, made possible by the sharing of customer data.	(3) The Union has a stated policy interest in enabling access of customers of financial institutions to their financial data. The Commission confirmed in its communication on a digital finance strategy and Communication on a capital markets union adopted in 2021 an intention to put in place a framework for financial data access to reap the benefits for customers of data sharing in the financial sector. Such benefits include the development and provision of data-driven financial products and financial services, made possible by the sharing of customer data.	
(4) Within financial services, and as a result of the revised Directive (EU) 2015/2366 of the European Parliament and of the Council[3], the sharing of payments account data in the Union based on customer permission has begun to transform the way consumers and businesses use banking services. In order to build upon	(4) Within financial services, and as a result of the revised Directive (EU) 2015/2366 of the European Parliament and of the Council[5], the sharing of payments account data in the Union based on customer permission has begun to transform the way consumers and businesses use banking services. In order to build upon	

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

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

the measures in that Directive, a regulatory framework should be established for the sharing of customer data across the financial sector beyond payment account data. This should also be a building block for fully integrating the financial sector into the Commission's strategy for data[4] which promotes data sharing across sectors.	the measures in that Directive, a regulatory framework should be established for the sharing of customer data across the financial sector beyond payment account data. This should also be a building block for fully integrating the financial sector into the Commission's strategy for data[6] which promotes data sharing across sectors.	
(5) Ensuring customer control and trust is imperative to build a well-functioning and effective data sharing framework in the financial sector. Ensuring effective customers' control over data sharing contributes to innovation as well as customer confidence and trust in data sharing. As a result, effective control helps overcome customer reluctance to share their data. Under the current Union framework, the data portability right of a data subject in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council[7] is limited to personal data and can be relied upon only where it is technically feasible to port the	(5) Ensuring customer control and trust is imperative to build a well-functioning and effective data sharing framework in the financial sector. Ensuring effective customers' control over data sharing contributes to innovation as well as customer confidence and trust in data sharing. As a result, effective control helps overcome customer reluctance to share their data. Under the current Union framework, the data portability right of a data subject in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council[8] is limited to personal data and can be relied upon only where it is technically feasible to port the	

[4] https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1593073685620&uri=CELEX%3A52020DC0066

[6] https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1593073685620&uri=CELEX%3A52020DC0066

[7] 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).

[8] 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).

data. Customer data and technical interfaces in the financial sector beyond payment accounts are not standardised, rendering data sharing more costly. Further, the financial institutions are only legally obliged to make the payment data of their customers available.	data. Customer data and technical interfaces in the financial sector beyond payment accounts are not standardised, rendering data sharing more costly. Further, the financial institutions are only legally obliged to make the payment data of their customers available.	
(6) The Union's financial data economy therefore remains fragmented, characterised by uneven data sharing, barriers, and high stakeholder reluctance to engage in data sharing beyond payments accounts. Customers accordingly do not benefit from individualised, data-driven products and services that may fit their specific needs. The absence of personalised financial products limits the possibility to innovate, by offering more choice and financial products and services for interested consumers who could otherwise benefit from data-driven tools that can support them to make informed choices, compare offerings in a user-friendly manner, and switch to more advantageous products that match their preferences based on their data. The existing barriers to business data sharing are preventing firms, in particular SMEs, to benefit from better, convenient and automated financial services.	(6) The Union's financial data economy therefore remains fragmented, characterised by uneven data sharing, barriers, and high stakeholder reluctance to engage in data sharing beyond payments accounts. Customers accordingly do not benefit from individualised, data-driven products and services that may fit their specific needs. The absence of personalised financial products limits the possibility to innovate, by offering more choice and financial products and services for interested consumers who could otherwise benefit from data-driven tools that can support them to make informed choices, compare offerings in a user-friendly manner, and switch to more advantageous products that match their preferences based on their data. The existing barriers to business data sharing are preventing firms, in particular SMEs, to benefit from better, convenient and automated financial services.	
(7) Making data available by way of high-quality application programming interfaces is essential to facilitate seamless and effective access to data. Beyond	(7) Making data available by way of high-quality application programming interfaces is essential to facilitate seamless and effective access to data. Beyond	

the area of payment accounts, however, only a minority of financial institutions that are data holders indicate that they make data available through technical interfaces like application programming interfaces. As incentives to develop such innovative services are absent, market demand for data access remains limited.	the area of payment accounts, however, only a minority of financial institutions that are data holders indicate that they make data available through technical interfaces like application programming interfaces. As incentives to develop such innovative services are absent, market demand for data access remains limited.	
(8) A dedicated and harmonised framework for access to financial data is therefore necessary at Union level to respond to the needs of the digital economy and to remove barriers to a well-functioning internal market for data. Specific rules are required to address these barriers to promote better access to customer data and hence make it possible for consumers and firms to realise the gains stemming from better financial products and services. Data-driven finance would facilitate industry transition from the traditional supply of standardised products to tailored solutions that are better suited to the customers' specific needs, including improved customer facing interfaces that enhance competition, improve user experience and ensure financial services that are focused on the customer as the end user.	(8) A dedicated and harmonised framework for access to financial data is therefore necessary at Union level to respond to the needs of the digital economy and to remove barriers to a well-functioning internal market for data. Specific rules are required to address these barriers to promote better access to customer data and hence make it possible for consumers and firms to realise the gains stemming from better financial products and services. Data-driven finance would facilitate industry transition from the traditional supply of standardised products to tailored solutions that are better suited to the customers' specific needs, including improved customer facing interfaces that enhance competition, improve user experience and ensure financial services that are focused on the customer as the end user.	
(9) The data included in the scope of this Regulation should demonstrate high value added for financial innovation as well as low financial exclusion risk for consumers. This Regulation should therefore not cover data related to the sickness and health insurance of a	(9) The data included in the scope of this Regulation should demonstrate high value added for financial innovation as well as low financial exclusion risk for consumers. This Regulation should therefore not cover data related to the sickness and health insurance of a	

consumer in accordance with Directive 2009/138/EC of the European Parliament and of the Council[9] as well as data on life insurance products of a consumer in accordance with Directive 2009/138/EC other than life insurance contracts covered by insurance-based investment products. This Regulation should also not cover data collected as part of a creditworthiness assessment of a consumer. The sharing of customer data in the scope of this Regulation should respect the protection of confidential business data and trade secrets.	consumer in accordance with Directive 2009/138/EC of the European Parliament and of the Council[10] as well as data on life insurance products of a consumer in accordance with Directive 2009/138/EC other than life insurance contracts covered by insurance-based investment products. This Regulation should also not cover data collected as part of a creditworthiness assessment of a consumer. The sharing of customer data in the scope of this Regulation should respect the protection of confidential business data and trade secrets.	
(10) The sharing of the customer data in the scope of this Regulation should be based on the permission of the customer. The legal obligation on data holders to share customer data should be triggered once the customer has requested their data to be shared with a data user. This request can be submitted by a data user acting on behalf of the customer. Where the processing of personal data is involved, a data user should have a valid lawful basis for processing under Regulation (EU) 2016/679. The customers data can be processed for the agreed purposes in the context of the service provided. The processing of	(10) The sharing of the customer data in the scope of this Regulation should be based on the permission of the customer. **This permission should comply with certain requirements to ensure that the customers are aware of the extent of the data sharing they are allowing. For this purpose, the permission should be freely given, specific, limited in time, separated from possible other declaration or text and it shall clearly state the purposes for which the data will be accessed and by which data users. The time limit should be determined in financial data sharing schemes.** The	Some MS have suggested looking into the option of preventing entities designated as gatekeepers under Regulation (EU) 2022/1925 (i.e., the Digital Markets Act) from becoming FISPs and thus gaining access to financial data. Under the Digital Markets Act, the Commission can designate a provider as a "gatekeeper" and impose a number of obligations on these designated gatekeepers. These obligations include, for instance, the prohibition on combining

[9] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) (OJ L 335, 17.12.2009, p. 1).

[10] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) (OJ L 335, 17.12.2009, p. 1).

personal data must respect the principles of personal data protection, including lawfulness, fairness and transparency, purpose limitation and data minimisation. A customer has the right to withdraw the permission given to a data user. When data processing is necessary for the performance of a contract, a customer should be able to withdraw permissions according to the contractual obligations to which the data subject is party. When personal data processing is based on consent, a data subject has the right to withdraw his or her consent at any time, as provided for in Regulation (EU) 2016/679.	legal obligation on data holders to share customer data should be triggered once the customer has requested their data to be shared with a data user. This request can be submitted by a data user acting on behalf of the customer. **In this case, the users will have to demonstrate they have obtained the permission from the customer to access customer data.** **This Regulation sets out rules on gatekeepers designated pursuant to Article 3 of Regulation (EU) 2022/1925. These rules apply to data users that are gatekeepers, or are owned or controlled by gatekeepers to ensure that gatekeepers do not circumvent these rules. A data user that is a gatekeeper or that is owned or controlled by a gatekeeper should be subject to a special assessment by the national competent authority of its registered office to ensure its eligibility under this Regulation. Gatekeepers should not engage in behaviour that would undermine the effectiveness of the prohibitions and obligations laid down in this Regulation.** Where the processing of personal data is involved, a data user should have a valid lawful basis for processing under Regulation (EU) 2016/679. The customers data can be processed for the agreed purposes in the context of the service provided. The processing of personal data must respect the principles of personal data protection, including lawfulness, fairness and transparency, purpose	certain data without consent of the end user, or the obligation to guarantee effective data portability rights under Article 20 of Regulation (EU) 2016/679. The Presidency has highlighted that the introduction of such an approach (i.e. entities designated as "gatekeepers" under the Digital Markets Act should not be eligible to become FISPs) would be concordant with existing provisions in the Regulation (EU) 2023/2854 (i.e., the Data Act). The Presidency noted, however, that provisions in the Data Act only cover a specific type of data (i.e. data generated by the use of a connected product or related service or by a virtual assistant pursuant to this Regulation), and that, according to the recital 40, this does not prevent these companies from obtaining data through other lawful means, including voluntary agreements. In the light of the various comments received from MS after WP6 and the limits of the provisions under the Data Act (i.e. a prohibition on gatekeepers would indeed not exclude them from the market nor prevent them from offering its services, as voluntary agreements between them and the data

	limitation and data minimisation. A customer has the right to withdraw the permission given to a data user **at any time. The act of withdrawal shall be free of charge but indirect costs could be incurred due to contractual agreements.** When data processing is necessary for the performance of a contract, a customer should be able to withdraw permissions according to the contractual obligations to which the data subject is party. When personal data processing is based on consent, a data subject has the right to withdraw his or her consent at any time, as provided for in Regulation (EU) 2016/679.	holders would remain unaffected), the Presidency proposes to keep the possibility for "gatekeepers" to become FISPs, while strengthening safeguards to protect customers and giving special powers to the competent authorities (see Article 18b). MS proposal to highlight the customer's right to withdraw permission at any time and free of charge while taking into account the contractual agreements.
(11) Enabling customers to share their data on their current investments can encourage innovation in the provision of retail investment services. Primary data collection to complete a suitability and appropriateness assessment of a retail investor is time-intensive for a customer and constitutes a significant cost factor for advisors and distributors of investment, pension, and insurance-based investment products. The sharing of customer data on holdings of savings and investments in financial instruments including insurance-based investment products and data collected for the purposes of carrying out a suitability and appropriateness assessment can improve investment advice for consumers and has strong innovative potential, including in the development of personalised investment	(11) Enabling customers to share their data on their current investments can encourage innovation in the provision of retail investment services. Primary data collection to complete a suitability and appropriateness assessment of a retail investor is time-intensive for a customer and constitutes a significant cost factor for advisors and distributors of investment, pension, and insurance-based investment products. The sharing of customer data on holdings of savings and investments in financial instruments including insurance-based investment products and data collected for the purposes of carrying out a suitability and appropriateness assessment can improve investment advice for consumers and has strong innovative potential, including in the development of personalised investment	

advice and investment management tools that can make retail investment advice more efficient. Such management tools are already being developed in the market and can develop more effectively in the context where a customer can share their investment-related data.	advice and investment management tools that can make retail investment advice more efficient. Such management tools are already being developed in the market and can develop more effectively in the context where a customer can share their investment-related data.	
(12) Customer data on balance, conditions or transaction details related to mortgages, loans and savings can enable customers to gain a better overview of their deposits and better meet their savings needs based on credit data. This Regulation should cover customer data beyond payment accounts defined in Directive (EU) 2015/2366. Credit accounts covered by a credit line which cannot be used for the execution of payment transactions to third parties should be within the scope of this Regulation. It should therefore be understood that this Regulation covers the access to the balance, conditions or transaction details related to mortgage credit agreements, loans, and savings accounts as well as the types of accounts not falling withing the	(12) Customer data on balance, conditions or transaction details related to mortgages, loans and savings can enable customers to gain a better overview of their deposits and better meet their savings needs based on credit data. This Regulation should cover customer data beyond payment accounts defined in Directive (EU) 2015/2366. Credit accounts covered by a credit line which cannot be used for the execution of payment transactions to third parties should be within the scope of this Regulation. It should therefore be understood that this Regulation covers the access to the balance, conditions or transaction details related to mortgage credit agreements, loans, and savings accounts as well as the types of accounts not falling withing the	The Presidency emphasises that this recital must be adapted according to the reaction of the MS to the proposed drafting proposals.

scope of the Directive (EU) 2015/2366[11].	scope of the Directive (EU) 2015/2366[12].	
	(12a) To ensure the right of investment firms, insurance undertakings, insurance intermediaries, crowdfunding service providers and crypto-asset service providers to protect undisclosed know-how and business information when distributing investment products, the scope of the obligation to share customer data under this Regulation should be limited to data that has been collected from the customer by the financial institution in order to comply with the regulatory obligation to perform a suitability and appropriateness assessment in accordance with Article 25 of Directive 2014/65/EU, Article 30 of Directive (EU) 2016/97 and Article 81(1) of Regulation (EU) 2023/1114, or an entry knowledge test in accordance with Regulation (EU) 2020/1503. This is limited to data collected from the customer by the financial institution for the purposes of assessing the customer's knowledge and experience, financial situation, and investment objectives, as provided for	A majority of MS were in favour of keeping suitability and appropriateness data in scope, while insisting that these should only be raw data. The BE Presidency proposes to include this new Recital to make sure that data on suitability and appropriateness are only raw data and not enriched data nor output data of this assessment.

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

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

	in those provisions. This does not include the result of the suitability or appropriateness assessment itself made by the financial institution on the basis of the data collected from the customer, the suitability report given to a customer, or any analysis or preparatory work for the purposes of such report. These should be excluded from the scope of this regulation.	
(13) The customer data included in the scope of this Regulation should include sustainability-related information that should enable customers to more easily access financial services that are aligned with their sustainability preferences and sustainable finance needs, in line with the Commission's strategy for financing the transition to a sustainable economy12 . Access to data relating to sustainability which may be contained in balance or transaction details related to a mortgage, credit, loan and savings account, as well as access to customer data relating to sustainability held by investment firms, can contribute to facilitating access to data needed to access sustainable finance or make investments into the green transition. Moreover, customer data in the scope of this Regulation should include data which forms part of a creditworthiness assessment related to firms, including small and medium sized enterprises, and which can provide greater insight into the sustainability objectives of small firms. The	(13) The customer data included in the scope of this Regulation **may include information which could be shared to enable a customer to have more efficient access to products and services aligned with environmentally sustainable activities, in line with the Commission's strategy for financing the transition to a sustainable economy. This includes the sharing of available data needed to access sustainable finance and data related to a customer's sustainability preferences. Sustainability preferences refer to a customer's choice to invest in environmentally sustainable financial products. This should include sustainability preferences of a customer collected by insurance intermediaries and insurance undertakings distributing insurance-based investment products as defined in Article 2(4) of Commission Delegated Regulation (EU) 2021/1257, and sustainability 5 preferences collected by investment firms as defined in Article 2(7) of**	To be consistent with the wording in Art. 14 of Commission Delegated Regulation (EU) 2017/2359, BE PCDY proposes to add 'and insurance undertakings'.

inclusion of data used for the creditworthiness assessment related to firms should improve access to financing and streamline the application for loans. Such data should be limited to data on firms and should not infringe intellectual property rights	**Delegated Regulation (EU) 2017/565.** ~~should include sustainability-related information that should enable customers to more easily access financial services that are aligned with their sustainability preferences and sustainable finance needs, in line with the Commission's strategy for financing the transition to a sustainable economy[13]. Access to data relating to sustainability which may be contained in balance or transaction details related to a mortgage, credit, loan and savings account, as well as access to customer data relating to sustainability held by investment firms, can contribute to facilitating access to data needed to access sustainable finance or make investments into the green transition.~~ Moreover, customer data in the scope of this Regulation should include data which forms part of a creditworthiness assessment related to firms, including small and medium sized enterprises, and which can provide greater insight into the sustainability objectives of small firms. The inclusion of data used for the creditworthiness assessment related to firms should improve access to financing and streamline the application for loans. Such data should be limited to data on firms and should not infringe intellectual property rights.	
(14) Customer data related to the provision of non-life	(14) Customer data related to the provision of non-life	

[13] Communication From the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, Strategy for Financing the Transition to a Sustainable Economy, COM/2021/390 final

insurance are essential to enable insurance products and services important to the needs of customer like the protection of homes, vehicles, and other property. At the same time, the collection of such data is often burdensome and costly and can act as a deterrent against seeking optimal insurance coverage by customers. To address this problem, it is therefore necessary to include such financial services within the scope of this Regulation. Customer data on insurance products within scope of this Regulation should include both insurance product information such as detail on an insurance coverage and data specific to the consumers' insured assets which are collected for the purposes of a demands and needs test. The sharing of such data should allow for the development of personalised tools for customers, such as insurance dashboards that could help consumers better manage their risks. It could also help customers to obtain products that are better targeted to their demands and needs, including through more valuable advice. This can contribute to more optimal insurance coverage for customers and increased financial inclusion of otherwise underserved consumers, by offering new or increased coverage. Moreover, the sharing of insurance data can be beneficial for more efficient supply of insurance including, in particular, at the stages of product design, underwriting, contract execution, including claims management, and risk mitigation.	insurance are essential to enable insurance products and services important to the needs of customer like the protection of homes, vehicles, and other property. At the same time, the collection of such data is often burdensome and costly and can act as a deterrent against seeking optimal insurance coverage by customers. To address this problem, it is therefore necessary to include such financial services within the scope of this Regulation. Customer data on insurance products within scope of this Regulation should include both insurance product information such as detail on an insurance coverage and data specific to the consumers' insured assets which are collected for the purposes of a demands and needs test. The sharing of such data should allow for the development of personalised tools for customers, such as insurance dashboards that could help consumers better manage their risks. It could also help customers to obtain products that are better targeted to their demands and needs, including through more valuable advice. This can contribute to more optimal insurance coverage for customers and increased financial inclusion of otherwise underserved consumers, by offering new or increased coverage. Moreover, the sharing of insurance data can be beneficial for more efficient supply of insurance including, in particular, at the stages of product design, underwriting, contract execution, including claims management, and risk mitigation.	

(15) The sharing of data on occupational and personal pension savings has strong innovative potential for consumers. Pension savers often lack sufficient knowledge about their pension rights, which is related to the fact that data on such rights are often dispersed across different data holders. The sharing of data related to occupational and personal pension savings should contribute to the development of pension tracking tools that provide savers with a comprehensive overview of their entitlements and retirement income both within specific Member States and cross-border in the Union. Data on pension rights concerns in particular accrued pension entitlements, projected levels of retirement benefits, risks and guarantees of members and beneficiaries of occupational pension schemes. Access to data related to occupational pensions is without prejudice to national social and labour law on the organisation of pension systems, including membership of schemes and the outcomes of collective bargaining agreements	(15) The sharing of data on occupational and personal pension savings has strong innovative potential for consumers. Pension savers often lack sufficient knowledge about their pension rights, which is related to the fact that data on such rights are often dispersed across different data holders. The sharing of data related to occupational and personal pension savings should contribute to the development of pension tracking tools that provide savers with a comprehensive overview of their entitlements and retirement income both within specific Member States and cross-border in the Union. Data on pension rights concerns in particular accrued pension entitlements, projected levels of retirement benefits, risks and guarantees of members and beneficiaries of occupational pension schemes. Access to data related to occupational pensions is without prejudice to national social and labour law on the organisation of pension systems, including membership of schemes and the outcomes of collective bargaining agreements. **To avoid duplicative data management costs, data holders that contribute to existing national pension tracking schemes should be permitted to use existing technical interfaces and common standards that have already been developed as part of these schemes in order to fulfil the obligations under this Regulation.**	BE Presidency proposes to add this clarification in Recital, as proposed by a some MS, and which complements the addition under Article 2(4)
(16) Data which forms part of a creditworthiness	(16) Data which forms part of a creditworthiness	

assessment of a firm in the scope of this Regulation should consist of information which a firm provides to institutions and creditors as part of the loan application process or a request for a credit rating. This includes loan applications of micro, small, medium and large enterprises. It may include data collected by institutions and creditors as set out in Annex II of the European Banking Authority Guidelines on loan origination and monitoring[14]. Such data may include financial statements and projections, information on financial liabilities and arrears in payment, evidence of ownership of the collateral, evidence of insurance of the collateral and information on guarantees. Additional data may be relevant if the purpose of the loan application relates to the purchase of commercial real estate or real estate development.	assessment of a firm in the scope of this Regulation should consist of information which a firm provides to institutions and creditors as part of the loan application process or a request for a credit rating. This includes loan applications of micro, small, medium and large enterprises. It may include data collected by institutions and creditors as set out in Annex II of the European Banking Authority Guidelines on loan origination and monitoring[15]. Such data may include financial statements and projections, information on financial liabilities and arrears in payment, evidence of ownership of the collateral, evidence of insurance of the collateral and information on guarantees. Additional data may be relevant if the purpose of the loan application relates to the purchase of commercial real estate or real estate development.	
(17) As this Regulation is meant to oblige financial institutions to provide access to defined categories of data at the request of the customer when acting as data holders, and allow the sharing of data based on customer permission when financial institutions act as data users, it should provide a list of the financial institutions that may act as either a data holder, a data user or both. Financial institutions should therefore be understood to mean those entities that provide financial products and	(17) As this Regulation is meant to oblige financial institutions to provide access to defined categories of data at the request of the customer when acting as data holders, and allow the sharing of data based on customer permission when financial institutions act as data users, it should provide a list of the financial institutions that may act as either a data holder, a data user or both. Financial institutions should therefore be understood to mean those entities that provide financial products and	

14 EBA Final Report on Guidelines on loan origination and monitoring.pdf (europa.eu), 29.05.2020.
15 EBA Final Report on Guidelines on loan origination and monitoring.pdf (europa.eu), 29.05.2020.

financial services or offer relevant information services to customers in the financial sector.	financial services or offer relevant information services to customers in the financial sector.	
(18) Practices employed by data users to combine new and traditional customer data sources in the scope of this Regulation must be proportionate to ensure that they do not lead to financial exclusion risks for consumers. Practices that lead to a more sophisticated or comprehensive analysis of certain vulnerable segments of consumers, such as persons with a low income, may increase the risk of unfair conditions or differential pricing practices like the charging of differential premiums. The potential for exclusion is increased in the provision of products and services that are priced according to the profile of a consumer, notably in credit scoring and the assessment of creditworthiness of natural persons as well for products and services related to the risk assessment and pricing of natural persons in the case of life and health insurance. Given the risks, the use of data for these products and services should be subject to specific requirements to protect consumers and their fundamental rights.	(18) Practices employed by data users to combine new and traditional customer data sources in the scope of this Regulation must be proportionate to ensure that they do not lead to financial exclusion risks for consumers. Practices that lead to a more sophisticated or comprehensive analysis of certain vulnerable segments of consumers, such as persons with a low income, may increase the risk of unfair conditions or differential pricing practices like the charging of differential premiums. The potential for exclusion is increased in the provision of products and services that are priced according to the profile of a consumer, notably in credit scoring and the assessment of creditworthiness of natural persons as well for products and services related to the risk assessment and pricing of natural persons in the case of life and health insurance. Given the risks, the use of data for these products and services should be subject to specific requirements to protect consumers and their fundamental rights.	
(19) The data use perimeter thus established in this Regulation and in the accompanying guidelines ('the guidelines') to be developed by the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) should	(19) The data use perimeter thus established in this Regulation and in the accompanying guidelines ('the guidelines') to be developed by the European Banking Authority (EBA), and the European Insurance and Occupational Pensions Authority (EIOPA), **and,**	Alignement with enlargment to ESMA proposed during WP6. Clarification about the guidelines to take account of the fact that Member States can

provide a proportionate framework on how personal data related to a consumer that falls within the scope of this Regulation should be used. The data use perimeter ensures consistency between the scope of this Regulation, which excludes data that forms part of a creditworthiness assessment of a consumer as well as data related to life, health and sickness insurance of a consumer, and the scope of the guidelines, which set recommendations on how types of data originating from other areas of the financial sector that are in scope of this Regulation can be used to provide these products and services. The guidelines developed by the EBA should set out how other types of data that are in scope of this Regulation can be used to assess the credit score of a consumer. The guidelines developed by EIOPA should set out how data in scope of this Regulation can be used in products and services related to risk assessment and pricing in the case of life, health and sickness insurance products. The guidelines should be developed in a manner that is aligned to the needs of the consumer and proportionate to the provision of such products and services.	**potentially, the European Securities Market Authority (ESMA)** should provide a proportionate framework on how personal data related to a consumer that falls within the scope of this Regulation should be used **in order to avoid consumer harm**. The data use perimeter ensures consistency between the scope of this Regulation, which excludes data that forms part of a creditworthiness assessment of a consumer as well as data related to life, health and sickness insurance of a consumer, and the scope of the guidelines, which set recommendations on how types of data originating from other areas of the financial sector that are in scope of this Regulation can be used to provide these products and services. The guidelines developed by the EBA should set out how other types of data that are in scope of this Regulation can be used to assess the credit score of a consumer. The guidelines developed by EIOPA should set out how data in scope of this Regulation can be used in products and services related to risk assessment and pricing in the case of life, health and sickness insurance products. **The guidelines developed by EBA, EIOPA, and potentiallyESMA should set out how types of data that are in scope of this Regulation can be used for other products and services other than those mentioned above where it concludes this to be necessary for the protection of customers.** The guidelines should be developed in a manner that is aligned to the needs of the consumer and	maintain national provisions related to information requirements which are in conformity with Union law, in particular with regards to creditworthiness assessment.

	proportionate to the provision of such products and services**. These guidelines should take into account the information requirements for financial services and products established in relevant Union law, including the requirements under Directive 2023/2225. Member States should be able to maintain national provisions related to information requirements which are in conformity with Union law. This includes additional criteria and methods to assess a consumer's creditworthiness introduced by Member States, in accordance with Directive 2023/2225.**	
(20) EBA and EIOPA should closely cooperate with the European Data Protection Board when drafting the guidelines, which should build on existing recommendations on the use of consumer information in the area of consumer and mortgage credit, notably the rules on use of creditworthiness assessment under Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, the European Banking Authority's Guidelines on loan origination and monitoring, and the European Banking Authority guidelines on creditworthiness assessment developed under Directive 2014/17/EU, as well guidelines provided by European Data Protection Board on the processing of personal	(20) EBA, **ESMA** and EIOPA should closely cooperate with the European Data Protection Board when drafting the guidelines, which should build on existing recommendations on the use of consumer information in the area of consumer and mortgage credit, notably the rules on use of creditworthiness assessment under Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, the European Banking Authority's Guidelines on loan origination and monitoring, and the European Banking Authority guidelines on creditworthiness assessment developed under Directive 2014/17/EU, as well guidelines provided by European Data Protection Board on the processing of personal	

data.	data.	
(21) Customers must have effective control over their data and confidence in managing permissions they have granted in accordance with this Regulation. Data holders should therefore be required to provide customers with common and consistent financial data access permission dashboards. The permission dashboard should empower the customer to manage their permissions in an informed and impartial manner and give customers a strong measure of control over how their personal and non-personal data is used. It should not be designed in a way that would encourage or unduly influence the customer to grant or withdraw permissions. The permission dashboard should take into account, where appropriate, the accessibility requirements under Directive (EU) 2019/882 of the European Parliament and of the Council[16]. When providing a permission	(21) Customers must have effective control over their data and confidence in managing permissions they have granted in accordance with this Regulation. Data holders should therefore be required to provide customers with common and consistent financial data access permission dashboards. The permission dashboard should empower the customer to manage their permissions in an informed and impartial manner and give customers a strong measure of control over how their personal and non-personal data is used. It should not be designed in a way that would encourage or unduly influence the customer to grant or withdraw permissions. The permission dashboard should take into account, where appropriate, the accessibility requirements under Directive (EU) 2019/882 of the European Parliament and of the Council[19]. When providing a permission	

[16] Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70–115)

[19] Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70–115)

dashboard, data holders could use a notified electronic identification and trust service, such as a European Digital Identity Wallet issued by a Member State as introduced by the proposal amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity[17]. Data holders may also rely on data intermediation service providers under Regulation (EU) 2022/868 of the European Parliament and of the Council[18], to provide permission dashboards that fulfil the requirements of this Regulation	dashboard, data holders could use a notified electronic identification and trust service, such as a European Digital Identity Wallet issued by a Member State as introduced by the proposal amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity[20]. Data holders may also rely on data intermediation service providers under Regulation (EU) 2022/868 of the European Parliament and of the Council[21], to provide permission dashboards that fulfil the requirements of this Regulation. **Different data holders may collectively provide a permission dashboard to a single customer, provided that such a collective permission dashboard fulfils all the requirements set out in this Regulation.**	
(22) The permission dashboard should display the permissions given by a customer, including when personal data are shared based on consent or are necessary for the performance of a contract. The permission dashboard should warn a customer in a standard way of the risk of possible contractual	(22) The permission dashboard should display the permissions given by a customer, including when personal data are shared based on consent or are necessary for the performance of a contract. The permission dashboard should warn a customer in a standard way of the risk of possible contractual	

17 COM(2021) 281 final, 2021/0136(COD)

18 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).

20 COM(2021) 281 final, 2021/0136(COD)

21 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).

consequences of the withdrawal of a permission, but the customer should remain responsible for managing such risk. The permission dashboard should be used to manage existing permissions. Data holders should inform data users in real-time of any withdrawal of a permission. The permission dashboard should include a record of permissions that have been withdrawn or have expired for a period of up to two years to allow the customer to keep track of their permissions in an informed and impartial manner. Data users should inform data holders in real-time of new and re-established permissions granted by customers, including the duration of validity of the permission and a short summary of the purpose of the permission. The information provided on the permission dashboard is without prejudice to the information requirements under Regulation (EU) 2016/679.	consequences of the withdrawal of a permission, but the customer should remain responsible for managing such risk. The permission dashboard should be used to manage existing permissions. Data holders should inform data users in real-time of any withdrawal of a permission. The permission dashboard should include a record of permissions that have been withdrawn or have expired for a period of up to two years to allow the customer to keep track of their permissions in an informed and impartial manner. Data users should inform data holders in real-time of new and re-established permissions granted by customers, including the duration of validity of the permission and a short summary of the purpose of the permission. The information provided on the permission dashboard is without prejudice to the information requirements under Regulation (EU) 2016/679.	
(23) To ensure proportionality, certain financial institutions are out of the scope of this Regulation for reasons associated with their size or the services they provide, which would make it too difficult to comply with this regulation. These include institutions for occupational retirement provision which operate pension schemes which together do not have more than 15 members in total, as well as insurance intermediaries who are microenterprises or small or medium-sized enterprises. In addition, small or medium-sized	(23) To ensure proportionality, certain financial institutions are out of the scope of this Regulation for reasons associated with their size or the services they provide, which would make it too difficult to comply with this regulation. These include institutions for occupational retirement provision which operate pension schemes which together do not have more than 15 members in total, as well as insurance intermediaries who are microenterprises or small or medium-sized enterprises. In addition, small or medium-sized	

enterprises acting as data holders that are within the scope of this Regulation should be allowed to establish an application programming interface jointly, reducing the costs for each of them. They can also avail themselves of external technology providers which run application programming interfaces in a pooled manner for financial institutions and may charge them only a low fixed usage fee and work largely on a pay-per-call basis.	enterprises acting as data holders that are within the scope of this Regulation should be allowed to establish an application programming interface jointly, reducing the costs for each of them. They can also avail themselves of external technology providers which run application programming interfaces in a pooled manner for financial institutions and may charge them only a low fixed usage fee and work largely on a pay-per-call basis.	
(24) This Regulation introduces a new legal obligation on financial institutions acting as data holders to share defined categories of data at request of the customer. The obligation on data holders to share data at the request of the customer should be specified by making available generally recognised standards to also ensure that the data shared is of a sufficiently high quality. The data holder should make customer data available continuously for the purposes and under the conditions for which the customer has granted permission to a data user. Continuous access could consist of multiple requests to make customer data available to fulfil the service agreed with the customer. It could also consist of a one-off access to customer data. While the data holder is responsible for the interface to be available and for the interface to be of adequate quality, the interface may be provided not only by the data holder but also by another financial institution, an external IT provider, an	(24) This Regulation introduces a new legal obligation on financial institutions acting as data holders to share defined categories of data at request of the customer **or a data user acting on behalf of a customer**. The obligation on data holders to share data at the request of the customer should be specified by making ~~available generally recognised~~ **common** standards to also ensure that the data shared is of a sufficiently high quality. The data holder should make customer data available continuously for the purposes and under the conditions for which the customer has granted permission to a data user. It could consist of multiple requests to make customer data available to fulfil the service agreed with the customer. It could also consist of a one-off access to customer data. **The obligation of a data holder to make customer data available in real-time concerns the rate of access at which data should be transmitted to a customer or a data user. Customer**	

industry association or a group of financial institutions, or by a public body in a member state. For institutions for occupational retirement provisions, the interface can be integrated into pension dashboards that cover a broader range of information, as long as it complies with the requirements of this Regulation	**data should be made available in the state that it is held by the data holder at the time access is requested by a data user. Real-time access should not oblige a data holder to instantly update an account, policy or contract of a customer. The obligation to make the information available without undue delay aims at preventing interruptions of data flows from the holder. The appropriate level of security in the processing and transmission of customer data that the holder has to ensure refers to the obligations provided for in DORA. Data holders and data users should also set up security control and mitigation measures to adequately protect their customers against fraud.** While the data holder is responsible for the interface to be available and for the interface to be of adequate quality, the interface may be provided not only by the data holder but also by another financial institution, an external IT provider, an industry association or a group of financial institutions, or by a public body in a member state. For institutions for occupational retirement provisions, the interface can be integrated into pension dashboards that cover a broader range of information, as long as it complies with the requirements of this Regulation.	
(25) In order to enable the contractual and technical interaction necessary for implementing data access between multiple financial institutions, data holders and	(25) In order to enable the contractual and technical interaction necessary for implementing data access between multiple financial institutions, data holders and	

data users should be required to be part of financial data sharing schemes. These schemes should develop data and interface standards, joint standardised contractual frameworks governing access to specific datasets, and governance rules related to data sharing. In order to ensure that schemes function effectively, it is necessary to establish general principles for the governance of these schemes, including rules on inclusive governance and participation of data holders, data users and customers (to ensure balanced representation in schemes), transparency requirements, and a well-functioning appeal and review procedure (notably around the decision-making of schemes). Financial data sharing schemes must comply with Union rules in the area of consumer protection and data protection, privacy, and competition. The participants in such schemes are also encouraged to draw up codes of conduct similar to those prepared by controllers and processors under Article 40 of Regulation (EU) 2016/679. While such schemes may build upon existing market initiatives, the requirements set out in this Regulation should be specific to financial data sharing schemes or parts thereof which market participants use to fulfil their obligations under this Regulation after the data of application of these obligations.	data users should be required to be part of financial data sharing schemes. These schemes should develop data and interface standards, joint standardised contractual frameworks governing access to specific datasets, and governance rules related to data sharing. In order to ensure that schemes function effectively, it is necessary to establish general principles for the governance of these schemes, including rules on inclusive governance and participation of data holders, data users and customers (to ensure balanced representation in schemes), transparency requirements, and a well-functioning appeal and review procedure (notably around the decision-making of schemes). Financial data sharing schemes must comply with Union rules in the area of consumer protection and data protection, privacy, and competition. The participants in such schemes are also encouraged to draw up codes of conduct similar to those prepared by controllers and processors under Article 40 of Regulation (EU) 2016/679. While such schemes may build upon existing market initiatives, the requirements set out in this Regulation should be specific to financial data sharing schemes or parts thereof which market participants use to fulfil their obligations under this Regulation after the data of application of these obligations.	
	(25a) Consumer associations and customer organisations in financial data sharing schemes	As clarity was requested by some MS on what is meant by 'consumer association' and

	should represent the interests of customers who make use of financial products and services. For the purposes of this regulation, a consumer association should mean an entity which is independent of industry, commerce or business that operates in favour of the interests of retail or non-professional consumers. A consumer association should have no conflicting interests and should represent through its members the interests of retail or non-professional consumers in the area of financial services. A customer association should mean an entity that represents the interests of professional customers that are legal persons who make use of financial products and services. The competent authority that is designated to assess whether a financial data sharing scheme is in compliance with the obligations under this regulation should take into consideration the participation of relevant consumer associations and customer organisations to ensure that the interests of all customers are represented in a financial data sharing scheme.	'customer organisation' in the context of FiDA, the BE Presidency proposes to add a new recital, which also ensures that their presence in a scheme is considered in the scheme assessment made by the competent authority.
(26) A financial data sharing scheme should consist of a collective contractual agreement between data holders and data users with the objective of promoting efficiency and technical innovation in financial data sharing to the benefit of customers. In line with Union rules on competition, a financial data sharing scheme	(26) A financial data sharing scheme should consist of a collective contractual agreement between data holders and data users with the objective of promoting efficiency and technical innovation in financial data sharing to the benefit of customers. **While several schemes may arise for a given product or service in a**	A relative majority of MS prefers to have the concept of 'significant proportion of the market' clarified in Level 1. The BE Presidency proposes to address this via an addition in Recital 26. This same Recital proposes to use the same concept to determine who are the three most significant

should only impose on its members restrictions which are necessary to achieve its objectives and which are proportionate to those objectives. It should not afford its members the possibility of preventing, restricting or distorting competition in respect of a substantial part of the relevant market.	**given geographical market, it is expected for the sake of efficiency that the number of those schemes will be limited; data holders of a given scheme should together represent at least 25% of the customers served for the given product or service in the given geographical market. The number of customers served must also be a key metric to determine the three most significant data holders of a scheme.** In line with Union rules on competition, a financial data sharing scheme should only impose on its members restrictions which are necessary to achieve its objectives and which are proportionate to those objectives. It should not afford its members the possibility of preventing, restricting or distorting competition in respect of a substantial part of the relevant market.	data holders, as agreed by most MS.
(27) In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the modalities and characteristics of a financial data sharing scheme in case a scheme is not developed by the data holders and the data users. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement	(27) In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the modalities and characteristics of a financial data sharing scheme in case a scheme is not developed by the data holders and the data users. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement	

of 13 April 2016 on Better Law-Making[22]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.	of 13 April 2016 on Better Law-Making[23]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.	
(28) Data holders and data users should be allowed to use existing market standards when developing common standards for mandatory data sharing.	(28) **Common standards are a set specifications that apply to both customer data and technical interfaces to enable access to data in scope by electronic means.** Data holders and data users should be allowed to use existing market**-driven** standards when developing common standards for mandatory data sharing. **Such standards should be agreed in the context of the financial data sharing schemes. In the absence of a financial data sharing schemes, the Commission is empowered to delegated act.**	The Presidency does not modify at this stage at this stage the proposal made by the Spanish Presidency as there were no objections from MS.
(29) To ensure that data holders have an interest in providing high quality interfaces for making data available to data users, data holders should be able to request reasonable compensation from data users for putting in place application programming interfaces. Facilitating data access against compensation would ensure a fair distribution of the related costs between	(29) To ensure that data holders have an interest in providing high quality interfaces for making data available to data users, data holders should be able to request reasonable compensation from data users for putting in place application programming interfaces. Facilitating data access against compensation would ensure a fair distribution of the related costs between	

[22] OJ L 123, 12.5.2016, p. 1.
[23] OJ L 123, 12.5.2016, p. 1.

data holders and data users in the data value chain. In cases where the data user is an SME, proportionality for smaller market participants should be ensured by limiting compensation strictly to the costs incurred for facilitating data access. The model for determining the level of compensation should be defined as part of the financial data sharing schemes as provided in this Regulation.	data holders and data users in the data value chain. In cases where the data user is an SME, proportionality for smaller market participants should be ensured by limiting compensation strictly to the costs incurred for facilitating data access. The model for determining the level of compensation should be defined as part of the financial data sharing schemes as provided in this Regulation.	
(30) Customers should know what their rights are in case problems arise when data is shared and who to approach to seek compensation. Financial data sharing scheme members, including data holders and data users, should therefore be required to agree on the contractual liability for data breaches as well as how to resolve potential disputes between data holders and data users regarding liability. Those requirements should focus on establishing, as part of any contract, liability rules as well as clear obligations and rights to determine liability between the data holder and the data user. Liability issues related to the consumers as data subjects should be based on Regulation (EU) 2016/679, notably the right to compensation and liability under Article 82 of that Regulation.	(30) Customers should know what their rights are in case problems arise when data is shared and who to approach to seek compensation. Financial data sharing scheme members, including data holders and data users, should therefore be required to agree on the contractual liability for data breaches as well as how to resolve potential disputes between data holders and data users regarding liability. Those requirements should focus on establishing, as part of any contract, liability rules as well as clear obligations and rights to determine liability between the data holder and the data user. Liability issues related to the consumers as data subjects should be based on Regulation (EU) 2016/679, notably the right to compensation and liability under Article 82 of that Regulation.	
(31) To promote consumer protection, enhance customer trust and ensure a level playing field, it is necessary to lay down rules on who is eligible to access	(31) To promote consumer protection, enhance customer trust and ensure a level playing field, it is necessary to lay down rules on who is eligible to access	

customers' data. Such rules should ensure that all data users are authorised and supervised by competent authorities. This would ensure that data can be accessed only by regulated financial institutions or by firms subject to a dedicated authorisation as financial information service providers' ('FISPs') which is subject to this Regulation. Eligibility rules on FISPs, are needed to safeguard financial stability, market integrity and consumer protection, as FISPs would provide financial products and services to customers in the Union and would access data held by financial institutions and the integrity of which is essential to preserve the financial institutions' ability to continue providing financial services in a safe and sound manner. Such rules are also required to guarantee the proper supervision of FISPs by competent authorities in line with their mandate to safeguard financial stability and integrity in the Union, which would allow FISPs to provide throughout the Union the services for which they are authorised.	customers' data. Such rules should ensure that all data users are authorised and supervised by competent authorities. This would ensure that data can be accessed only by regulated financial institutions or by firms subject to a dedicated authorisation as financial information service providers' ('FISPs') which is subject to this Regulation. Eligibility rules on FISPs, are needed to safeguard financial stability, market integrity and consumer protection, as FISPs would provide financial ~~products and~~ **information** services to customers in the Union and would access data held by financial institutions and the integrity of which is essential to preserve the financial institutions' ability to continue providing financial services in a safe and sound manner. Such rules are also required to guarantee the proper supervision of FISPs by competent authorities in line with their mandate to safeguard financial stability and integrity in the Union, which would allow FISPs to provide throughout the Union the services for which they are authorised.	

(32) Data users within the scope of this Regulation should be subject to the requirements of Regulation (EU) 2022/2554 of the European Parliament and of the Council[24] and therefore be obliged to have strong cyber resilience standards in place to carry out their activities. This includes having comprehensive capabilities to enable a strong and effective ICT risk management, as well as specific mechanisms and policies for handling all ICT-related incidents and for reporting major ICT-related incidents. Data users authorised and supervised as financial information service providers under this Regulation should follow the same approach and the same principle-based rules when addressing ICT risks taking into account their size and overall risk profile, and the nature, scale and complexity of their services, activities and operations. Financial information service providers should therefore be included in the scope of Regulation (EU) 2022/2554	(32) Data users within the scope of this Regulation should be subject to the requirements of Regulation (EU) 2022/2554 of the European Parliament and of the Council[25] and therefore be obliged to have strong cyber resilience standards in place to carry out their activities. This includes having comprehensive capabilities to enable a strong and effective ICT risk management, as well as specific mechanisms and policies for handling all ICT-related incidents and for reporting major ICT-related incidents. Data users authorised and supervised as financial information service providers under this Regulation should follow the same approach and the same principle-based rules when addressing ICT risks taking into account their size and overall risk profile, and the nature, scale and complexity of their services, activities and operations. Financial information service providers should therefore be included in the scope of Regulation (EU) 2022/2554.	
(33) In order to enable effective supervision and to eliminate the possibility of evading or circumventing	(33) In order to enable effective supervision and to eliminate the possibility of evading or circumventing	Following several MS comments, the Presidency aligns the Recital with wording

[24] Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1).

[25] Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1).

supervision, financial information service providers must be either legally incorporated in the Union or in case they are incorporated in a third country appoint a legal representative in the Union. An effective supervision by the competent authorities is necessary for the enforcement of requirements under this Regulation to ensure integrity and stability of the financial system and to protect consumers. The requirement of legal incorporation of financial information service providers in the Union or the appointment of a legal representative in the Union does not amount to data localisation since this Regulation does not entail any further requirement on data processing including storage to be undertaken in Union.	supervision, financial information service providers must **only be provided by legal persons that have registered office in a Member States in which they intend to carry out or do carry out** ~~substantive~~ **at least part of their business activities.** ~~be either legally incorporated in the Union or in case they are incorporated in a third country appoint a legal representative in the Union~~. An effective supervision by the competent authorities is necessary for the enforcement of requirements under this Regulation to ensure integrity and stability of the financial system and to protect consumers. The requirement of legal incorporation of financial information service providers in the Union ~~or the appointment of a legal representative in the Union~~ does not amount to data localisation since this Regulation does not entail any further requirement on data processing including storage to be undertaken in Union.	of Art. 59(2) of Regulation (EU) 2023/1114. BE PCDY believes that this new wording provides a landing zone between the prevention of forum shopping and respect for the general principles of the internal market.
(34) A financial information service provider should be authorised in the jurisdiction of the Member State where its main establishment is located, that is, where the financial information service provider has its head office or registered office within which the principal functions and operational control are exercised. In respect of financial information service providers that do not have an establishment in the Union but require access to data in the Union and therefore fall within the scope of this	(34) A financial information service provider should be authorised in the jurisdiction of the Member State where its main establishment is located, that is, where the financial information service provider intends **to carry out** ~~substantive~~ **at least part of its business activities and where it** has its head office or registered office within which the principal functions and operational control are exercised. ~~In respect of financial information service providers that do not have an~~	Following several MS comments, the Presidency aligns the Recital with wording of Art. 59(2) of Regulation (EU) 2023/1114. BE PCDY believes that this new wording provides a landing zone between the prevention of forum shopping and respect for the general principles of the internal market.

Regulation, the Member State where those financial information service providers have appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation.	~~establishment in the Union but require access to data in the Union and therefore fall within the scope of this Regulation, the Member State where those financial information service providers have appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation.~~	
(35) To facilitate transparency regarding data access and financial information service providers, EBA should establish a register of financial information service providers authorised under this Regulation, as well as financial data sharing schemes agreed between data holders and data users.	***(35) To facilitate transparency regarding data access and financial information service providers, EBA should establish a register of financial information service providers authorised under this Regulation, as well as financial data sharing schemes agreed between data holders and data users.***	
(36) Competent authorities should be conferred with the powers necessary to supervise the way the compliance of the obligation on data holders to provide access to customer data established by this Regulation is exercised by market participants, as well as to supervise financial information service providers. Access relevant data traffic records held by a telecommunications operator as well as the ability to seize relevant documents on premises are important and necessary powers to detect and prove the existence of breaches under this Regulation. Competent authorities should therefore have the power to require such records where they are relevant to an investigation, insofar as permitted under national law. Competent authorities	(36) Competent authorities should be conferred with the powers necessary to supervise the way the compliance of the obligation on data holders to provide access to customer data established by this Regulation is exercised by market participants, as well as to supervise financial information service providers. Access relevant data traffic records held by a telecommunications operator as well as the ability to seize relevant documents on premises are important and necessary powers to detect and prove the existence of breaches under this Regulation. Competent authorities should therefore have the power to require such records where they are relevant to an investigation, insofar as permitted under national law. Competent authorities	

should also cooperate with the supervisory authorities established under Regulation (EU) 2016/679 in the performance of their tasks and the exercise of their powers in accordance with that Regulation.	should also cooperate with the supervisory authorities established under Regulation (EU) 2016/679 in the performance of their tasks and the exercise of their powers in accordance with that Regulation.	
(37) Since financial institutions and financial information service providers can be established in different Member States and supervised by different competent authorities, the application of this Regulation should be facilitated by close cooperation among relevant competent authorities, through the mutual exchange of information and the provision of assistance in the context of the relevant supervisory activities.	(37) Since financial institutions and financial information service providers can be established in different Member States and supervised by different competent authorities, the application of this Regulation should be facilitated by close cooperation among relevant competent authorities, through the mutual exchange of information and the provision of assistance in the context of the relevant supervisory activities.	
(38) To ensure a level playing field in the area of sanctioning powers, Member States should be required to provide for effective, proportionate and dissuasive administrative sanctions, including periodic penalty payments, and administrative measures for the infringement of provisions of this Regulation. Those administrative sanctions, periodic penalty payments and administrative measures should meet certain minimum requirements, including the minimum powers that should be vested on competent authorities to be able to impose them, the criteria that competent authorities should consider when imposing them, and the obligation to publish and report. Member States should lay down specific rules and effective mechanisms regarding the	(38) To ensure a level playing field in the area of sanctioning powers, Member States should be required to provide for effective, proportionate and dissuasive administrative sanctions, including periodic penalty payments, and administrative measures for the infringement of provisions of this Regulation. Those administrative sanctions, periodic penalty payments and administrative measures should meet certain minimum requirements, including the minimum powers that should be vested on competent authorities to be able to impose them, the criteria that competent authorities should consider when imposing them, and the obligation to publish and report. Member States should lay down specific rules and effective mechanisms regarding the	

application of periodic penalty payments.	application of periodic penalty payments.	
(39) In addition to administrative sanctions and administrative measures, competent authorities should be empowered to impose periodic penalty payments on financial information services providers and on those members of their management body who are identified as responsible for an ongoing infringement or who are required to comply with an order from an investigating competent authority. Since the purpose of the periodic penalty payments is to compel natural or legal persons to comply with an order from the competent authority to act, for example to accept to be interviewed or to provide information, or to terminate an ongoing breach, the application of periodic penalty payments should not prevent competent authorities from imposing subsequent administrative sanctions for the same infringement. Unless otherwise provided for by Member States, periodic penalty payments should be calculated on a daily basis.	(39) In addition to administrative sanctions and administrative measures, competent authorities should be empowered to impose periodic penalty payments on financial information services providers and on those members of their management body who are identified as responsible for an ongoing infringement or who are required to comply with an order from an investigating competent authority. Since the purpose of the periodic penalty payments is to compel natural or legal persons to comply with an order from the competent authority to act, for example to accept to be interviewed or to provide information, or to terminate an ongoing breach, the application of periodic penalty payments should not prevent competent authorities from imposing subsequent administrative sanctions for the same infringement. Unless otherwise provided for by Member States, periodic penalty payments should be calculated on a daily basis.	
(40) Irrespective of their denomination under national law, forms of expedited enforcement procedure or settlement agreements are to be found in many Member States and are used as an alternative to formal proceedings leading to imposing sanctions. An expedited enforcement procedure usually starts after an investigation has been concluded and the decision to	(40) Irrespective of their denomination under national law, forms of expedited enforcement procedure or settlement agreements are to be found in many Member States and are used as an alternative to formal proceedings leading to imposing sanctions. An expedited enforcement procedure usually starts after an investigation has been concluded and the decision to	

start proceedings leading to imposing sanctions has been taken. An expedited enforcement procedure is characterised by being shorter than a formal one, due to simplified procedural steps. Under a settlement agreement usually the parties subject to the investigation by a competent authority agree to end that investigation early, in most cases by accepting liability for wrongdoing.	start proceedings leading to imposing sanctions has been taken. An expedited enforcement procedure is characterised by being shorter than a formal one, due to simplified procedural steps. Under a settlement agreement usually the parties subject to the investigation by a competent authority agree to end that investigation early, in most cases by accepting liability for wrongdoing.	
(41) While it does not appear appropriate to strive to harmonise at Union level such expedited enforcement procedures, which were introduced by many Member States, due to the varied legal approaches adopted at national level, it should be acknowledged that such methods allow competent authorities that can apply them, to handle infringement cases in a speedier, less costly and overall efficient way under certain circumstances, and should therefore be encouraged. However, Member States should not be obliged to introduce such enforcement methods in their legal framework nor should competent authorities be compelled to use them if they do not deem it appropriate. Where Member States choose to empower their competent authorities to use such enforcement methods, they should notify the Commission of such decision and of the relevant measures regulating such powers.	(41) While it does not appear appropriate to strive to harmonise at Union level such expedited enforcement procedures, which were introduced by many Member States, due to the varied legal approaches adopted at national level, it should be acknowledged that such methods allow competent authorities that can apply them, to handle infringement cases in a speedier, less costly and overall efficient way under certain circumstances, and should therefore be encouraged. However, Member States should not be obliged to introduce such enforcement methods in their legal framework nor should competent authorities be compelled to use them if they do not deem it appropriate. Where Member States choose to empower their competent authorities to use such enforcement methods, they should notify the Commission of such decision and of the relevant measures regulating such powers.	

(42) National competent authorities should be empowered by Member States to impose such administrative sanctions and administrative measures to financial information service providers and other natural or legal persons where relevant to remedy the situation in the case of infringement. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between financial information service providers, as regards their size, characteristics and the nature of their business.	(42) National competent authorities should be empowered by Member States to impose such administrative sanctions and administrative measures to financial information service providers and other natural or legal persons where relevant to remedy the situation in the case of infringement. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between financial information service providers, as regards their size, characteristics and the nature of their business.	
(43) The publication of an administrative penalty or measure for infringement of provisions of this Regulation can have a strong dissuasive effect against repetition of such infringement. Publication also informs other entities of the risks associated with the sanctioned financial information service provider before entering into a business relationship and assists competent authorities in other Member States in relation to the risks associated with a financial information service provider when it operates in their Member States on a cross-border basis. For those reasons, the publication of decisions on administrative penalties and administrative measures should, be allowed as long as it concerns legal persons. In taking a decision whether to publish an administrative penalty or administrative measure, competent authorities should take into account the	(43) The publication of an administrative penalty or measure for infringement of provisions of this Regulation can have a strong dissuasive effect against repetition of such infringement. Publication also informs other entities of the risks associated with the sanctioned financial information service provider before entering into a business relationship and assists competent authorities in other Member States in relation to the risks associated with a financial information service provider when it operates in their Member States on a cross-border basis. For those reasons, the publication of decisions on administrative penalties and administrative measures should, be allowed as long as it concerns legal persons. In taking a decision whether to publish an administrative penalty or administrative measure, competent authorities should take into account the	

gravity of the infringement and the dissuasive effect that the publication is likely to produce. However, any such publication referred to natural persons may impinge on their rights stemming from the Charter of Fundamental Rights and the applicable Union data protection legislation in a disproportionate manner. Publication should occur in an anonymised way unless the competent authority deems it necessary to publish decisions containing personal data for the effective enforcement of this Regulation, including in the case of public statements or temporary bans. In such cases the competent authority should justify its decision.	gravity of the infringement and the dissuasive effect that the publication is likely to produce. However, any such publication referred to natural persons may impinge on their rights stemming from the Charter of Fundamental Rights and the applicable Union data protection legislation in a disproportionate manner. Publication should occur in an anonymised way unless the competent authority deems it necessary to publish decisions containing personal data for the effective enforcement of this Regulation, including in the case of public statements or temporary bans. In such cases the competent authority should justify its decision.	
(44) The exchange of information and the provision of assistance between competent authorities of the Member States is essential for the purposes of this Regulation. Consequently, cooperation between authorities should not be subject to unreasonable restrictive conditions.	(44) The exchange of information and the provision of assistance between competent authorities of the Member States is essential for the purposes of this Regulation. Consequently, cooperation between authorities should not be subject to unreasonable restrictive conditions.	
(45) The cross-border access to data by information service providers should be allowed pursuant to the freedom to provide services or the freedom of establishment. A financial information service provider wishing to have access to data held by a data holder in another Member State, should notify its intention to its competent authority, providing information on the type of data it wishes to access, the financial data sharing scheme of which it is a member and the Member States	(45) The cross-border access to data by information service providers should be allowed pursuant to the freedom to provide services or the freedom of establishment. A financial information service provider wishing to have access to data held by a data holder in another Member State, should notify its intention to its competent authority, providing information on the type of data it wishes to access, the financial data sharing scheme of which it is a member and the Member States	

in which it intends to access the data.	in which it intends to access the data.	
(46) The objectives of this Regulation, namely giving effective control of data to the customer and addressing the lack of rights of access to customer data held by data holders, cannot be sufficiently achieved by the Member States given their cross-border nature but can rather be better achieved at Union level, by means of the creation of a framework through which a larger cross-border market with data access could be developed. 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.	(46) The objectives of this Regulation, namely giving effective control of data to the customer and addressing the lack of rights of access to customer data held by data holders, cannot be sufficiently achieved by the Member States given their cross-border nature but can rather be better achieved at Union level, by means of the creation of a framework through which a larger cross-border market with data access could be developed. 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.	
(47) The proposal for a Data Act [Regulation (EU) XX] establishes a horizontal framework for access to and use of data across the Union. This Regulation complements and specifies the rules laid down in the proposal for a Data Act [Regulation (EU) XX] Therefore those rules also apply to the sharing of data governed by this Regulation. This includes provisions on the conditions under which data holders make data available to data recipients, on compensation, dispute settlement bodies to facilitate agreements between data sharing parties, technical protection measures,	(47) The proposal for a Data Act [Regulation (EU) XX] establishes a horizontal framework for access to and use of data across the Union. This Regulation complements and specifies the rules laid down in the proposal for a Data Act [Regulation (EU) XX] Therefore those rules also apply to the sharing of data governed by this Regulation. This includes provisions on the conditions under which data holders make data available to data recipients, on compensation, dispute settlement bodies to facilitate agreements between data sharing parties, technical protection measures,	

international access and transfer of data and on authorised use or disclosure of data.	international access and transfer of data and on authorised use or disclosure of data.	
(48) Regulation (EU) 2016/679 applies when personal data are processed. It provides for the rights of a data subject, including the right of access and right to port personal data. This Regulation is without prejudice to the rights of a data subject provided under Regulation (EU) 2016/679, including the right of access and right to data portability. This Regulation creates a legal obligation to share customer personal and non-personal data upon customer's request and mandates the technical feasibility of access and sharing for all types of data within the scope of this Regulation. The granting of permission by a customer is without prejudice to the obligations of data users under Article 6 of Regulation (EU) 2016/679. Personal data that are made available and shared with a data user should only be processed for services provided by a data user where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, when applicable, where the requirements of Article 9 of that Regulation on the processing of special categories of data are met.	(48) Regulation (EU) 2016/679 applies when personal data are processed. It provides for the rights of a data subject, including the right of access and right to port personal data. This Regulation is without prejudice to the rights of a data subject provided under Regulation (EU) 2016/679, including the right of access and right to data portability. This Regulation creates a legal obligation to share customer personal and non-personal data upon customer's request and mandates the technical feasibility of access and sharing for all types of data within the scope of this Regulation. The granting of permission by a customer is without prejudice to the obligations of data users under Article 6 of Regulation (EU) 2016/679. Personal data that are made available and shared with a data user should only be processed for services provided by a data user where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, when applicable, where the requirements of Article 9 of that Regulation on the processing of special categories of data are met.	
(49) This Regulation builds upon and complements the 'open banking' provisions under Directive (EU) 2015/2366 and is fully consistent with Regulation (EU) …/202.. of the European Parliament and of the Council	(49) This Regulation builds upon and complements the 'open banking' provisions under Directive (EU) 2015/2366 and is fully consistent with Regulation (EU) …/202.. of the European Parliament and of the Council	

on payment services and amending Regulation (EU) No 1093/2010[26] and Directive (EU) …/202.. of the European Parliament and of the Council on payment services and electronic money services amending Directives 2013/36/EU and 98/26/EC and repealing Directives 2015/2355/EU and 2009/110/EC[27]. The initiative complements the already existing 'open banking' provisions under Directive (EU) 2015/2366 that regulate access to payment account data held by account servicing payment service providers. It builds on the lessons learned on 'open banking' as identified in the review of Directive 2015/2366/EU.[28] This Regulation ensures coherence between financial data access and open banking where additional measures are necessary, including on permission dashboards, the legal obligations to grant direct access to customer data, and the requirement for data holders to put in place	on payment services and amending Regulation (EU) No 1093/2010[29] and Directive (EU) …/202.. of the European Parliament and of the Council on payment services and electronic money services amending Directives 2013/36/EU and 98/26/EC and repealing Directives 2015/2355/EU and 2009/110/EC[30]. The initiative complements the already existing 'open banking' provisions under Directive (EU) 2015/2366 that regulate access to payment account data held by account servicing payment service providers. It builds on the lessons learned on 'open banking' as identified in the review of Directive 2015/2366/EU.[31] This Regulation ensures coherence between financial data access and open banking where additional measures are necessary, including on permission dashboards, the legal obligations to grant direct access to customer data, and the requirement for data holders to put in place	

[26] Regulation (EU) … (OJ ….)
[27] Directive (EU) … (OJ…).
[28] Report from the Commission on the review of Directive 2015/2366/EU of the European Parliament and of the Council on payment services in the internal market
[29] Regulation (EU) … (OJ ….)
[30] Directive (EU) … (OJ…).
[31] Report from the Commission on the review of Directive 2015/2366/EU of the European Parliament and of the Council on payment services in the internal market

interfaces.	interfaces.	

(50) This Regulation does not affect the provisions	(50) This Regulation does not affect the provisions	

related to data access and data sharing in Union	related to data access and data sharing in Union	

financial services legislation, namely the following: (i)	financial services legislation, namely the following: (i)	

the provisions on access to benchmarks and the access	the provisions on access to benchmarks and the access	

regime for exchange-traded derivatives between trading	regime for exchange-traded derivatives between trading	

venues and Central Counterparties laid down in	venues and Central Counterparties laid down in	

Regulation (EU) No 600/2014 of the European	Regulation (EU) No 600/2014 of the European	

Parliament and of the Council[32]; (ii) the rules on access	Parliament and of the Council[38]; (ii) the rules on access	

[32] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173 12.6.2014, p. 84).

[38] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173 12.6.2014, p. 84).

of creditors to the database under Directive 2014/17/EU of the European Parliament and of the Council[33]; (iii) the rules on access to securitisation repositories under Regulation (EU) 2017/2402 of the European Parliament	of creditors to the database under Directive 2014/17/EU of the European Parliament and of the Council[39]; (iii) the rules on access to securitisation repositories under Regulation (EU) 2017/2402 of the European Parliament	

[33] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 060 28.2.2014, p. 34).

[39] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 060 28.2.2014, p. 34).

and of the Council[34]; (iv) the rules on the right to request from the insurer a claims history statement and on the access to central repositories to basic data necessary for the settlement of claims under Directive 2009/103/EC of the European Parliament and of the Council[35]; (v) the right to access and transfer all necessary personal data to a new pan-European Personal Pension Product provider under Regulation (EU) 2019/1238 of the European Parliament and of the	and of the Council[40]; (iv) the rules on the right to request from the insurer a claims history statement and on the access to central repositories to basic data necessary for the settlement of claims under Directive 2009/103/EC of the European Parliament and of the Council[41]; (v) the right to access and transfer all necessary personal data to a new pan-European Personal Pension Product provider under Regulation (EU) 2019/1238 of the European Parliament and of the	

34 Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347 28.12.2017, p. 35).

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

40 Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347 28.12.2017, p. 35).

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

Council[36]; and (vi) the provisions on outsourcing and reliance under Directive (EU) 2018/843 of the European Parliament and of the Council[37]. Furthermore, this Regulation does not affect the application of EU or national rules of competition of the Treaty on the Functioning of the European Union and any secondary Union acts. This Regulation is also without prejudice to accessing, sharing and using data without making use of the data access obligations established by this Regulation on a purely contractual basis.	Council[42]; and (vi) the provisions on outsourcing and reliance under Directive (EU) 2018/843 of the European Parliament and of the Council[43]. Furthermore, this Regulation does not affect the application of EU or national rules of competition of the Treaty on the Functioning of the European Union and any secondary Union acts. This Regulation is also without prejudice to accessing, sharing and using data without making use of the data access obligations established by this Regulation on a purely contractual basis.	
(51) As the sharing of data related to payment accounts is regulated under a different regime set out in Directive (EU) 2015/2366, it is deemed appropriate to set, in this Regulation, a review clause for the Commission to examine whether the introduction of the rules under this Regulation impacts the way AISPs access data and whether it would be appropriate to streamline the rules	(51) As the sharing of data related to payment accounts is regulated under a different regime set out in Directive (EU) 2015/2366, it is deemed appropriate to set, in this Regulation, a review clause for the Commission to examine whether the introduction of the rules under this Regulation impacts the way AISPs access data and whether it would be appropriate to streamline the rules	

36 Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).

37 Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

42 Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).

43 Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

governing the sharing of data applicable to AISPs.	governing the sharing of data applicable to AISPs.	
(52) Given that EBA, EIOPA and ESMA should be mandated to make use of their powers in relation to financial information service providers, it is necessary to ensure that they are able to exercise all of their powers	(52) Given that EBA, EIOPA and ESMA should be mandated to make use of their powers in relation to financial information service providers, it is necessary to ensure that they are able to exercise all of their powers	

and tasks in order to fulfil their objectives of protecting the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses and to ensure that financial information service providers are covered by Regulations (EU) No	and tasks in order to fulfil their objectives of protecting the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses and to ensure that financial information service providers are covered by Regulations (EU) No	

1093/2010[44], (EU) No 1094/2010[45] and (EU) No 1095/2010[46] of the European Parliament and of the Council. Those Regulations should therefore be amended accordingly.	1093/2010[47], (EU) No 1094/2010[48] and (EU) No 1095/2010[49] of the European Parliament and of the Council. Those Regulations should therefore be amended accordingly.	
(53) The date of application of this Regulation should	(53) The date of application of this Regulation should	

44 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).

45 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).

46 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).

47 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).

48 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).

49 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).

be deferred by XX months in order to allow for the adoption of regulatory technical standards and delegated acts that are necessary to specify certain elements of this Regulation.	be deferred by XX months in order to allow for the adoption of regulatory technical standards and delegated acts that are necessary to specify certain elements of this Regulation.	
(54) The European Data Protection Supervisor was consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council50 and delivered an opinion on [……]	(54) The European Data Protection Supervisor was consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council51 and delivered an opinion on [……]	
HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
TITLE I Subject Matter, Scope, and Definitions	TITLE I Subject Matter, Scope, and Definitions	
Article 1 Subject matter	Article 1 Subject matter	
This Regulation establishes rules on the access, sharing and use of certain categories of customer data in	This Regulation establishes rules on the access, sharing and use of **the** ~~certain~~ categories of customer data **as**	The BE Presidency does not modify at this stage at this stage the proposal made by the

50 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).

51 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).

financial services.	**listed in Article 2(1)** ~~in financial services~~**.**	Spanish Presidency as this was accepted by majority of MS
This Regulation also establishes rules concerning the authorisation and operation of financial information service providers.	This Regulation also establishes rules concerning the authorisation and operation of financial information service providers.	
Article 2 Scope	Article 2 Scope	
1. This Regulation applies to the following categories of customer data on:	1. This Regulation applies to the following categories of customer data on:	
(a) mortgage credit agreements, loans and accounts, except payment accounts as defined in the Payment Services Directive (EU) 2015/2366, including data on balance, conditions and transactions;	(a) ~~mortgage credit agreements,~~ ~~loans~~ **credit agreements** ~~**as defined in Article 3 (4) of Directive (EU) 2021/2167**~~ and accounts, except payment accounts as defined in **Article 2 (13) of** ~~the Payment Services~~ Directive (EU) 2015/2366, including data on balance, ~~conditions~~ **the terms of the credit agreement between the data holder and the customer** and transactions; **This also includes data which forms part of a creditworthiness assessment of a firm and which is collected as part of a credit agreement application process or a request for a credit rating; Data collected as part of a creditworthiness assessment of consumers shall be excluded;**	The BE Presidency proposes to only refer here to "credit agreements", with a generic/large definition provided under Article 3 (see below). Because the gradual phasing-in might differ specifically for consumer credit and mortgage credit, there are also definitions provided under Article 3. It is also proposed to include under (a) the data that forms part of creditworthiness assessment, as those data are not a product themselves, contrary to what is listed under (a) to (e), and they are related to credit agreements. Proposal is also to mention explicitly in the text that creditworthiness assessment of consumers is excluded, even

		though this is clear from Recital 9.
(b) savings, investments in financial instruments, insurance-based investment products, crypto-assets, real estate and other related financial assets as well as the economic benefits derived from such assets; including data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 25 of Directive 2014/65/EU of the European Parliament and of the Council[52];	(b) savings **comprising term deposits, structured deposits, and savings accounts**, investments in financial instruments, insurance-based investment products ~~**as defined in Article 2(1)(17) of Directive (EU)2016/97**~~**,** crypto-assets ~~**falling within the scope of Regulation (EU) 2023/1114 of the European Parliament and of the Council**~~, ~~immovable property real estate and other related financial assets~~ as well as the economic benefits derived from such assets; including **data related to customers' sustainability preferences and other** data collected for the purposes of carrying out**:** **i.** an assessment of suitability and appropriateness in accordance with Article 25 of Directive 2014/65/EU of the European Parliament and of the Council[53]; **ii. an assessment of suitability and appropriateness in accordance with Article 30 of Directive (EU) 2016/97 of the European Parliament and of the Council;** **iii. a suitability assessment in accordance with Article 81(1) of Regulation (EU) 2023/1114;** **iv. an entry knowledge test in accordance with**	BE Presidency proposes to explain what is understood under 'savings'. BE Presidency proposes to have definitions under Article 3. BE Presidency proposes to refer also to the entry knowledge test of Regulation (EU) 2020/1503 as proposed by one MS, given the similarity with suitability and appropriateness assessment. The BE Presidency proposes to delete the reference to immovable property/real estate, as it is not a financial product. Data on immovable property / real estate would however still be in scope if it is linked to a financial product (mortgage credit directive; property insurance). The BE Presidency does not modify at this stage the other drafting proposals made by the Spanish Presidency as this was accepted by majority of MS

[52] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (OJ L 173, 12.6.2014, p. 349).

[53] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (OJ L 173, 12.6.2014, p. 349).

	Article 21 of Regulation (EU) 2020/1503	
(c) pension rights in occupational pension schemes, in accordance with Directive 2009/138/EC and Directive (EU) 2016/2341 of the European Parliament and of the Council[54] ;	(c) ~~pension rights in~~ **officially recognised** occupational pension schemes, in accordance with Directive 2009/138/EC and Directive (EU) 2016/2341 of the European Parliament and of the Council[55] **insofar as they are accessible for all interested consumers, with the exception of data related to sickness and health cover of a member or beneficiary**;	BE PCDY proposes to slightly adapt the wording, by using the terminology as used in IDD Article (2)(1)(17), exclusion (c) of the IBIP definition, which refers to those 2nd-pillar pension products, which are here in scope. Reference to Solvency II Directive is maintained to ensure level-playing field between IORPs and insurers, as in above-mentioned reference to IDD. Some MS advocate for the exclusion of mandatory occupational pension schemes from FiDA, as in those schemes customers are not stakeholders and therefore cannot manage the contract data. BE Presidency would like to hear the views of MS regarding the proposed addition of "*insofar as they are accessible for all interested*

[54] Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast) (OJ L 354, 23.12.2016, p. 37).

[55] Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast) (OJ L 354, 23.12.2016, p. 37).

		consumers". The BE PCDY also proposes to make it clear that data related to sickness and health cover are not in scope also in the case of pension schemes. Indeed, despite Recital (9) states that "*This Regulation should therefore not cover data related to the sickness and health insurance of a consumer in accordance with Directive 2009/138/EC*", is seems useful to include it here also for pension products which do not fall under the non-life insurance products as considered under article 2(1)(e).
(d) pension rights on the provision of pan-European personal pension products, in accordance with Regulation (EU) 2019/1238;	(d) **~~data related to a~~ personal pension product~~s as defined in Art 2(1) of Regulation (EU) 2019/1238~~, including information held on Pan European Pension Product accounts and Pan Europan Pension Product contracts** ~~pension rights on the provision of~~	"*data related to*" deleted for linguistic reason, as the text above is "*This Regulation applies to the following categories of customer data on*:"

	~~pan-European personal pension products, in accordance with Regulation (EU) 2019/1238~~;	The BE Presidency proposes to have definitions under Article 3.
(e) non-life insurance products in accordance with Directive 2009/138/EC, with the exception of sickness and health insurance products; including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/97 of the European Parliament and Council34 , and data collected for the purposes of an appropriateness and suitability assessment in accordance with Article 30 of Directive (EU) 2016/97.	(e) non-life insurance products in accordance with Directive 2009/138/EC, with the exception of sickness and health insurance products; including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/97 ~~of the European Parliament and Council, and data collected for the purpose of an appropriateness and suitability assessment in accordance with Article 30 of Directive (EU) 2016/97~~.	The Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
(f) data which forms part of a creditworthiness assessment of a firm which is collected as part of a loan application process or a request for a credit rating.	~~(f) data which forms part of a creditworthiness assessment of a firm which is collected as part of a loan~~ **~~credit agreement~~** ~~application process or a request for a credit rating.~~	The BE PCDY proposes to include this under (a) above, as proposed by one MS.
2. This Regulation applies to the following entities when acting as data holders or data users:	2. This Regulation applies to the following entities when acting as data holders or data users:	
(a) credit institutions;	(a) credit institutions;	
(b) payment institutions, including account information service providers and payment institutions exempted	(b) payment institutions, including account information service providers ~~and payment institutions exempted~~	The BE Presidency does not modify at this stage the proposal made by the Spanish

pursuant to Directive (EU) 2015/2366;	~~pursuant to Directive (EU) 2015/2366~~;	Presidency as this was accepted by majority of MS
(c) electronic money institutions, including electronic money institutions exempted pursuant to Directive 2009/110/EC of the European Parliament and of the Council[56]	(c) electronic money institutions~~, including electronic money institutions exempted pursuant to Directive 2009/110/EC of the European Parliament and of the Council~~;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS
(d) investment firms;	(d) investment firms;	
(e) crypto-asset service providers;	(e) crypto-asset service providers;	
(f) issuers of asset-referenced tokens;	(f) issuers of asset-referenced tokens;	
(g) managers of alternative investment funds;	(g) managers of alternative investment funds;	
(h) management companies of undertakings for collective investment in transferable securities;	(h) management companies of undertakings for collective investment in transferable securities;	
(i) insurance ~~and reinsurance~~ undertakings;	(i) insurance ~~and reinsurance~~ undertakings;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority

[56] Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7)

		of MS.
(j) insurance intermediaries and ancillary insurance intermediaries;	(j) insurance intermediaries and ancillary insurance intermediaries;	
(k) institutions for occupational retirement provision ;	(k) institutions for occupational retirement provision **(IORP), excluding small IORP as referred to in Article 5 of Directive (EU) 2016/2341**;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
(l) credit rating agencies;	(l) credit rating agencies;	
(m) crowdfunding service providers;	(m) crowdfunding service providers**, which are not microenterprises or small or medium-sized enterprises according to Recommendation 2003/361/EC**;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
(n) PEPP providers;	(n) PEPP providers;	
(o) financial information service providers	(o) financial information service providers	
3. This Regulation shall not apply to the entities referred to in Article 2(3), points (a) to (e), of Regulation (EU) 2022/2554.	3. This Regulation shall not apply**:**	
	i. to the entities referred to in Article 2(3), points (a) to (e), of Regulation (EU) 2022/2554**;** **ii. to the entities referred to in Article 32 of Directive**	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority

	(EU) 2015/2366; **iii. to the data referred to in Articles 9 and 10 of Regulation (EU) 2016/679 of the European Parliament and of the Council.**	of MS.
	3a. By way of derogation from paragraph 3, Member States may decide to apply this Regulation to the entities referred to in Article 2(3)(e) of Regulation (EU) 2022/2554.	One MS has suggested the possibility to bring insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries which are microenterprises or small or medium-sized enterprises into the FiDA scope as an opt-in. The BE Presidency proposes to add this provision, which is however subject to legal feasibility.
4. This Regulation does not affect the application of other Union legal acts regarding access to and sharing of customer data referred to in paragraph 1, unless specifically provided for in this Regulation.	4. This Regulation does not affect the application of other Union legal acts regarding access to and sharing of customer data referred to in paragraph 1, unless specifically provided for in this Regulation. **This Regulation does not preclude the sharing of the data that falls under the scope by different means, for example on a contractual basis or with reference to national law, than those established in the Regulation.**	A majority of MS agreed with the ES proposal, but some asked for clarification of "*by different means*" and for reference to national legislation; BE PCDY takes into account an amendment proposed by one MS that could answer those questions.
Article 3 Definitions	Article 3 Definitions	
For the purposes of this Regulation, the following	For the purposes of this Regulation, the following	

definitions apply:	definitions apply:	
(1) 'consumer' means a natural person who is acting for purposes other than his or her trade, business or profession;	(1) 'consumer' means a natural person who is acting for purposes other than his or her trade, business or profession;	
(2) 'customer' means a natural or a legal person who makes use of financial products and services,	(2) 'customer' means a natural or a legal person who makes use of financial products and services, **and in the case of insurance, it means insured persons or policyholders, excluding third-party beneficiaries**;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
(3) 'customer data' means personal and non-personal data that is collected, stored and otherwise processed by a financial institution as part of their normal course of business with customers which covers both data provided by a customer and data generated as a result of customer interaction with the financial institution;	(3) 'customer data' means personal and non-personal data **in digital form** that is collected, stored and ~~otherwise processed~~ **managed** by a financial institution as part of their normal course of business with customers which covers both data provided by a customer and ~~data generated as a result of customer interaction with the financial institution~~ **transaction data** ~~related to a~~ **that results from the** customer **interaction with** ~~held by a~~ **that financial institution, as well as data on the products held by a customer**;	BE Presidency proposes an amended version of the 'customer data' definition, notably to make it clear that characteristics of a product are considered as customer data
(4) 'competent authority' means the authority designated by each Member State in accordance with Article 17 and for financial institutions it means any of the competent authorities listed in Article 46 of Regulation (EU) 2022/2554;	(4) 'competent authority' means the authority designated by each Member State in accordance with Article 17 and for financial institutions it means any of the competent authorities listed in Article 46 of Regulation (EU) 2022/2554;	

	(4a) 'credit agreement' means ~~credit agreement as defined in Article 3 point (4) of Directive 2021/2167~~ an agreement whereby a creditor grants a credit in the form of a deferred payment, a loan or other similar financial accommodation;	This definition is inspired from the NPL Directive (directive 2021/2167), the MCD Directive and the Consumer Credit Directive but without the specificities of such directive (limited to the credit granted by credit institutions for the NPL or to credit to consumers for the CCD…), in order to get a large and general definition for all credit agreements whatever the status of the creditor who grants it or the status of the customer. The creditor can be a credit institution but also a "non credit institution" (payment institution, investment firm…) The regulation will still only apply to entities listed under Article 2(2), which only includes institutions supervised under EU law and not national regimes. If some MS want to enlarge the scope to such entities, also being authorised to grant credit agreements under national regimes, it is still possible but by means of a specific national legislation, applying the same rules as the FIDA regulation or similar rules to such entities, only on the territory of this MS.
	(4b) 'credit agreement for consumer' means a credit agreement as defined in Article 3(3) of Directive (EU) 2023/2225;	The BE Presidency proposes to keep a definition of the consumer credit agreement, as it might be useful for the phasing-in foreseen in the gradual approach. This is

		useful to define the product, not the institutions that grant it.
	(4c) 'creditworthiness assessment' means the evaluation of the prospect for the debt obligation resulting from the credit agreement to be met.	BE Presidency proposes to introduce a definition for creditworthiness assessment, which is inspired by Directive 2014/17/EU.
(5) 'data holder' means a financial institution other than an account information service provider that collects, stores and otherwise processes the data listed in Article 2(1) ;	(5) 'data holder' means a financial institution other than an account information service provider that collects, stores and otherwise processes the data listed in Article 2(1) ;	
(6) 'data user' means any of the entities listed in Article 2(2) who, following the permission of a customer, has lawful access to customer data listed in Article 2(1) ;	(6) 'data user' means any of the entities listed in Article 2(2) who, following the permission of a customer, has lawful access to customer data listed in Article 2(1) ;	
	(6a) 'financial information service' means an online service of collecting, consolidating and enabling the comparison of customer data held by one or several data holders;	BE Presidency understands that the definition raises some questions, and that another round of discussion is needed
	(6c) 'financial data sharing scheme' means a collective contractual agreement between data holders and data users that governs how customer data can be shared between them in accordance to Article 10 of this regulation;	As asked by some MS, BE Presidency proposes to introduce a definition for FDSS.
(7) 'financial information service provider' means a data	(7) 'financial information service provider' means a data	

user that is authorised under Article 14 to access the customer data listed in Article 2(1) for the provision of financial information services;	user that is authorised under Article 14 to access the customer data listed in Article 2(1) for the provision of financial information services;	
(8) 'financial institution' means the entities listed in Article 2(2) points (a) to (n), who are either data holders, data users or both for the purposes of this Regulation.	(8) 'financial institution' means the entities listed in Article 2(2) points (a) to (n), who are either data holders, data users or both for the purposes of this Regulation.	
	(8a) 'financial instrument' means a financial instrument as defined in Article 4(1)(15) of Directive (EU) 2014/65 and excluding derivative transactions used for risk management purposes;	BE Presidency proposes to introduce a definition for 'financial instrument'
	(8b) 'insurance-based investment product' means an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations, and does not include:	BE Presidency proposes to define IBIP in this Regulation, inspired from the definition in IDD, but with less exclusions
	(a) non-life insurance products as listed in Annex I to Directive 2009/138/EC (Classes of non-life insurance);	
	(b) life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or disability;	

	(c) officially recognised occupational pension schemes falling under the scope of Directive 2016/2341 or Directive 2009/138/EC;	
	(d) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider;	
	(8c) 'crypto-asset' means a crypto-asset as defined in Article 3(1)(5) of Regulation (EU) 2023/1114, excluding those crypto assets as referred to in Article 2(3) and Article (2)(4) of Regulation (EU) 2023/1114;	BE Presidency proposes to introduce here the definition of 'crypto-asset', and only consider those crypto-assets that fall under MiCA (the ones that fall under other directives, such as crypto-assets that are financial instruments under MiFID, do not qualify as 'crypto-asset' under FiDA)
	(8d) 'motor insurance' means an insurance against civil liability in respect of the use of motor vehicles in accordance with Directive 2009/103/EC;	BE Presidency proposes to introduce a definition of 'motor insurance', as it might be useful for the phasing-in foreseen in the gradual approach
	(8e) 'personal pension product' means a pensional pension product as defined in Article 2(1) of Regulation (EU) 2019/1238;	BE PCDY proposes to introduce here the definition of 'personal pension product' as proposed under ES PCDY
(9) 'investment account' means any register managed by	~~(9) 'investment account' means any register managed by~~	The BE Presidency does not modify at this

an investment firm, credit institution or an insurance broker about the current holdings in financial instruments or insurance-based investment products of their client, including past transactions and other data points relating to lifecycle events of that instrument	~~an investment firm, credit institution or an insurance broker about the current holdings in financial instruments or insurance-based investment products of their client, including past transactions and other data points relating to lifecycle events of that instrument;~~	stage the proposal made by the Spanish Presidency as there were no objections from MS.
(10) 'non-personal data' means data other than personal data as defined in Article 4(1) of Regulation (EU) 2016/679;	(10) 'non-personal data' means data other than personal data as defined in Article 4(1) of Regulation (EU) 2016/679;	
(11) 'personal data' means personal data as defined in Article 4(1) of Regulation 2016/679;	(11) 'personal data' means personal data as defined in Article 4(1) of Regulation 2016/679;	
(12) 'credit institution' means a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council[57];	(12) 'credit institution' means a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council[58];	

[57] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

[58] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

(13) 'investment firm' means an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU;	(13) 'investment firm' means an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU;	
(14) 'crypto asset service provider' means a crypto asset service providers as referred to in Article 3(1), point (15) of Regulation (EU) 2023/1114 of the European Parliament and of the Council[59];	(14) 'crypto asset service provider' means a crypto asset service providers as referred to in Article 3(1), point (15) of Regulation (EU) 2023/1114 of the European Parliament and of the Council[60];	
(15) 'issuer of asset referenced tokens' means an issuer of asset referenced tokens authorised under Article 21 of Regulation (EU) 2023/1114;	(15) 'issuer of asset referenced tokens' means an issuer of asset referenced tokens authorised under Article 21 of Regulation (EU) 2023/1114;	
(16) 'payment institution' means a payment institution as defined in Article 4(4), of Directive (EU) 2015/2366;	(16) 'payment institution' means a payment institution as defined in Article 4(4), of Directive (EU) 2015/2366;	
	(16a) 'account' means an arrangement, irrespective of its legal form, by which a financial institution accepts a customer's financial assets on behalf of the customer in accordance with the agreed terms;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
(17) 'account information service provider' means an	(17) 'account information service provider' means an	

[59] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).

[60] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).

account information service provider as referred to in Article 33(1) of Directive (EU) 2015/2366;	account information service provider as referred to in Article 33(1) of Directive (EU) 2015/2366;	
	(17a) 'crowdfunding service providers' means a crowdfunding service provider as defined in Article 2(1), point (e), of Regulation (EU) 2020/1503 of the European Parliament and of the Council	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as there were no objections from MS.
(18) 'electronic money institution' means an electronic money institution as defined in Article 2(1), of Directive 2009/110/EC;	(18) 'electronic money institution' means an electronic money institution as defined in Article 2(1), of Directive 2009/110/EC;	
(19) 'electronic money institution exempted pursuant to Directive 2009/110/EC' means an electronic money institution benefitting from a waiver as referred to in Article 9(1) of Directive 2009/110/EC;	~~(19) 'electronic money institution exempted pursuant to Directive 2009/110/EC' means an electronic money institution benefitting from a waiver as referred to in Article 9(1) of Directive 2009/110/EC;~~	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
(20) 'manager of alternative investment funds' means a	(20) 'manager of alternative investment funds' means a	

manager of alternative investment funds as defined in Article 4(1), point (b), of Directive 2011/61/EU of the European Parliament and of the Council[61];	manager of alternative investment funds as defined in Article 4(1), point (b), of Directive 2011/61/EU of the European Parliament and of the Council[62];	
(21) 'management company of undertakings for collective investment in transferable securities' means a management company as defined in Article 2(1), point (b), of Directive 2009/65/EC of the European Parliament and of the Council[63];	(21) 'management company of undertakings for collective investment in transferable securities' means a management company as defined in Article 2(1), point (b), of Directive 2009/65/EC of the European Parliament and of the Council[64];	
	(21a) 'mortgage credit agreement' means a credit agreement as referred to in Article 3 point (1) of Directive 2014/17/EU;	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS. Definition of the mortgage credit agreements by reference to the relevant EU directives might be useful for the phasing-in foreseen in the gradual approach. This is useful to define the product, not the

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

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

63 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302, 17.11.2009, p. 32).

64 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302, 17.11.2009, p. 32).

		institutions that grant it.
(22) 'insurance undertaking' means an insurance undertaking as defined in Article 13(1) of Directive 2009/138/EC;	(22) 'insurance undertaking' means an insurance undertaking as defined in Article 13(1) of Directive 2009/138/EC;	
(23) 'reinsurance undertaking' means a reinsurance undertaking as defined in Article 13(4) of Directive 2009/138/EC;	~~(23) 'reinsurance undertaking' means a reinsurance undertaking as defined in Article 13(4) of Directive 2009/138/EC;~~	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as there were no objections from MS.
(24) 'insurance intermediary' means an insurance intermediary as defined in Article 2(1), point (3), of Directive (EU) 2016/97 of the European Parliament and of the Council[65];	(24) 'insurance intermediary' means an insurance intermediary as defined in Article 2(1), point (3), of Directive (EU) 2016/97 of the European Parliament and of the Council[66];	
(25) 'ancillary insurance intermediary' means an ancillary insurance intermediary as defined in Article 2(1), point (4), of Directive (EU) 2016/97;	(25) 'ancillary insurance intermediary' means an ancillary insurance intermediary as defined in Article 2(1), point (4), of Directive (EU) 2016/97;	
(26) 'institution for occupational retirement provision' means an institution for occupational retirement provision as defined in Article 6(1), of Directive (EU)	(26) 'institution for occupational retirement provision' means an institution for occupational retirement provision as defined in Article 6(1), of Directive (EU)	

65 Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19).

66 Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19).

2016/2341;	2016/2341;	
(27) 'credit rating agency' means a credit rating agency as defined in Article 3(1), point (b), of Regulation (EC) No 1060/2009 of the European Parliament and of the Council[67];	(27) 'credit rating agency' means a credit rating agency as defined in Article 3(1), point (b), of Regulation (EC) No 1060/2009 of the European Parliament and of the Council[68];	
(28) "PEPP provider" means a PEPP provider as defined in Article 2, point (15) of Regulation (EU) 2019/1238 of the European Parliament and of the Council;	(28) "PEPP provider" means a PEPP provider as defined in Article 2, point (15) of Regulation (EU) 2019/1238 of the European Parliament and of the Council;	
(29) 'legal representative' means a natural person domiciled in the Union or a legal person with its registered office in the Union, and which, expressly designated by a financial information service provider established in a third country, acts on behalf of such financial information service provider vis-à-vis the authorities, clients, bodies and counterparties to the financial information service provider in the Union with regard to the financial information service provider's obligations under this Regulation;	~~(29) 'legal representative' means a natural person domiciled in the Union or a legal person with its registered office in the Union, and which, expressly designated by a financial information service provider established in a third country, acts on behalf of such financial information service provider vis-à-vis the authorities, clients, bodies and counterparties to the financial information service provider in the Union with regard to the financial information service provider's obligations under this Regulation;~~	

[67] Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

[68] Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

	(29a) 'trade secret' means trade secret as defined in Article 2(1) of Directive (EU) 2016/943.	The BE Presidency does not modify at this stage the proposal made by the Spanish Presidency as this was accepted by majority of MS.
	(30) 'Joint Committee' means the committee referred to in Article 54 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010;	MS proposal to define 'Joint Committee' as in Regulation (EU) 2022/2554
	(31) 'gatekeeper' means an undertaking providing core platform services, designated pursuant to Article 3 of Regulation (EU) 2022/1925;	Definition of gatekeepers following Regulation (EU) 2022/1925.
	(32) 'Legal Entity Identifier' or 'LEI' means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity	Definition of 'Legal Entity Identifier' or 'LEI' following International Organization for Standardization
TITLE II Data Access	TITLE II Data Access	
Article 4 Obligation to make available data to the customer	Article 4 Obligation to make available data to the customer	
The data holder shall, upon request from a customer submitted by electronic means, make the data listed in Article 2(1) available to the customer without undue delay, free of charge, continuously and in real-time.	The data holder shall, upon request from a customer submitted by electronic means, make the data listed in Article 2(1) available to the customer without undue delay, free of charge, continuously and in real-time.	

Article 5 Obligations on a data holder to make customer data available to a data user	Article 5 Obligations on a data holder to make customer data available to a data user	
1. The data holder shall, upon request from a customer submitted by electronic means, make available to a data user the customer data listed in Article 2(1) for the purposes for which the customer has granted permission to the data user. The customer data shall be made available to the data user without undue delay, continuously and in real-time.	1. The data holder shall, upon request **submitted by electronic means** from a customer **or a data user acting on behalf of the customer** ~~**submitted by electronic means**~~, make available to a data user the customer data listed in Article 2(1) **only** for the purposes **relating to the specific service** for which the customer has granted permission to the data user. The customer data shall be made available to the data user without undue delay, continuously and in real-time.	
2. A data holder may claim compensation from a data user for making customer data available pursuant to paragraph 1 only if the customer data is made available to a data user in accordance with the rules and modalities of a financial data sharing scheme, as provided in Articles 9 and 10, or if it is made available pursuant to Article 11.	2. A data holder may claim compensation from a data user for making customer data available pursuant to paragraph 1 only if the customer data is made available to a data user in accordance with the rules and modalities of a financial data sharing scheme, as provided in Articles 9 and 10, or if it is made available pursuant to Article 11.	
3. When making data available pursuant to paragraph 1, the data holder shall:	3. When making data available pursuant to paragraph 1, the data holder shall:	
(a) make customer data available to the data user in a format based on generally recognised standards and at	(a) make customer data available to the data user in a format based on **common** ~~generally recognised~~	

least in the same quality available to the data holder;	standards and at least in the same quality available to the data holder;	
(b) communicate securely with the data user by ensuring an appropriate level of security for the processing and transmission of customer data;	(b) communicate securely with the data user by ensuring an appropriate level of security for the processing and transmission of customer data;	
(c) request data users to demonstrate that they have obtained the permission of the customer to access the customer data held by the data holder;	(c) request data users to demonstrate that they have obtained the permission of the customer to access the customer data held by the data holder;	
(d) provide the customer with a permission dashboard to monitor and manage permissions in accordance with Article 8.	(d) provide the customer with a permission dashboard to monitor and manage permissions in accordance with Article 8.	
(e) respect the confidentiality of trade secrets and intellectual property rights when customer data is accessed in accordance with Article 5(1)	(e) ~~respect~~ **protect** the confidentiality of trade secrets and intellectual property rights ~~when customer data is accessed in accordance with Article 5(1~~)	
Article 6 Obligations on a data user receiving customer data	Article 6 Obligations on a data user receiving customer data	
1. A data user shall only be eligible to access customer data pursuant to Article 5(1) if that data user is subject to prior authorisation by a competent authority as a financial institution or is a financial information service provider pursuant to Article 14.	1. A data user shall only be eligible to access customer data pursuant to Article 5(1) if that data user is subject to prior authorisation by a competent authority as a financial institution or is a financial information service provider pursuant to Article 14**, and only if the customer data is made available to that data user in**	Most MS agreed that data sharing under FIDA can only take place after the scheme has been assessed as compliant by the relevant competent authority. The Presidency proposes to add this provision under Article 6(1), by using the same

	accordance with the rules and modalities of a financial data sharing scheme, as provided in Articles 9 and 10, or if it is made available pursuant to Article 11.	wording as used under Article 5(2) that determines when a data holder may claim compensation.
2. A data user shall only access customer data made available under Article 5(1) for the purposes and under the conditions for which the customer has granted its permission. A data user shall delete customer data when it is no longer necessary for the purposes for which the permission has been granted by a customer	2. A data user shall only access customer data made available under Article 5(1) for the purposes and under the conditions for which the customer has granted its permission. **The permission shall be freely given, specific, limited in time, separated from possible other declaration or text and it shall clearly state the purposes for which the data will be accessed and by which data users.** **The request for permission shall be clear, objective, accurate and easily understandable for the customer and include:** **(i) the name of the data user to which access will be granted;** **(ii) the customer account, financial product or financial service to which access has been granted;** **(iii) the purpose of the permission;** **(iv) the categories of data being shared;** **(v) the period of validity of the permission;** **(vi) information that the customer can view and withdraw the permission on the dashboard.** A data user shall delete customer data**, including all the backups,** when it is no longer necessary for the purposes for which the permission has been granted by a	Most MS suggested to be more specific about the requirements that data users have to meet when obtaining customer permission. The Presidency therefore proposes adding the following provision to paragraph (2).

	customer	
	A data user shall ensure that any data access request to customer is not designed in a way that would encourage or unduly influence the customer to grant access, in a way that is not in the best interest of the customer, or in a way that materially distorts or impair the ability of the customer to make free and informed decisions.	MS proposal to add additional safeguards to protect customer.
3. A customer may withdraw the permission it has granted to a data user. When processing is necessary for the performance of a contract, a customer may withdraw the permission it has granted to make customer data available to a data user according to the contractual obligations to which it is subject.	3. A customer may withdraw the permission it has granted to a data user **at any time and free of charge**. When processing is necessary for the performance of a contract, a customer may withdraw the permission it has granted to make customer data available to a data user **only** according to the **applicable** contractual obligations to which it is subject.	
4. To ensure the effective management of customer data, a data user shall:	4**a**. To ensure the effective management of customer data, a data user shall:	
(a) not process any customer data for purposes other than for performing the service explicitly requested by the customer;	(a) not process any customer data for purposes other than for performing the service explicitly requested by the customer ~~**in the best interest of the customer**~~. **The data user must act professionally in accordance with the best interests of its customers and** ~~The data user~~ **must be able to demonstrate that the use of data is in the best interest of the customer**.	Clarification.

(b) respect the confidentiality of trade secrets and intellectual property rights when customer data is accessed in accordance with Article 5(1);	(b) ~~respect~~ **protect** the confidentiality of trade secrets and intellectual property rights **of customers that are firms** **and of data holders** ~~when customer data is accessed in accordance with Article 5(1);~~	MS proposal to ensure that trade secrets of the data holders are protected.
	(ba) respect the data protection rights of consumers and the level of protection guaranteed by Regulation (EU) 2016/679.	
(c) put in place adequate technical, legal and organisational measures in order to prevent the transfer of or access to non-personal customer data that is unlawful under Union law or the national law of a Member State;	(c) put in place adequate technical, legal and organisational measures in order to prevent the transfer of or access to ~~non-personal~~ customer data that is unlawful under Union law or the national law of a Member State;	MS have suggested to extend this provision to personal customer data as well. The BE PCDY agrees with this as it sees no reason to exclude personal data here, therefore suggests to remove 'non-personal'
(d) take necessary measures to ensure an appropriate level of security for the storage, processing and transmission of non-personal customer data;	(d) take necessary measures to ensure an appropriate level of security for the storage, processing and transmission of ~~non-personal~~ customer data;	MS have suggested to extend this provision to personal customer data as well. The BE PCDY agrees with this as it sees no reason to exclude personal data here, therefore suggests to remove 'non-personal'.
(e) not process customer data for advertising purposes, except for direct marketing in accordance with Union and national law;	(e) not process customer data for advertising purposes, except for direct marketing in accordance with Union and national law **with prior consent of the customer**;	
(f) where the data user is part of a group of companies,	(f) where the data user is part of a group of companies,	

customer data listed in Article 2(1) shall only be accessed and processed by the entity of the group that acts as a data user.	customer data listed in Article 2(1) shall only be accessed and processed by the entity of the group that acts as a data user-;	
	(g) for each communication session identify itself towards the data holder;	
	(h) not transfer customer data to any third party, including an outsourcing scheme;	MS proposal to ensure customers control of their data.
	4b. Data users that are designated as a gatekeeper or that are owned or controlled by an undertaking that has been designated as a gatekeeper shall be prohibited from combining customer data referred to in Article 2(1) of this Regulation with other data relating to the customer that the designated gatekeeper may already collect, store, or otherwise possess for purposes outside this Regulation.	The Presidency proposes the addition of an additional safeguard for gatekeepers and entities owned or controlled by an undertaking that has been designated as a gatekeeper under Article 3 of Regulation (EU) 2022/1925.
TITLE III Responsible Data Use and permission dashboards	TITLE III Responsible Data Use and permission dashboards	
Article 7 Data use perimeter	Article 7 Data use perimeter	
1. The processing of customer data referred to in Article 2(1) of this Regulation that constitutes personal data shall be limited to what is necessary in relation to the	1. The processing of customer data referred to in Article 2(1) of this Regulation that constitutes personal data shall be limited to what is necessary in relation to the	

purposes for which they are processed.	purposes for which they are processed. **Customers that refuse to grant permission to share sets of their data shall not be refused access to financial products for this reason.**	
2. In accordance with Article 16 of Regulation (EU) No 1093/2010, the European Banking Authority (EBA) shall develop guidelines on the implementation of paragraph 1 of this Article for products and services related to the credit score of the consumer.	2. In accordance with Article 16 of Regulation (EU) No 1093/2010, the European Banking Authority (EBA) shall develop guidelines on the implementation of paragraph 1 of this Article for products and services related to **the creditworthiness assessment** ~~credit score~~ of the consumer. **These guidelines shall be elaborated within the framework set by Directive** ~~**2008/48/EC**~~ **2023/2225 of the European Parliament and of the Council , ~~and~~ Directive 2014/17/EU of the European Parliament and of the Council and further legal texts developed regarding this matter. EBA may develop guidelines on the implementation of paragraph 1 of this Article for products and services other than those related to creditworthiness assessment of the consumer, where it concludes this to be necessary for the protection of customers.**	MS proposal to align guidelines with future legislations surrounding creditworthiness assessment.
3. In accordance with Article 16 of Regulation (EU) No 1094/2010, the European Insurance and Occupational	3. In accordance with Article 16 of Regulation (EU) No 1094/2010, the European Insurance and	

Pensions Authority (EIOPA) shall develop guidelines on the implementation of paragraph 1 of this Article for products and services related to risk assessment and pricing of a consumer in the case of life, health and sickness insurance products	Occupational Pensions Authority (EIOPA) shall develop guidelines on the implementation of paragraph 1 of this Article for products and services related to risk assessment and pricing of a consumer in the case of life, health and sickness insurance products. **These guidelines shall be elaborated within the framework set by Directive (EU) 2016/97 of the European Parliament and of the Council, Directive 2009/138/EC of the European Parliament and of the Council or Directive 2014/65/EU of the European Parliament and of the Council.** **EIOPA may develop guidelines on the implementation of paragraph 1 of this Article for products and services other than those related to risk assessment and pricing of a consumer in the case of life, health and sickness insurance products, where it concludes this to be necessary for the protection of customers.** **To avoid certain consumers becoming unable to access insurance due to overly granular risk assessments, these guidelines shall include provisions on how data may be used to avoid excessive granularity that undermines the "risk sharing" principle of insurance.**	
	3a. In accordance with Article 16 of Regulation (EU) No 1095/2010, the European Securities and Markets	

	Authority (ESMA) may develop guidelines on the implementation of paragraph 1 of this Article for products and services, where it concludes this to be necessary for the protection of customers.	
4. When preparing the guidelines referred to in paragraphs 2 and 3 of this Article, EIOPA and EBA shall closely cooperate with the European Data Protection Board established by Regulation (EU) 2016/679	4. When preparing the guidelines referred to in paragraphs 2 and 3 **and 3a** of this Article, EIOPA**,** ~~and~~ EBA **and ESMA** shall closely cooperate with **each other and shall formally consult** the European Data Protection Board established by Regulation (EU) 2016/679.	
Article 8 Financial Data Access permission dashboards	Article 8 Financial Data Access permission dashboards	
1. A data holder shall provide the customer with a permission dashboard to monitor and manage the permissions a customer has provided to data users.	1. A data holder shall provide the customer with a permission dashboard to monitor and manage the permissions a customer has provided to data users.	
2. A permission dashboard shall:	2. **The** permission dashboard **as referred to in paragraph 1** shall:	
(a) provide the customer with an overview of each ongoing permission given to data users, including:	(a) provide the customer with an overview of each ongoing permission given to data users **at any time,** including:	.

(i) the name of the data user to which access has been granted	(i) the name of the data user to which access has been granted	
(ii) the customer account, financial product or financial service to which access has been granted;	(ii) the ~~customer account~~, financial product or financial service to which access has been granted;	
(iii) the purpose of the permission;	(iii) the purpose of the permission;	
(iv) the categories of data being shared;	(iv) the categories of data being shared;	
(v) the period of validity of the permission;	(v) the period of validity of the permission**, including the date on which the customer has given access to ~~his or her~~ ~~their~~ its data;**	Some MS suggested to replace 'their' by 'its', which has been implemented.
	(vi) the dates on which the data was accessed.	Additional safeguard to protect customer.
(b) allow the customer to withdraw a permission given to a data user	(b) allow the customer to withdraw a permission given to a data user **at any time and free of charge**;	
(c) allow the customer to re-establish any permission withdrawn;	(c) allow the customer to re-establish any permission withdrawn **up to 48 hours after withdrawal of this permission;**	Alignment with PSD dashboards, MS proposal.
(d) include a record of permissions that have been withdrawn or have expired for a duration of two years.	(d) include a record of permissions that have been withdrawn or **that** have expired for a duration of two years.	

	(e) be consistent with the Regulation (EU) [..../....] of the European Parliament and of the Council [Payment Services Regulation] dashboards and allow data holders to manage data permissions pursuant to this Regulation and the Payment Services Regulation through a single dashboard upon the request of the ~~user~~ customer.	Clarification.
	(f) allow the customer to monitor the specific accesses to data by each data user.	
	Where, pursuant to paragraph 2, point (b), a customer decides to withdraw data access, the data user concerned shall:	
	(a) cease using the data;	
	(b) withdraw the data; and	
	(c) without undue delay, erase all data received as a result of the data access permission granted by the customer	
3. The data holder shall ensure that the permission dashboard is easy to find in its user interface and that information displayed on the dashboard is clear,	3. The data holder shall ensure that the permission dashboard is easy to find in its user interface and that information displayed on the dashboard is clear,	

accurate and easily understandable for the customer.	~~objective,~~ neutral, accurate and easily understandable for the customer. **The data holder shall not prompt the customer to withdraw a permission given to a data user.** Data holders are prohibited from designing, organizing, or operating their permission dashboard interfaces in a manner that deceives, manipulates, or directs customer behaviour towards permissions that are not in the best interest of the customer, or that materially distorts or impairs the ability of customers to make free and informed decisions.	
4. The data holder and the data user for which permission has been granted by a customer shall cooperate to make information available to the customer via the dashboard in real-time. To fulfil the obligations in paragraph 2 points (a), (b), (c) and (d) of this Article:	4. The data holder and the data user for which permission has been granted by a customer shall cooperate to make information available to the customer via the dashboard in real-time. To fulfil the obligations in paragraph 2 ~~points (a), (b), (c) and (d)~~ of this Article:	
(a) The data holder shall inform the data user of changes made to a permission concerning that data user made by a customer via the dashboard.	(a) The data holder shall inform the data user of changes made to a permission, **including the withdrawal,** concerning that data user made by a customer via the dashboard.	
(b) A data user shall inform the data holder of a new permission granted by a customer regarding customer data held by that data holder, including:	(b) A data user shall inform the data holder of a new permission granted by a customer regarding customer data held by that data holder, including:	

(i) the purpose of the permission granted by the customer;	(i) the purpose of the permission granted by the customer;	
(ii) the period of validity of the permission	(ii) the period of validity of the permission	
(iii) the categories of data concerned.	(iii) the categories of data concerned.	
	5. In accordance with Article 16 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, the ESAs, through the Joint Committee, shall by XXXX [entry into application date] develop common guidelines on the application of this Article	
TITLE IV Financial Data Sharing Schemes	TITLE IV Financial Data Sharing Schemes	
Article 9 Financial data sharing scheme membership	Article 9 Financial data sharing scheme membership	
1. Within 18 months from the entry into force of this Regulation, data holders and data users shall become members of a financial data sharing scheme governing access to the customer data in compliance with Article 10.	1. ~~Within 18 months from the entry into force of this Regulation, d~~**D**ata holders and data users shall become members of a financial data sharing scheme governing access to the customer data in compliance with Article 10.	Time limits to be specified under Article 36

2. Data holders and data users may become members of more than one financial data sharing schemes.	2. Data holders and data users may become members of more than one financial data sharing schemes.	
Any sharing of data shall be made in accordance with the rules and modalities of a financial data sharing scheme of which both the data user and the data holder are members.	Any sharing of data shall be made in accordance with the rules and modalities of a financial data sharing scheme of which both the data user and the data holder are members.	
Article 10 Financial data sharing scheme governance and content	Article 10 Financial data sharing scheme governance and content	
1. A financial data sharing scheme shall include the following elements:	1. A financial data sharing scheme shall include the following elements:	
(a) the members of a financial data sharing scheme shall include:	(a) the members of a financial data sharing scheme shall include:	
(i) data holders and data users representing a significant proportion of the market of the product or service concerned, with each side having fair and equal representation in the internal decision-making processes of the scheme as well as equal weight in any voting procedures; where a member is both a data holder and data user, its membership shall be counted equally towards both sides;	(i) data holders and data users representing a significant proportion of the market of the product or service concerned, with each side having fair and equal representation in the internal decision-making processes of the scheme as well as equal weight in any voting procedures; where a member is both a data holder and data user, its membership shall be counted equally towards both sides;	

(ii) customer organisations and consumer associations.	(ii) customer organisations and consumer associations**, which will play an advisory role in particular for matters that are related to customer protection**.	Most MS agreed that consumer associations and customer organizations should play an advisory role rather than have a weight in the voting procedure, hence the adaptation proposed here.
(b) the rules applicable to the financial data sharing scheme members shall apply equally to all the members and there shall be no unjustified favourable or differentiated treatment between members;	(b) the rules applicable to the financial data sharing scheme members shall apply equally to all the members and there shall be no unjustified favourable or differentiated treatment between members;	
(c) the membership rules of a financial data sharing scheme shall ensure that the scheme is open to participation by any data holder and data user based on objective criteria and that all members shall be treated in a fair and equal manner;	(c) the membership rules of a financial data sharing scheme shall ensure that the scheme is open to participation by any data holder and data user based on objective criteria and that all members shall be treated in a fair and equal manner;	
(d) a financial data sharing scheme shall not impose any controls or additional conditions for the sharing of data other than those provided in this Regulation or under other applicable Union law;	(d) a financial data sharing scheme shall not impose any controls or additional conditions for the sharing of data other than those provided in this Regulation or under other applicable Union law;	
(e) a financial data sharing scheme shall include a mechanism through which its rules can be amended, following an impact analysis and the agreement of the majority of each community of data holders and data users respectively;	(e) a financial data sharing scheme shall include a mechanism through which its rules can be amended, following an impact analysis and the agreement of the majority of each community of data holders and data users respectively;	

(f) a financial data sharing scheme shall include rules on transparency and where necessary, reporting to its members;	(f) a financial data sharing scheme shall include rules on transparency and where necessary, reporting to its members;	
(g) a financial data sharing scheme shall include the common standards for the data and the technical interfaces to allow customers to request data sharing in accordance with Article 5(1). The common standards for the data and technical interfaces that scheme members agree to use may be developed by scheme members or by other parties or bodies;	(g) a financial data sharing scheme shall include the common standards for the data and the technical interfaces to allow customers to request data sharing in accordance with Article 5(1). The common standards for the data and technical interfaces that scheme members agree to use may be developed by scheme members or by other parties or bodies;	
(h) a financial data sharing scheme shall establish a model to determine the maximum compensation that a data holder is entitled to charge for making data available through an appropriate technical interface for data sharing with data users in line with the common standards developed under point (g). The model shall be based on the following principles:	(h) a financial data sharing scheme shall establish a model to determine the maximum compensation that a data holder is entitled to charge **data users** for making data available ~~through an appropriate technical interface for data sharing with data users~~ in line with the common standards developed under point (g). The model shall be based on the following principles:	Most MS agreed that no further references should be made in Article 10(1)(h) to infrastructure/technical services developed in order to make data available. There was however still some doubt about what the concept of "technical interface" refers to. The BE Presidency proposes to simply delete this reference to appropriate technical interface, which thus provides with a more general wording that does not give the impression to limit the scope of compensation to specific technical solutions.
(i) it should be limited to reasonable compensation directly related to making the data available to the data user and which is attributable to the request;	(i) it should be limited to reasonable compensation directly related to making the data available to the data user and which is attributable to the request; **such a**	While Recital (47) of the Data Act clearly mentions that 'reasonable compensation' may include a margin, it seems better to

	reasonable compensation may include a margin;	clarify that this is also the case in the FiDA regulation, hence the drafting proposal by the BE Presidency.
(ii) it should be based on an objective, transparent and non-discriminatory methodology agreed by the scheme members;	(ii) it should be based on an objective, transparent and non-discriminatory methodology agreed by the scheme members;	
(iii) it should be based on comprehensive market data collected from data users and data holders on each of the cost elements to be considered, clearly identified in line with the model;	(iii) it should be based on comprehensive market data collected from data users and data holders on each of the cost elements to be considered, clearly identified in line with the model;	
(iv) it should be periodically reviewed and monitored to take account of technological progress;	(iv) it should be periodically reviewed and monitored to take account of technological progress;	
(v) it should be devised to gear compensation towards the lowest levels prevalent on the market; and	(v) it should be devised to gear compensation towards the lowest levels prevalent on the market; and	
(vi) it should be limited to the requests for customer data under Article 2(1) or proportionate to the related datasets in the scope of that Article in the case of combined data requests.	(vi) it should be limited to the requests for customer data under Article 2(1) or proportionate to the related datasets in the scope of that Article in the case of combined data requests.	

Where the data user is a micro, small or medium enterprise, as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003[69], any compensation agreed shall not exceed the costs directly related to making the data available to the data recipient and which are attributable to the request.	Where the data user is a micro, small or medium enterprise, as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003[70], **and that data user does not have partner enterprises or is not part of linked enterprises that do not quality as SMEs,** any compensation agreed shall not exceed the costs directly related to making the data available to the data ~~recipient~~ **user** and which are attributable to the request.	The provision does not mention a margin, contrary to the proposed addition under Article 10(h)(i), which helps to clarify in which way the compensation here differs from the compensation for arge companies. As suggested by a MS, BE Presidency proposes to exclude from the cap those SMEs that are part of a larger group of companies, in order to avoid that larger companies create FISPs that are SMEs to access the information, and benefit from the cap. Wording is in line with Dara Act Article 9(4)
	The guidelines adopted by the Commission on the calculation of reasonable compensation in accordance with Article 9(5) of Regulation (EU)	MS expressed split views on the question whether the ESAs should develop RTS

[69] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (C(2003) 1422) OJ L 124, 20.5.2003, p. 36.

[70] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (C(2003) 1422) OJ L 124, 20.5.2003, p. 36.

	2023/2854 shall also apply to this Regulation.	regarding the principles to determine compensation, or whether it would suffice to refer to Article 9 of the Data Act that provides general rules as compensation for marking data available. The BE Presidency proposes to make a direct reference in the Level 1 text to the Commission guidelines as foreseen in article 9(5) of the Data Act.
(i) a financial data sharing scheme shall determine the contractual liability of its members, including in case the data is inaccurate, or of inadequate quality, or data security is compromised or the data are misused. In case of personal data, the liability provisions of the financial data sharing scheme shall be in accordance with the provisions in Regulation (EU) 2016/679;	(i) a financial data sharing scheme shall determine the contractual liability of its members, including in case the data is inaccurate, or of inadequate quality, or data security is compromised or the data are misused. In case of personal data, the liability provisions of the financial data sharing scheme shall be in accordance with the provisions in Regulation (EU) 2016/679;	
(j) a financial data sharing scheme shall provide for an independent, impartial, transparent and effective dispute resolution system to resolve disputes among	(j) a financial data sharing scheme shall provide for an independent, impartial, transparent and effective dispute resolution system to resolve disputes among	

scheme members and membership issues, in accordance with the quality requirements laid down by Directive 2013/11/EU of the European Parliament and of the Council[71].	scheme members and membership issues, in accordance with the quality requirements laid down by Directive 2013/11/EU of the European Parliament and of the Council[72]**.**	
	(k) a financial data sharing scheme shall include the minimum technical and organizational measures that financial data sharing scheme members shall implement to ensure an appropriate level of security for exchanged data, including security measures to prevent and mitigate the risk of fraud;	Proposal by a MS
	(l) A financial data sharing scheme shall provide for:	MS proposal to clarify the agreements covered within the FDSS in order to ensure that possible issues related to data access are addressed within the agreements of the FDSS.
	(i) an adequate service levels for the APIs, in terms of availability and performance;	
	(ii) the possibility for the data user to easily access comprehensive technical documentation;	

[71] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).

[72] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).

	(iii) maintenance windows where relevant;	
	(iv) requirements about the checks of the permission given by the customer to the data users;	
	(v) procedures for resolving complaints from the data users.	
	(m) a financial data sharing scheme shall provide for a mechanism of financial compensation to customers for any loss of data, damage or fraud suffered by these customers;	A majority of MS considered that, even though GDPR and ADR Directive already apply, the governance of the FDSS should also specify compensation for customers in case of data breach or misuse of data, notably given that some customers will be legal persons not governed by GDPR. Hence this drafting proposal by the BE Presidency, which is inspired by a MS proposal.
2. Membership in financial data sharing schemes shall remain open to new members on the same terms and conditions as those for existing members at any time.	2. Membership in financial data sharing schemes shall remain open to new members on the same terms and conditions as those for existing members at any time.	
3. A data holder shall communicate to the competent	3. A data holder shall communicate to the competent	

authority of the Member State of its establishment the financial data sharing schemes it is part of, within one month of joining a scheme.	authority of the Member State of its establishment the financial data sharing schemes it is part of, within one month of joining a scheme.	
4. A financial data sharing scheme set up in accordance with this Article shall be notified to the competent authority of establishment of the three most significant data holders which are members of that scheme at the time of establishment of the scheme. Where the three most significant data holders are established in different Member States, or where there is more than one competent authority in the Member State of establishment of the three most significant data holders, the scheme shall be notified to all of these authorities which shall agree among themselves which authority shall carry out the assessment referred to in paragraph 6.	4. A financial data sharing scheme set up in accordance with this Article shall be notified to the competent authority of establishment of the three most significant data holders which are members of that scheme at the time of establishment of the scheme. **The notification will include information regarding the scope of products or services covered by the scheme, as well as the geographic scope, so as to allow the competent authority to determine whether the scheme represents a significant proprotion of the market.** Where the three most significant data holders are established in different Member States, or where there is more than one competent authority in the Member State of establishment of the three most significant data holders, the scheme shall be notified to all of these authorities which shall agree among themselves which authority shall carry out the assessment referred to in paragraph 6. **In case of disagreements between the competent authorities, settlements shall happen in accordance with Article 27(1).**	Most MS agreed that it is up to the schemes to determine which products and which geographical market they intend to cover. This information must be provided to the competent authority so that it can assess whether the scheme represent a significant proportion of the market.
5. The notification in accordance with paragraph 4 shall take place within 1 month of setting up the	5. The notification in accordance with paragraph 4 shall take place within 1 month of setting up the	

financial data sharing scheme and shall include its governance modalities and characteristics in accordance with paragraph 1.	financial data sharing scheme and shall include its governance modalities and characteristics in accordance with paragraph 1.	
6. Within 1 month of receipt of the notification pursuant to paragraph 4, the competent authority shall assess whether the financial data sharing scheme's governance modalities and characteristics are in compliance with paragraph 1. When assessing the compliance of the financial data sharing scheme with paragraph 1, the competent authority may consult other competent authorities.	6. Within ~~1~~ **3** month**s** of receipt of the notification pursuant to paragraph 4, the competent authority shall assess whether the financial data sharing scheme's governance modalities and characteristics are in compliance with paragraph 1. When assessing the compliance of the financial data sharing scheme with paragraph 1, the competent authority may consult other competent authorities.	Most MS agreed that 3 months would be needed to assess whether a scheme that has been notified is in compliance with the article.
Upon completion of its assessment, the competent authority shall inform EBA of a notified financial data sharing scheme that satisfies the provisions of paragraph 1. A scheme notified to EBA in accordance with this paragraph shall be recognised in all the Member States for the purpose of accessing data pursuant to Article 5(1) and shall not require further notification in any other Member State.	Upon completion of its assessment, the competent authority shall inform EBA of a notified financial data sharing scheme that satisfies the provisions of paragraph 1. A scheme notified to EBA in accordance with this paragraph shall be recognised in all the Member States for the purpose of accessing data pursuant to Article 5(1) and shall not require further notification in any other Member State. **Any significant amendment to the functioning of an existing financial data sharing scheme, notably with regards to its governance modalities and characteristics, the products or services covered by the scheme, its geographic scope or its three most significant members, shall be notified to the relevant competent authority, which will assess whether the**	Most MS agreed that important changes in the memberhisp of a shceme should be notified to the competent authority. Several MS hihlighted that such a notifictaion should also cover other elements than the sole membership. The BE Preidency thus proposes this amendment to Article 10(6).

	provisions of paragraph 1 are still satisfied.	
Article 11 Empowerment for Delegated Act in the event of absence of a financial data sharing scheme	Article 11 Empowerment for Delegated Act in the event of absence of a financial data sharing scheme	
In the event that a financial data sharing scheme is not developed for one or more categories of customer data listed in Article 2(1) and there is no realistic prospect of such a scheme being set up within a reasonable amount of time, the Commission is empowered to adopt a delegated act in accordance with Article 30 to supplement this Regulation by specifying the following modalities under which a data holder shall make available customer data pursuant to Article 5(1) for that category of data:	In the event that, **6 months after the respective dates of applicability in accordance with Artice 36(2),** a financial data sharing scheme ~~is not developed~~ **has not been notified to the EBA in accordance with Article 10(6) for one or more categories of customer data listed in Article 2(1)** ~~and there is no realistic prospect of such a scheme being set up within a reasonable amount of time~~, the Commission is empowered to adopt a delegated act in accordance with Article 30 to supplement this Regulation by specifying the following modalities under which a data holder shall make available customer data pursuant to Article 5(1) for that category of data:	Most MS agreed to have a more precise approach for the timeframe determining the moment where the Commission could adopt a delegated act. BE Presidency thus proposes to consider a period of six months after the respective dates of applicability for the various products.
(a) common standards for the data and, where appropriate, the technical interfaces to allow customers to request data sharing under Article 5(1);	(a) common standards for the data and, where appropriate, the technical interfaces to allow customers to request data sharing under Article 5(1);	
(b) a model to determine the maximum compensation that a data holder is entitled to charge for making data available;	(b) a model to determine the maximum compensation that a data holder is entitled to charge for making data available;	

(c) the liability of the entities involved in making the customer data available.	(c) the liability of the entities involved in making the customer data available.	
TITLE V Eligibility for Data Access and Organisation	TITLE V Eligibility for Data Access and Organisation	
Article 12 Application for authorisation of financial information service providers	Article 12 Application for authorisation ~~of~~ **as** financial information service providers	
1. A financial information service provider shall be eligible to access customer data under Article 5(1) if it is authorised by the competent authority of a Member State.	1. "A ~~financial information service provider~~ **legal person or other undertaking** shall be eligible to access customer data under Article 5(1) **as a financial information service provider** if it is authorised by the competent authority of a Member State **of establishment of its registered office. This competent authority shall also be competent to supervise compliance by this financial information service provider of the provisions of this Regulation applying to them.**	The Presidency first proposes to highlight that the authority granting the authorisation is also competent to ensure that FISPs comply with the Regulation, since the Regulation contains other obligations to be met by FISPs than those set out in Articles 12 et seq. (for example, membership of a scheme as a data user). This addition also makes it possible to clarify the purpose of Article 17 in Title VI: not to define the powers of the competent national authorities, but to require the Member States to designate these authorities.
2. A financial information service provider shall submit an application for authorisation to the competent authority of the Member State of establishment of its registered office, together with the following:	2. A **legal person or other undertaking that intends to provide** financial information service**s** ~~**provider**~~ shall submit an application for authorisation to the competent authority of the Member State of establishment of its	

	registered office, ~~or, in the case of a legal person or other undertaking established in a third country, in the Member State where those legal persons have appointed their legal representative~~, together with the following:	
(a) a programme of operations setting out in particular the type of access to data envisaged;	(a) a programme of operations setting out in particular the type of access to data ~~envisaged~~ **and the financial information services envisaged**;	Clarification
(b) a business plan including a forecast budget calculation for the first 3 financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;	(b) a business plan including a forecast budget calculation for the first 3 financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;	
(c) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, as well as arrangements for the use of ICT services in accordance with Regulation (EU) 2022/2554 of the European Parliament and of the Council, which demonstrates that those governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;	(c) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, as well as arrangements for the use of ICT services in accordance with **Articles 6 and 7** ~~Chapter II~~ of Regulation (EU) 2022/2554 of the European Parliament and of the Council, which demonstrates that those governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;	
	(c1) a description of the organisational requirements	

	of Article 16 of this Regulation	
(d) a description of the procedure in place to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism which takes account of the notification obligations laid down in Chapter III of Regulation (EU) 2022/2554;	(d) a description of business continuity arrangements including a clear identification of the critical operations, effective ICT business continuity policy and plans and ICT response and recovery plans, and a procedure to regularly test and review the adequacy and efficiency of such plans in accordance with Chapter III of Regulation (EU) 2022/2554;	
(e) a description of business continuity arrangements including a clear identification of the critical operations, effective ICT business continuity policy and plans and ICT response and recovery plans, and a procedure to regularly test and review the adequacy and efficiency of such plans in accordance with Regulation (EU) 2022/2554;	***(e)*** a description of business continuity arrangements including a clear identification of the critical operations, ***effective ICT business continuity policy and plans and ICT response and recovery plans, and a procedure to regularly test and review the adequacy and efficiency of such plans in accordance*** ~~***with Chapter II of***~~ ***Art. 11(6) of*** ~~***with***~~ ***Regulation (EU) 2022/2554;***	Alignment with PSD3 proposal.
(f) a security policy document, including a detailed risk assessment in relation to its operations and a description of security control and mitigation measures taken to adequately protect its customers against the risks identified, including fraud;	(f) a security policy document, including a detailed risk assessment in relation to its operations and a description of security control and mitigation measures taken to adequately protect its customers against the risks identified, including fraud **and the illegal use of sensitive and personal data**;	
(g) a description of the applicant's structural organisation, as well as a description of outsourcing	(g) a description of the applicant's structural organisation, as well as a description of outsourcing	

arrangements	arrangements;	
(h) the identity of directors and persons responsible for the management of the applicant and, where relevant, persons responsible for the management of the data access activities of the applicant, as well as evidence that they are of good repute and possess appropriate knowledge and experience to access data as determined in this Regulation;	(h) the identity of directors and persons responsible for the management of the applicant and, where relevant, persons responsible for the management of the data access activities of the applicant, as well as evidence that they are of good repute and possess appropriate knowledge and experience to access data as determined in this Regulation;	
(i) the applicant's legal status and articles of association;	(i) the applicant's legal status and articles of association;	
(j) the address of the applicant's head office;	(j) the address of the applicant's head office **and, where available, the Legal Entity Identifier (LEI);**	
(k) where applicable, the written agreement between the financial information service provider and the legal representative evidencing the appointment, the extent of liability and the tasks to be carried out by the legal representative in accordance with Article 13	~~**(k) where applicable, the written agreement between the financial information service provider and the legal representative evidencing the appointment, the extent of liability and the tasks to be carried out by the legal representative in accordance with Article 13**~~.	
	(l) information, if available at the time the authorisation is applied for, on the notified financial data sharing scheme(s) of which the provider intends to become a member	MS proposal for an additional item on the membership of the financial data sharing scheme that the provider intends to adopt once operational, if the information is available at the time of the application for

		authorisation.
For the purposes of the first subparagraph, points (c), (d) and (g) the applicant shall provide a description of its audit arrangements and the organizational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its customers and to ensure continuity and reliability in the performance of its activities.	For the purposes of the first subparagraph, points (c), (d) and (g) the applicant shall provide a description of its audit arrangements and the organizational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its customers and to ensure continuity and reliability in the performance of its activities.	
	For the purposes of paragraphs 1 and 2, other undertakings that are not legal persons shall only provide financial information services if their legal form ensures a level of protection for third parties' interests equivalent to that afforded by legal persons and if they are subject to equivalent prudential supervision appropriate to their legal form.	
The security control and mitigation measures referred to in the first subparagraph, point (f), shall indicate how the applicant will ensure a high level of digital operational resilience in accordance with Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations.	***The security control and mitigation measures referred to in the first subparagraph, point (f), shall indicate how the applicant will ensure a high level of digital operational resilience in accordance with Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations.***	

3. Financial information service providers shall hold a professional indemnity insurance covering the territories in which they access data, or some other comparable guarantee, and shall ensure the following:	3. Financial information service providers shall hold a professional indemnity insurance covering the territories in which they access**, collect and/or consolidate** data, or some other comparable guarantee, and shall ensure the following:	MS proposal in order to clarify the provision.
(a) an ability to cover their liability resulting from non-authorised or fraudulent access to or non-authorised or fraudulent use of data;	***(a) an ability to cover their liability resulting from professional negligence, non-authorised or fraudulent access to or non-authorised or fraudulent use of data;***	MS proposal.
(b) an ability to cover the value of any excess, threshold or deductible from the insurance or comparable guarantee;	***(b) an ability to cover the value of any excess, threshold or deductible from the insurance or comparable guarantee;***	
(c) monitoring of the coverage of the insurance or comparable guarantee on an ongoing basis.	***(c) monitoring of the coverage of the insurance or comparable guarantee on an ongoing basis.***	
As an alternative to holding a professional indemnity insurance or other comparable guarantee as required in the first sub-paragraph, the undertaking as referred in the previous subparagraph shall hold initial capital of EUR 50 000, which can be replaced by a professional indemnity insurance or other comparable guarantee after it commences its activity as financial information service provider, without undue delay.	As an alternative to holding a professional indemnity insurance or other comparable guarantee as required in the first sub-paragraph, the undertaking as referred in the previous subparagraph shall hold initial capital of EUR 50 000, which ~~***can***~~ **shall** be replaced by a professional indemnity insurance or other comparable guarantee after it commences its activity as financial information ***service provider, within ~~XX~~ 1 month~~s~~ after authorisation ~~without undue delay~~.***	MS proposal.

	Financial information service providers authorised in accordance with Article 14 shall at all times meet the conditions for their authorisation.	
4. EBA in cooperation with ESMA and EIOPA shall, after consulting all relevant stakeholders, develop draft regulatory technical standards specifying	4. **The European Supervisory Authorities (ESAs), through the Joint Committee**~~**, EBA in cooperation with ESMA and EIOPA shall**~~, after consulting all relevant stakeholders, develop draft regulatory technical standards specifying:	
(a) the information to be provided to the competent authority in the application for the authorisation of financial information service providers, including the requirements laid down in paragraph 1, points (a) to (l);	(a) the information to be provided to the competent authority in the application for the authorisation of financial information service providers, including the requirements laid down in paragraph ~~1, points (a) to (l)~~ **2, points (a) to** ~~(k)~~ **(j);**	
(b) a common assessment methodology for granting authorisation as a financial information service provider, under this Regulation;	***(b) a common assessment methodology for granting authorisation as a financial information service provider, under this Regulation;***	
(c) what is a comparable guarantee, as referred in paragraph 2, which should be interchangeable with a professional indemnity insurance;	(c) what is a comparable guarantee, as referred in paragraph ~~2~~**3**, which should be interchangeable with a professional indemnity insurance;	
(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in	(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in	

paragraph 2.	paragraph ~~2~~**3**.	
In developing these regulatory technical standards, EBA shall take account of the following:	***In developing these regulatory technical standards, the ESAs ~~EBA~~ shall take account of the following:***	
(a) the risk profile of the undertaking;	***(a) the risk profile of the undertaking;***	
(b) whether the undertaking provides other types of services or is engaged in other business;	***(b) whether the undertaking provides other types of services or is engaged in other business;***	
(c) the size of the activity;	***(c) the size of the activity;***	
(d) ***the specific characteristics of comparable guarantees and the criteria for their implementation.***	(d) ***the specific characteristics of comparable guarantees and the criteria for their implementation.***	
EBA, shall submit those draft regulatory technical standards referred to in the first subparagraph to the Commission by [OP please insert the date = 9 months after entry into force of this Regulation].	**The ESAs ~~EBA~~** shall submit those draft regulatory technical standards referred to in the first subparagraph to the Commission by [OP please insert the date = 9 months after entry into force of this Regulation].	
Power is conferred to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation 1093/2015.	Power is conferred to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation **(EU)** 1093/201~~5~~**0, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010.**	

In accordance with Article 10 of Regulation (EU 1093/2010, EBA shall review and if appropriate, update these regulatory technical standards.	In accordance with Article 10 of Regulation (EU) 1093/2010, **Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010, the ESAs** shall review and if appropriate, update these regulatory technical standards.	
	A registered account information service provider as defined in Directive 2015/2366/EU may only access data, other than the data for which they are already authorised under the directive 2015/2366/EU, under Article 5(1) if it has been authorised as a financial information service provider.	
	4a. When the legal person or other undertaking that intends to provide financial information services is a gatekeeper or owned or controlled by an undertaking that has been designated as a gatekeeper, the specific assessment, as described in Article 18b of this Regulation, shall be performed in order to get a licence as Financial Information Service Provider. In this case, the above mentioned assessment shall be send to the EBA which will provide the opinion in accordance to Article 18b(4).	The Presidency proposes an additional safeguard referring to Article 18b in case gatekeepers or entities owned or controlled by an undertaking that has been designated as a gatekeeper want to obtain a FISP licence.
Article 13: Legal representatives	~~**Article 13: Legal representatives**~~	**During the last WP in April (i.e. WP6), the Presidency submitted**

		drafting proposals to MS concerning Title V and the exclusion of FISPs not established in the EU. This proposal was received very favourably by the MS, with only one MS expressing opposition to this measure, being in favour of a more market- and innovation-friendly approach and therefore continuing to support the initial COM proposal. Also, COM objected because of the potential conflict of this ban with other EU laws and international trade agreements. An opinion from the Council General Secretariat

		Legal Service has therefore been requested. In accordance with the first preliminary and informal advice referred to above, the Council General Secretariat Legal Service is of the opinion that excluding third-countries FISPs would be a prima facie violation of commitments under Articles XVI and XVII GATS, as well as the financial services specific schedule of GATS, and that the prudential carve-out would be difficult to justify objectively and apply in practice. The Presidency therefore welcomes any

		arguments justifying that this measure has a prudential goal, that it would be the most adequate and proportionate measure to attain that goal, and that it would not aim to circumvent the Members' obligations under GATS. More specific information is also welcomed on how the measure will reach the desired goals mentioned by MS: • **Exclusion will ensure a level-playing field with EU established FISPs and avoid forum shopping;** • **Exclusion will ensure proper enforcement and supervision;** • **Exclusion will avoid major risks of data leaks and/or misuse for European consumers.** **The Presidency also notes that**

		this exclusion would ensure alignment with PSD2/3 and that this debate did not take place within the PSD3 WP.
1. Financial information service providers that do not have an establishment in the Union but that require access to financial customer data in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States from where the financial information service provider intends to access financial data	~~**1. Financial information service providers that do not have an establishment in the Union but that require access to financial customer data in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States from where the financial information service provider intends to access financial data**~~	
2. Financial information service providers shall mandate their legal representatives to be addressed in addition to or instead of the financial information service provider by the competent authorities on all issues necessary for the receipt of, compliance with and enforcement of this Regulation. Financial information service providers shall provide their legal representative with the necessary powers and resources to enable them to cooperate with the competent authorities and ensure compliance with their decisions.	~~**2. Financial information service providers shall mandate their legal representatives to be addressed in addition to or instead of the financial information service provider by the competent authorities on all issues necessary for the receipt of, compliance with and enforcement of this Regulation. Financial information service providers shall provide their legal representative with the necessary powers and resources to enable them to cooperate with the competent authorities and ensure compliance with their decisions.**~~	
3. The designated legal representative may be held	~~**3. The designated legal representative may be held**~~	

liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the financial information service provider.	~~liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the financial information service provider.~~	
4. Financial information service providers shall notify the name, address, the electronic mail address and telephone number of their legal representative to the competent authority in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date.	~~4. Financial information service providers shall notify the name, address, the electronic mail address and telephone number of their legal representative to the competent authority in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date.~~	
5. The designation of a legal representative within the Union pursuant to paragraph 1 shall not constitute an establishment in the Union.	~~5. The designation of a legal representative within the Union pursuant to paragraph 1 shall not constitute an establishment in the Union.~~	
Article 14 Granting and withdrawal of authorisation of financial information service providers	Article 14 Granting and withdrawal of authorisation of financial information service providers	
1. The competent authority shall grant an authorisation if the information and evidence accompanying the application complies with of the requirements laid down in Article 11(1) and (2). Before granting an authorisation, the competent authority may, where relevant, consult other relevant public authorities	1. The competent authority shall grant an authorisation if the information and evidence accompanying the application complies with **all** of the requirements laid down in Article **12**~~11~~(1), ~~and~~ (2) **and (3)**. Before granting an authorisation, the competent authority may, where relevant, consult other relevant public authorities, **in particular the supervisory authorities under Regulation (EU) 2016/679**.	

2. The competent authority shall authorise a third country financial information service provider provided that all the following conditions are met:	~~2. The competent authority shall authorise a third country financial information service provider provided that all the following conditions are met:~~	
(a) the third country financial information service provider has complied with all conditions laid down in Article 12 and 16;	~~(a) the third country financial information service provider has complied with all conditions laid down in Article 12 and 16;~~	
(b) the third country financial information service provider has designated a legal representative pursuant to Article 13;	~~(b) the third country financial information service provider has designated a legal representative pursuant to Article 13;~~	
(c) where the third country financial information service provider is subject to supervision, the competent authority shall seek to put in place an appropriate cooperation arrangement with the relevant competent authority of the third country where the financial information service provider is established, to ensure an efficient exchange of information;	~~(c) where the third country financial information service provider is subject to supervision, the competent authority shall seek to put in place an appropriate cooperation arrangement with the relevant competent authority of the third country where the financial information service provider is established, to ensure an efficient exchange of information;~~	
(d) the third country where the financial information service provider is established is not listed as a non-cooperative jurisdiction for tax purposes under the relevant Union policy or as a high-risk third-country jurisdiction that presents deficiencies in accordance with Commission Delegated Regulation (EU) 2016/1675.	~~(d) the third country where the financial information service provider is established is not listed as a non-cooperative jurisdiction for tax purposes under the relevant Union policy or as a high-risk third-country jurisdiction that presents deficiencies in accordance with Commission~~	

	~~Delegated Regulation (EU) 2016/1675.~~	
3. The competent authority shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of a financial information service provider, the financial information service provider has robust governance arrangements for its information service business. This includes a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures. Those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the information services provided by the financial information service provider.	3. The competent authority shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of a financial information service provider, the financial information service provider has robust governance arrangements for its information service business. This includes a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures. Those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the information services provided by the financial information service provider.	
4. The competent authority shall grant an authorisation only if the laws, regulations or administrative provisions governing one or more natural or legal persons with which the financial information service provider has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, do not prevent the effective exercise of its supervisory functions.	4. **a.** The competent authority shall grant an authorisation only if the laws, regulations or administrative provisions governing one or more natural or legal persons with which the financial information service provider has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, do not prevent the effective exercise of its supervisory functions.	

	b. The competent authority shall grant an authorisation only if it is satisfied that the governance arrangements of the financial information service provider demonstrate that it intends to carry out ~~substantive business~~ at least part of its business activities in the Member State where it has its registered office.	Following several MS comments, the Presidency aligns the added provision with wording of Art. 59(2) of Regulation (EU) 2023/1114. BE PCDY believes that this new wording provides a landing zone between the prevention of forum shopping and respect for the basic principles of the internal market.
5. The competent authority shall grant an authorisation only if it is satisfied that any outsourcing arrangements will not render the financial information service provider a letterbox entity or that they are not undertaken as a means to circumvent the provisions of this Regulation.	5. The competent authority shall grant an authorisation only if it is satisfied that any outsourcing arrangements will not render the financial information service provider a letterbox entity or that they are not undertaken as a means to circumvent the provisions of this Regulation.	
6. Within 3 months of receipt of an application or, if the application is incomplete, of all of the information required for the decision, the competent authority shall inform the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorisation.	6. Within 3 months of receipt of a~~n~~ **complete** application ~~**or, if the application is incomplete, of all of the information required for the decision**~~, the competent authority shall inform the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorisation.	
7. The competent authority may withdraw an authorisation issued to a financial information service provider only if the provider:	7. The competent authority may withdraw an authorisation issued to a financial information service provider only if the provider:	

(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has ceased to engage in business for more than 6 months	(a) does not make use of the authorisation within 12 months, ~~expressly renounces~~ **requests the competent authority to withdraw** the authorisation or has ceased to engage in business for more than 6 months;	
(b) has obtained the authorisation through false statements or any other irregular means;	(b) has obtained the authorisation through false statements or any other irregular means;	
(c) no longer meets the conditions for granting the authorisation or fails to inform the competent authority on major developments in this respect;	(c) no longer meets the conditions for granting the authorisation or fails to inform the competent authority on major developments in this respect;	
(d) would constitute a risk to consumer protection and the security of data.	(d) would constitute a risk to consumer protection and the security of data.	
	(e) has seriously infringed this Regulation	The Presidency emphasises that the concept of 'serious infringement' needs to be clarified and welcomes any ideas from the MS.
	8. ~~The ESAs or t~~The competent authority of any host Member State may at any time request the competent authority of the home Member State to examine whether the financial information service provider still complies with the conditions under which the authorisation was granted, when there are grounds to suspect that this may no longer be the	

	case.	
The competent authority shall give reasons for any withdrawal of an authorisation and shall inform those concerned accordingly. The competent authority shall make public the withdrawal of an authorisation, in an anonymised version.	The competent authority shall give reasons for any withdrawal of an authorisation and shall inform those concerned accordingly. The competent authority shall make public the withdrawal of an authorisation, in an anonymised version.	
Article 15 Register	Article 15 Register	
1. EBA shall develop, operate and maintain an electronic central register which contains the following information:	1. EBA shall develop, operate and maintain an electronic central register which contains the following information:	
(a) the authorised financial information service providers.	(a) the authorised financial information service providers, **including the name, the address and, where applicable, the authorisation number, and a description of the financial information services offered.**	
(b) the financial information service providers that have notified their intention to access data in a Member State other than their home Member State.	(b) the financial information service providers that have notified their intention to access data in a Member State other than their home Member State.	
(c) the financial data sharing schemes agreed between data holders and data users.	(c) the financial data sharing schemes agreed between data holders and data users.	

2. The register referred to in paragraph 1 shall only contain anonymised data.	~~**2. The register referred to in paragraph 1 shall only contain anonymised data.**~~	
3. The register shall be publicly available on EBA's website and shall allow for easy searching and accessing the information listed.	3. The register shall be publicly available on EBA's website, **shall be machine readable**, and shall allow for easy searching and accessing the information listed**, free of charge.**	
4. EBA shall enter in the register referred to in paragraph 1 any withdrawal of authorisation of financial information service providers or termination of a financial data sharing scheme.	4. EBA shall enter in the register referred to in paragraph 1 any withdrawal of authorisation of financial information service providers or termination of a financial data sharing scheme.	
5. The competent authorities of Member States shall communicate without delay to EBA the information necessary to fulfil its tasks pursuant to paragraphs 1 and 3. Competent authorities shall be responsible for the accuracy of the information specified in paragraphs 1 and 3 and for keeping that information up to date. They shall, where technically possible, transmit this information to EBA in an automated way.	5. The competent authorities of **the** Member States **where financial information service providers are authorised** shall communicate without delay**, and where possible in an automated way,** to EBA the information necessary to fulfil its tasks pursuant to paragraphs 1 and 3. Competent authorities shall be responsible for the accuracy of the information specified in paragraphs 1 and 3 and for keeping that information up to date. ***They shall, where technically possible, transmit this information to EBA in an automated way.***	
Article 16 Organisational requirements for financial information service providers	Article 16 Organisational requirements for financial information service providers	

A financial information service provider shall comply with the following organisational requirements:	A financial information service provider shall comply with the following organisational requirements:	
(a) it shall establish policies and procedures sufficient to ensure its compliance, including its managers and employees with its obligations under this Regulation;	(a) it shall establish policies and procedures sufficient to ensure its compliance, including its managers and employees with its obligations under this Regulation;	
(b) it shall take reasonable steps to ensure continuity and regularity in the performance of its activities. To that end the financial information service provider shall employ appropriate and proportionate systems, resources and procedures to ensure the continuity of its critical operations, have in place contingency plans and a procedure to test and review regularly the adequacy and efficiency of such plans;	(b) it shall take reasonable steps to ensure continuity and regularity in the performance of its activities. To that end the financial information service provider shall employ appropriate and proportionate systems, **human and technical** resources and procedures to ensure the continuity of its critical operations, have in place contingency plans and a procedure to test and review regularly the adequacy and efficiency of such plans;	
(c) when relying on a third party for the performance of functions which are critical for the provision of continuous and satisfactory service to customers and the performance of activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk. Outsourcing of important operational functions may not be undertaken in such a way as to impair materially the quality of its internal control and the ability of the supervisor to monitor the financial information service provider's compliance with all obligations;	(c) when relying on a third party for the performance of functions which are critical for the provision of continuous and satisfactory service to customers and the performance of activities on a continuous and satisfactory basis, ~~that~~ it **shall** take~~s~~ reasonable steps to avoid undue additional operational risk. Outsourcing of important operational functions may not be undertaken in such a way as to impair materially the quality of its internal control and the ability of the ~~supervisor~~ **competent authority** to monitor the financial information service provider's compliance with all	

	obligations;	
(d) it shall have sound governance, administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment and management, and effective control and safeguard arrangements for information processing systems;	(d) it shall have sound governance, administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment and management, and effective control and safeguard arrangements for information processing systems;	
(e) its directors and persons responsible for its management as well as the persons responsible for the management of the data access activities of the financial information service provider are of good repute and possess appropriate knowledge, skills and experience, both individually and collectively, to perform their duties;	(e) its directors and persons responsible for its management as well as the persons responsible for the management of the ~~data aeeess~~ **financial information service** activities of the financial information service provider are of good repute and possess appropriate knowledge, skills and experience, both individually and collectively, to perform their duties.	
(f) it shall establish and maintain effective and transparent procedures for the prompt, fair and consistent monitoring, handling and follow up of a security incident and security related customer complaints, including a reporting mechanism which takes account of the notification obligations laid down in Chapter III of Regulation (EU) 2022/2554;	(f) it shall establish and maintain effective and transparent procedures **to ensure the confidentiality, availability and integrity of data in the event of a security incident and** for the prompt, fair and consistent monitoring, handling and follow up of a security incident and security related customer complaints, including a reporting mechanism which takes account of the notification obligations laid.	
	(g) it shall respect the requirements provided in Article 12 (2) of this Regulation.	

TITLE VI Competent authorities and Supervision Framework	TITLE VI Competent authorities and Supervision Framework	
Article 17 Competent authorities	Article 17 Competent authorities	
1. Member States shall designate the competent authorities responsible for carrying out the functions and duties provided for in this Regulation. Member States shall notify those competent authorities to the Commission.	1. Member States shall**, in accordance with Articles 18a and 18b,** designate the competent authorities responsible for carrying out the functions and duties provided for in this Regulation. Member States shall notify those competent authorities to the Commission.	Presidency proposal to clarify the general basis for requesting information.
2. Member States shall ensure that the competent authorities designated under paragraph 1 possess all the powers necessary for the performance of their duties.	2. Member States shall ensure that the competent authorities designated under paragraph 1 possess all the powers necessary for the performance of their duties.	
Member States shall ensure that those competent authorities have the necessary resources, notably in terms of dedicated staff, in order to comply with their tasks as per the obligations under this Regulation.	Member States shall ensure that those competent authorities have the necessary resources, notably in terms of dedicated staff, in order to comply with their tasks as per the obligations under this Regulation.	
3. Member States who have appointed within their jurisdiction more than one competent authority for matters covered by this Regulation shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.	3. Member States who have appointed within their jurisdiction more than one competent authority for matters covered by this Regulation shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.	
	~~**Member States shall ensure that the competent**~~	After analysis, it did not seem useful to the

	~~authorities designated under paragraph 1 ensure compliance of financial information service providers with this Regulation.~~	Presidency to further specify the powers of the competent authorities, by analogy with most other EU texts. For schemes, the obligation for data users and data holders to become members of a scheme will be monitored by their competent authority in accordance with Article 10(4). Compliance with the Regulation by FISPs will be monitored by the competent authority referred to in Article 12. Since, in the Regulation, there are other obligations to be met by FISPs than those set out in Articles 12 et seq. (for example, joining a scheme as a data user), it was specified in Article 12 that the authority granting the authorisation is also competent to ensure that FISPs comply with the Regulation. This addition also makes it possible to clarify the purpose of Article 17 in Title VI: not to define the powers of the competent national authorities, but to require the Member States to designate these authorities.
4. For financial institutions, compliance with this Regulation shall be ensured by the competent authorities specified in Article 46 of Regulation (EU) 2022/2554 in accordance with the powers granted by the respective	4. For financial institutions, compliance with this Regulation shall be ensured by the competent authorities specified in Article 46 of Regulation (EU) 2022/2554 in accordance with the powers granted by the respective	

legal acts listed in that Article, and by this Regulation.	legal acts listed in that Article, and by this Regulation.	
Article 18 Powers of competent authorities	Article 18a Powers of competent authorities	
1. Competent authorities shall have all the investigatory powers necessary for the exercise of their functions. Those powers shall include:	1. Competent authorities shall have all the investigatory powers necessary for the exercise of their functions. Those powers shall include:	
(a) the power to require any natural or legal persons to provide all information that is necessary in order to carry out the tasks of the competent authorities, including information to be provided at recurrent intervals and in specified formats for supervisory and related statistical purposes;	(a) the power to require any natural or legal persons to provide all information that is necessary in order to carry out the tasks of the competent authorities, including information to be provided at recurrent intervals and in specified formats for supervisory and related statistical purposes;	The Presidency has decided to maintain provision (1)(a) unchanged, as this wording is in line with what is provided for in most other EU financial supervision texts.
(b) the power to conduct all necessary investigations of any person referred to in point (a) established or located in the Member State concerned where necessary to carry out the tasks of the competent authorities, including the power to:	(b) the power to conduct all necessary investigations of any person referred to in point (a) established or located in the Member State concerned where necessary to carry out the tasks of the competent authorities, including the power to:	
(i) require the submission of documents;	(i) require the submission of documents;	
(ii) examine the data in any form, including the books and records of the persons referred to in point (a) and take copies or extracts from such documents;	(ii) examine the data in any form, including the books and records of the persons referred to in point (a) and take copies or extracts from such documents;	

(iii) obtain written or oral explanations from any person referred to in point (a) or their representatives or staff, and, if necessary, to summon and question any such person with a view to obtaining information;	(iii) obtain written or oral explanations from any person referred to in point (a) or their representatives or staff, and, if necessary, to summon and question any such person with a view to obtaining information;	
(iv) interview any other natural person who agrees to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;	(iv) interview any other natural person who agrees to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;	
(v) subject to other conditions set out in Union law or in national law, the power to conduct necessary inspections at the premises of the legal persons and at sites other than the private residence of natural persons referred to in point (a), as well as of any other legal person included in consolidated supervision where a competent authority is the consolidating supervisor, subject to prior notification of the competent authorities concerned.	(v) subject to other conditions set out in Union law or in national law, the power to conduct necessary inspections at the premises of the legal persons and at sites other than the private residence of natural persons referred to in point (a), as well as of any other legal person included in consolidated supervision where a competent authority is the consolidating supervisor, subject to prior notification of the competent authorities concerned.	
(vi) to enter the premises of natural and legal persons, in line with national law, in order to seize documents and data in any form where a reasonable suspicion exists that documents or data relating to the subject matter of the inspection or investigation may be necessary and relevant to prove a case of breach of provisions of this Regulation;	(vi) to enter the premises of natural and legal persons, in line with national law, in order to seize documents and data in any form where a reasonable suspicion exists that documents or data relating to the subject matter of the inspection or investigation may be necessary and relevant to prove a case of breach of provisions of this Regulation;	
(vii) to require, insofar as permitted by national law,	(vii) to require, insofar as permitted by national law,	

existing data traffic records held by a telecommunications operator, where there is a reasonable suspicion of a breach and where such records may be relevant to the investigation of a breach of this Regulation;	existing data traffic records held by a telecommunications operator, where there is a reasonable suspicion of a breach and where such records may be relevant to the investigation of a breach of this Regulation;	
(viii) to request the freezing or sequestration of assets, or both;	(viii) to request, **insofar as permitted by national law**, the freezing or sequestration of assets, or both;	
(ix) to refer matters for criminal investigation;	(ix) to refer matters for criminal investigation;	
(c) in the absence of other available means to bring about the cessation or the prevention of any breach of this Regulation and in order to avoid the risk of serious harm to the interests of consumers, competent authorities shall be entitled to take any of the following measures, including by requesting a third party or other public authority to implement them:	(c) in the absence of other available means to bring about the cessation or the prevention of any breach of this Regulation and in order to avoid the risk of serious harm to the interests of consumers, competent authorities shall, **insofar as permitted by national law,** be entitled to take any of the following measures, including by requesting a third party or other public authority to implement them:	The Presidency suggested to delete point (c) during WP5. However, MS expressed ambivalent opinions, and the Presidency therefore proposes to maintain this paragraph by adding that this is applicable within the limits of national law. For the sake of transparency the Presidency would like to point out that the initial proposal was aligned with Regulation (EU) 2023/1114. Moreover, some MS have proposed replacing 'shall' with 'may' in this provision. Nevertheless, the Presidency has decided to retain 'shall be entitled' because

		it considers that 'shall' leaves a margin of discretion to the competent authorities, subject to compliance with the principles of administrative law (proportionality, etc.). In other words, 'shall be entitled' does not mean that the competent authorities are obliged to take one of these measures. The Presidency believes that using 'may be entitled' suggests that this is a national option, which seems to be questionable for the powers of the competent authorities.
(i) to remove content or to restrict access to an online interface or to order that a warning is explicitly displayed to customers when they access an online interface;	(i) to remove content or to restrict access to an online interface or to order that a warning is explicitly displayed to customers when they access an online interface;	
(ii) to order a hosting service provider to remove, disable or restrict access to an online interface;	(ii) to order a hosting service provider to remove, disable or restrict access to an online interface;	
(iii) to order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to record such deletion.	(iii) **where appropriate,** to order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned **to register it.** ~~to record such deletion.~~	Alignment with Regulation (EU) 2017/2394 and Regulation (EU) 2023/1114.

The implementation of this paragraph and the exercise of powers set out therein shall be proportionate and comply with Union and national law, including with applicable procedural safeguards and with the principles of the Charter of Fundamental Rights of the European Union. The investigation and enforcement measures adopted pursuant to this Regulation shall be appropriate to the nature and the overall actual or potential harm of the infringement.	The implementation of this paragraph and the exercise of powers set out therein shall be proportionate and comply with Union and national law, including with applicable procedural safeguards and with the principles of the Charter of Fundamental Rights of the European Union. The investigation and enforcement measures adopted pursuant to this Regulation shall be appropriate to the nature and the overall actual or potential harm of the infringement.	
2. Competent authorities shall exercise their powers to investigate potential breaches of this Regulation, and impose administrative penalties and other administrative measures provided for in this Regulation, in any of the following ways:	2. Competent authorities shall exercise their powers to investigate potential breaches of this Regulation, and impose administrative penalties and other administrative measures provided for in this Regulation, in any of the following ways:	
(a) directly;	(a) directly;	
(b) in collaboration with other authorities;	(b) in collaboration with other authorities;	
(c) by delegating powers to other authorities or bodies;	(c) by delegating powers to other authorities ~~**or bodies;**~~	
(d) by having recourse to the competent judicial authorities of a Member State.	(d) by having recourse to the competent judicial authorities of a Member State.	
Where competent authorities exercise their powers by	Where competent authorities exercise their powers by	

delegating to other authorities or bodies in accordance withpoint (c), the delegation of power shall specify the delegated tasks, the conditions under which they are to be carried out, and the conditions under which the delegated powers may be revoked. The authorities or bodies to which the powers are delegated shall be organised in such a manner that conflicts of interest are avoided. Competent authorities shall oversee the activity of the authorities or bodies to which the powers are delegated.	delegating to other authorities or bodies in accordance withpoint (c), the delegation of power shall specify the delegated tasks, the conditions under which they are to be carried out, and the conditions under which the delegated powers may be revoked. The authorities or bodies to which the powers are delegated shall be organised in such a manner that conflicts of interest are avoided. Competent authorities shall oversee the activity of the authorities or bodies to which the powers are delegated.	
3. In the exercise of their investigatory and sanctioning powers, including in cross border cases, competent authorities shall cooperate effectively with each other and with the authorities from any sector concerned as applicable to each case and in accordance with national and Union law, to ensure the exchange of information and the mutual assistance necessary for the effective enforcement of administrative sanctions and administrative measures.	3. In the exercise of their investigatory and sanctioning powers, including in cross border cases, competent authorities shall cooperate effectively with each other**, with the supervisory authorities under Regulation (EU) 2016/679,** and with the authorities from any sector concerned as applicable to each case and in accordance with national and Union law, to ensure the exchange of information and the mutual assistance necessary for the effective enforcement of administrative sanctions and administrative measures.	
	Article 18b: Powers of competent authorities in relation to data user that is a gatekeeper or that is an entityies owned or controlled by a gatekeeper	Presidency proposal to give strong powers to competent authorities to provide safeguards against gatekeepers or entities owned/controlled by gatekeepers.
	1. Within 6 months after the date of application of	

	this Regulation, a data user that is a gatekeeper or that is owned or controlled by a gatekeeper shall be subject to a specific assessment by the competent authority of its registered office.	
	2. The specific assessment shall consist of the following information:	
	(a) a programme of operations submitted by gatekeeper or entity referred to in paragraph 1 which sets out the functioning, services and activities performed as a data user; including the type of access to customer data and the size of the activity in terms of the number of customers reached;	
	(b) an assessment of the network effects and data driven advantages of the gatekeeper or entity, in particular in relation to that undertaking's access to, and collection of, customer data or analytics capabilities;	
	(c) evidence that the gatekeeper or entity has in place sufficient safeguards to demonstrate compliance with the requirements in Articles 5 to 8, including Article 6(4)(f)	
	3. As soon as the competent authority considers the assessment to be complete, it shall send a copy of that	

	assessment to either EBA, ESMA or EIOPA depending on whether the entity referred to in paragraph 1 of this Article is authorised pursuant to one of the Union acts referred to in Article 2(1) of Regulation No 1093/2010, Article 2(1) Regulation (EU) No 1094/2010 or Article 2(1) of Regulation (EU) No 1095/2010.	
	4. The ESA referred to in paragraph 3 of this Article shall provide the competent authority with an opinion on the assessment conducted within 30 calendar days of receiving the copy of that assessment. Before issuing the above-mentioned opinion, the European Supervisory Authority shall consult the European Data Protection Board.	
	5. The competent authority shall conclude its assessment once the requirements laid down in paragraphs 2 and 4 of this Article are met. The competent authority shall inform the entity referred to in paragraph 1 of the conclusion of its assessment. **If the assessment conducted by the competent authority concludes that the entity fulfils the requirements in paragraph 2 of this Article, the assessment shall be declared complete by the competent authority and the entity referred to in paragraph 1 shall be confirmed as an eligible entity**	

	under Article 2(2) of this Regulation. **If the assessment conducted by the competent authority concludes that there are significant deficiencies, the competent authority shall request that the entity introduce measures to address these. If measures are not taken, the competent authority may exclude the entity from this Regulation.**	
	6. The competent authority may decide to conduct a new assessment if the entity referred to in paragraph 1 no longer meets the conditions of the assessment or fails to inform the competent authority on major developments in this respect.	
Article 19 Settlement agreements and expedited enforcement procedures	Article 19 Settlement agreements and expedited enforcement procedures	
1. Without prejudice to Article 20, Member States may lay down rules enabling their competent authorities to close an investigation concerning an alleged breach of this Regulation, following a settlement agreement in order to put an end to the alleged breach and its consequences before formal sanctioning proceedings are started.	1. Without prejudice to Article 20, Member States may lay down rules enabling their competent authorities to close an investigation **or formal sanctioning proceedings** concerning an alleged breach of this Regulation, following a settlement agreement in order to put an end to the alleged breach and its consequences before formal sanctioning proceedings are started **or to close formal sanctioning proceedings by a way of settlement.**	

2. Member States may lay down rules enabling their competent authorities to close an investigation concerning an established breach through an expedited enforcement procedure in order to achieve a swift adoption of a decision aiming at imposing an administrative sanction or administrative measure.	2. Member States may lay down rules enabling their competent authorities to close an investigation concerning an established breach through an expedited enforcement procedure in order to achieve a swift adoption of a decision aiming at imposing an administrative sanction or administrative measure.	
The empowerment of competent authorities to settle or open expedite enforcement procedures does not affect the obligations upon Member States under Article 20.	The empowerment of competent authorities to settle or open expedite enforcement procedures does not affect the obligations upon Member States under Article 20.	
3. Where Member States lay down the rules referred to in paragraph 1, they shall notify the Commission of the relevant laws, regulations and administrative provisions regulating the exercise of powers referred to in that paragraph and shall notify it of any subsequent amendments affecting those rules.	3. Where Member States lay down the rules referred to in paragraph 1, they shall notify the Commission of the relevant laws, regulations and administrative provisions regulating the exercise of powers referred to in that paragraph and shall notify it of any subsequent amendments affecting those rules.	
Article 20 Administrative ***penalties*** and other administrative measures	Article 20 Administrative ***penalties*** and other administrative measures	Regarding Articles 20-21 and 22, the Presidency has been unable so far to process the comments received during WP 4.
1. Without prejudice to the supervisory and investigative powers of competent authorities listed in Article 18, Member States shall, in accordance with national law, provide for competent authorities to have the power to take appropriate administrative penalties	1. Without prejudice to the supervisory and investigative powers of competent authorities listed in Article**s** 18**a and 18b**, Member States shall, in accordance with national law, provide for competent authorities to have the power to take appropriate	

and to take other administrative measures in relation to the following infringements:	administrative penalties and to take other administrative measures in relation to the following infringements:	
(a) infringements of Articles 4, 5 and 6;	(a) infringements of Articles 4, 5 and 6;	
(b) infringements of Articles 7 and 8;	(b) infringements of Articles 7 and 8;	
(c) infringements of Article 9 and 10;	(c) infringements of Article 9 and 10;	
(d) infringements of Articles 13 and 16;	(d) infringements of Articles **12,** 13 and 16;	
(e) infringements of Article 28.	(e) infringements of Article 28.	
2. Member States may decide not to lay down rules on administrative sanctions and administrative measures applicable to breaches of this Regulation which are subject to sanctions under national criminal law. In such a case, Member States shall notify the Commission of the relevant criminal law provisions and any subsequent amendments thereto.	2. Member States may decide not to lay down rules on administrative sanctions and administrative measures applicable to breaches of this Regulation which are subject to sanctions under national criminal law. In such a case, Member States shall notify the Commission of the relevant criminal law provisions and any subsequent amendments thereto.	
3. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose the following administrative ***penalties*** and other administrative measures in relation to the infringements referred to in paragraph 1:	3. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose the following administrative ***penalties*** and other administrative measures in relation to the infringements referred to in paragraph 1:	
(a) a public statement indicating the natural or legal	(a) a public statement indicating the natural or legal	

person responsible and the nature of the infringement;	person responsible and the nature of the infringement;	
(b) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;	(b) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;	
(c) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;	(c) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;	
(d) a temporary suspension of the authorisation of a financial information service provider;	(d) a temporary suspension of the authorisation of a financial information service provider;	
(e) a maximum administrative ***fine*** of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined***, even if such fine exceeds the maximum amounts set out in this paragraph, point (f), as regards natural persons, or in paragraph 4 as regards legal persons;***	(e) a maximum administrative ***fine*** of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined***, even if such fine exceeds the maximum amounts set out in this paragraph, point (f), as regards natural persons, or in paragraph 4 as regards legal persons;***	
(f) in the case of a natural person, maximum administrative ***fines*** of up to EUR 25 000 per infringement and up to a total of EUR 250 000 per year, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency of that Member State on ... [OP please insert	(f) in the case of a natural person, maximum administrative ***fines*** of up to EUR 25 000 per infringement and up to a total of EUR 250 000 per year, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency of that Member State on ... [OP please insert	

the date of entry into force of this Regulation].	the date of entry into force of this Regulation].	
(g) a temporary ban of any member of the management body of the financial information service provider**,** or any other natural person who is held responsible for the infringement, from exercising management functions in financial information service providers;	(g) a temporary ban of any member of the management body of the financial information service provider**,** or any other natural person who is held responsible for the infringement, from exercising management functions in financial information service providers;	
(h) in the event of a repeated infringement of the articles referred to in paragraph 1, a ***ban of at least 10 years*** for any member of the management body of a financial information service provider**,** or any other natural person who is held responsible for the infringement, from exercising management functions in a financial information service provider.	(h) in the event of a repeated infringement of the articles referred to in paragraph 1, a ***ban of at least 10 years*** for any member of the management body of a financial information service provider**,** or any other natural person who is held responsible for the infringement, from exercising management functions in a financial information service provider.	
4. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose, in relation to the infringements referred to in paragraph 1 committed by legal persons, maximum administrative fines of:	4. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose, in relation to the infringements referred to in paragraph 1 committed by legal persons, maximum administrative fines of:	
(a) *up to EUR 50 000 per infringement and up to a total of EUR 500 000 per year, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency of that Member State on ... [OP please insert the date of entry*	(a) *up to EUR 50 000 per infringement and up to a total of EUR 500 000 per year, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency of that Member State on ... [OP please insert the date of entry*	

into force of this Regulation];	*into force of this Regulation];*	
(b) *2% of the total annual turnover of the legal person according to the last available financial statements approved by the management body;*	(b) *2% of the total annual turnover of the legal person according to the last available financial statements approved by the management body;*	
Where the legal person referred to in the first subparagraph is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and of the Council[73], the relevant total annual turnover shall be the net turnover or the revenue to be determined in accordance with the relevant accounting standards, according to the consolidated financial statements of the ultimate parent undertaking available for the latest balance sheet date, for which the members of the administrative, management and supervisory	***Where the legal person referred to in the first subparagraph is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and of the Council[74], the relevant total annual turnover shall be*** the net turnover or the revenue to be determined in accordance with the relevant accounting standards, according to the consolidated financial statements of the ultimate parent undertaking available for the latest balance sheet date, for which the members of the administrative, management and supervisory body of the ultimate undertaking have responsibility.	

[73] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

[74] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

5. Member States may empower competent authorities to impose other types of administrative penalties and other administrative measures in addition to those referred to in paragraphs 3 and 4 and may provide for higher amounts of administrative pecuniary fines than those laid down in those paragraphs.	5. Member States may empower competent authorities to impose other types of administrative penalties and other administrative measures in addition to those referred to in paragraphs 3 and 4 and may provide for higher amounts of administrative pecuniary fines than those laid down in those paragraphs.	
Member States shall notify to the Commission the level of such higher penalties, and any subsequent amendments thereto.	Member States shall notify to the Commission the level of such higher penalties, and any subsequent amendments thereto.	
Article 21 Periodic penalty payments	Article 21 Periodic penalty payments	
1. Competent authorities shall be entitled to impose periodic penalty payments on legal or natural persons for an ongoing failure to comply with any decision, order, interim measure, request, obligation or other administrative measure adopted in accordance with this Regulation.	1. Competent authorities shall be entitled to impose periodic penalty payments on legal or natural persons for an ongoing failure to comply with any decision, order, interim measure, request, obligation or other administrative measure adopted in accordance with this Regulation.	
A periodic penalty payment referred to in the first subparagraph shall be effective and proportionate and shall consist of a daily amount to be paid until compliance is restored. They shall be imposed for a period not exceeding 6 months from the date indicated in the decision imposing the periodic penalty payments.	A periodic penalty payment referred to in the first subparagraph shall be effective and proportionate and shall consist of a daily amount to be paid until compliance is restored. They shall be imposed for a period not exceeding 6 months from the date indicated in the decision imposing the periodic penalty payments.	

Competent authorities shall be entitled to impose the following periodic penalty payments which may be adjusted depending on the seriousness of the breach and the needs of the sector:	Competent authorities shall be entitled to impose the following periodic penalty payments which may be adjusted depending on the seriousness of the breach and the needs of the sector:	
(a) 3% of the average daily turnover in the case of a legal person;	(a) 3% of the average daily turnover in the case of a legal person;	
(b) EUR 30 000 in the case of a natural person.	(b) EUR 30 000 in the case of a natural person.	
2. The average daily turnover referred to in paragraph 1, third subparagraph, point (a), shall be the total annual turnover, divided by 365.	2. The average daily turnover referred to in paragraph 1, third subparagraph, point (a), shall be the total annual turnover, divided by 365.	
3. Member States may provide for higher amounts of periodic penalty payments than those laid down in paragraph 1, third subparagraph.	3. Member States may provide for higher amounts of periodic penalty payments than those laid down in paragraph 1, third subparagraph.	
Article 22 Circumstances to be considered when determining administrative penalties and other administrative measures	Article 22 Circumstances to be considered when determining administrative penalties and other administrative measures	
1. Competent authorities, when determining the type and level of administrative penalties or other administrative measure, shall take into account all relevant circumstances in order to ensure that such sanctions or measures are effective and proportionate.	1. Competent authorities, when determining the type and level of administrative penalties or other administrative measure, shall take into account all relevant circumstances in order to ensure that such sanctions or measures are effective and proportionate.	

Those circumstances shall include, where appropriate:	Those circumstances shall include, where appropriate:	
(a) the gravity and the duration of the breach;	(a) the gravity and the duration of the breach;	
(b) the degree of responsibility of the legal or natural person responsible for the breach;	(b) the degree of responsibility of the legal or natural person responsible for the breach;	
(c) the financial strength of the legal or natural person responsible for the breach, as indicated, among other things, by the total annual turnover of the legal person, or the annual income of the natural person responsible for the breach;	(c) the financial strength of the legal or natural person responsible for the breach, as indicated, among other things, by the total annual turnover of the legal person, or the annual income of the natural person responsible for the breach;	
(d) the level of profits gained or losses avoided by the legal or natural person responsible for the breach, if such profits or losses can be determined;	(d) the level of profits gained or losses avoided by the legal or natural person responsible for the breach, if such profits or losses can be determined;	
(e) the losses for third parties caused by the breach, if such losses can be determined;	(e) the losses for third parties caused by the breach, if such losses can be determined;	
(f) the disadvantage resulting to the legal or natural person responsible for the breach from the duplication of criminal and administrative proceedings and penalties for the same conduct;	(f) the disadvantage resulting to the legal or natural person responsible for the breach from the duplication of criminal and administrative proceedings and penalties for the same conduct;	
(g) the impact of the breach on the interests of customers;.	(g) the impact of the breach on the interests of customers;.	

(h) any actual or potential systemic negative consequences of the breach;	(h) any actual or potential systemic negative consequences of the breach;	
(i) the complicity or organised participation of more than one legal or natural person in the breach;	(i) the complicity or organised participation of more than one legal or natural person in the breach;	
(j) previous breaches committed by the legal or natural person responsible for the breach;	(j) previous breaches committed by the legal or natural person responsible for the breach;	
(k) the level of cooperation of the legal or natural person, responsible for the breach, with the competent authority;	(k) the level of cooperation of the legal or natural person, responsible for the breach, with the competent authority;	
(l) any remedial action or measure undertaken by the legal or natural person responsible for the breach to prevent its repetition.	(l) any remedial action or measure undertaken by the legal or natural person responsible for the breach to prevent its repetition.	
2. Competent authorities that use settlement agreements or expedited enforcement procedures pursuant to Article 19 shall adapt the relevant administrative penalties and other administrative measures provided for in Article 20 to the case concerned to ensure the proportionality thereof, in particular by considering the circumstances listed in paragraph 1.	2. Competent authorities that use settlement agreements or expedited enforcement procedures pursuant to Article 19 shall adapt the relevant administrative penalties and other administrative measures provided for in Article 20 to the case concerned to ensure the proportionality thereof, in particular by considering the circumstances listed in paragraph 1.	
Article 23 Professional secrecy	Article 23 Professional secrecy	

1. All persons who work or who have worked for the competent authorities, as well as experts acting on behalf of the competent authorities, are bound by the obligation of professional secrecy	***1. All persons who work or who have worked for the competent authorities, as well as experts acting on behalf of the competent authorities, are bound by the obligation of professional secrecy in accordance with national laws.***	
2. The information exchanged in accordance with Article 26 shall be subject to the obligation of professional secrecy by both the sharing and recipient authority to ensure the protection of individual and business rights.	***2. The information exchanged in accordance with Article 26 shall be subject to the obligation of professional secrecy by both the sharing and recipient authority to ensure the protection of individual and business rights.***	
Article 24 Right of appeal	Article 24 Right of appeal	Following MS comments, BE PCDY suggests to maintain Article 24.
1. Decisions taken by the competent authorities pursuant to this Regulation, ***may be contested before the courts.***	***1.*** Decisions taken by the competent authorities pursuant to this Regulation, ***may be contested before the courts.***	
2. ***Paragraph 1 shall apply also in respect of a failure to act.***	2. ***Paragraph 1 shall apply also in respect of a failure to act.***	
Article 25 Publication of decisions of competent authorities	Article 25 Publication of decisions of competent authorities	
1. Competent authorities shall publish on their website all decisions imposing an administrative penalty	1. Competent authorities shall publish on their website all decisions imposing an administrative penalty	Majority of MS argued for maintaining the anonymization as the rule, and the

or administrative measure on legal and natural persons, for breaches of this Regulation, and where applicable, all settlement agreements. The publication shall include, a short description of the breach, the administrative penalty or other administrative measure imposed, or, where applicable, a statement about the settlement agreement. The identity of the natural person subject to the decision imposing an administrative penalty or administrative measure shall not be published.	or administrative measure on legal and natural persons, for breaches of this Regulation, and where applicable, all settlement agreements. The publication shall include, a short description of the breach, the administrative penalty or other administrative measure imposed, or, where applicable, a statement about the settlement agreement. The identity of the natural person subject to the decision imposing an administrative penalty or administrative measure shall not be published.	publication the exception.
Competent authorities shall publish the decision and the statement referred to in paragraph 1 immediately after the legal or natural person subject to the decision has been notified of that decision or the settlement agreement has been signed.	Competent authorities shall publish the decision and the statement referred to in paragraph 1 immediately after the legal or natural person subject to the decision has been notified of that decision or the settlement agreement has been signed.	
2. By derogation from paragraph 1, where the publication of the identity or other personal data of the natural person is deemed necessary by the national competent authority to protect the stability of the financial markets or, to ensure the effective enforcement of this Regulation, including in the case of public statements referred to in Article 20(3) point (a), or temporary bans referred to in Article 20(3) point (g), the national competent authority may publish also the identity of the persons or personal data, provided that it justifies such a decision and that the publication is limited to the personal data that is strictly necessary to	2. By derogation from paragraph 1, where the publication of the identity or other personal data of the natural person is deemed necessary by the national competent authority to protect the stability of the financial markets or, to ensure the effective enforcement of this Regulation, including in the case of public statements referred to in Article 20(3) point (a), or temporary bans referred to in Article 20(3) point (g), the national competent authority may publish also the identity of the persons or personal data, provided that it justifies such a decision and that the publication is limited to the personal data that is strictly necessary to	

protect the stability of the financial markets or to ensure the effective enforcement of this Regulation.	protect the stability of the financial markets or to ensure the effective enforcement of this Regulation.	
3. Where the decision imposing an administrative penalty or other administrative measure is subject to appeal before the relevant judicial or other authority, competent authorities shall also publish on their official website, without delay, information on the appeal and any subsequent information on the outcome of such an appeal insofar as it concerns legal persons. Where the appealed decision concerns natural persons and the derogation under paragraph 2 is not applied, competent authorities shall publish information on the appeal only in an anonymised version.	3. Where the decision imposing an administrative penalty or other administrative measure is subject to appeal before the relevant judicial or other authority, competent authorities shall also publish on their official website, without delay, information on the appeal and any subsequent information on the outcome of such an appeal insofar as it concerns legal persons. Where the appealed decision concerns natural persons and the derogation under paragraph 2 is not applied, competent authorities shall publish information on the appeal only in an anonymised version.	
4. Competent authorities shall ensure that any publication made in accordance with this Article remains on their official website for a period of at least 5 years. Personal data contained in the publication shall be kept on the official website of the competent authority only if an annual review shows the continued need to publish that data to protect the stability of the financial markets or to ensure the effective enforcement of this Regulation, and in any event for no longer than 5 years.	4. Competent authorities shall ensure that any publication made in accordance with this Article remains on their official website for a period of at least 5 years. Personal data contained in the publication shall be kept on the official website of the competent authority only if an annual review shows the continued need to publish that data to protect the stability of the financial markets or to ensure the effective enforcement of this Regulation, and in any event for no longer than 5 years.	
Article 26 Cooperation and exchange of information between	Article 26 Cooperation and exchange of information between	

competent authorities	competent authorities	
1. Competent authorities shall cooperate with each other and with other relevant competent authorities designated under Union or national law applicable to financial institutions for the purposes of this Regulation carrying out the duties of the competent authorities.	1.Competent authorities shall cooperate with each other and ~~with other relevant competent authorities designated under Union or national law applicable to financial institutions for the purposes of this Regulation carrying out the duties of the competent authorities.~~ **exchange information as necessary for the performance of their duties under this Regulation. In case of exchanging information containing personal data, those authorities shall ensure full compliance with the Regulation 2016/679.**	
2. The exchange of information between competent authorities and the competent authorities of other Member States responsible for the authorisation and supervision of financial information service providers shall be allowed for the purposes of carrying out their duties under this Regulation.	2. The exchange of information between competent authorities and the competent authorities of other Member States responsible for the authorisation and supervision of financial information service providers shall be allowed for the purposes of carrying out their duties under this Regulation.	
3. Competent authorities exchanging information with other competent authorities under this Regulation may indicate at the time of communication that such information must not be disclosed without their express agreement, in which case such information may be exchanged solely for the purposes for which those authorities gave their agreement.	3. Competent authorities exchanging information with other competent authorities under this Regulation may indicate at the time of communication that such information must not be disclosed without their express agreement, in which case such information may be exchanged solely for the purposes for which those authorities gave their agreement.	

4. The competent authority shall not transmit information shared by other competent authorities to other bodies or natural or legal persons without the express agreement of the competent authorities which disclosed it and solely for the purposes for which those authorities gave their agreement, except in duly justified circumstances. In this last case, the contact point shall immediately inform the contact point that sent the information.	4. The competent authority shall not transmit information shared by other competent authorities to other bodies or natural or legal persons without the express agreement of the competent authorities which disclosed it and solely for the purposes for which those authorities gave their agreement, except in duly justified circumstances. In this last case, the contact point shall immediately inform the contact point that sent the information.	The Presidency highlights that this provision, in particular the wording 'in duly justify circumstances', is aligned with Article 81(2) Directive 2014/65/EU.
	Paragraphs 3 and 4 are without prejudice to Member States national law concerning access to official documents.	
5. Where obligations under this Regulation concern the processing of personal data, competent authorities shall cooperate with the supervisory authorities established pursuant to Regulation (EU) 2016/679.	5. Where obligations under this Regulation concern the processing of personal data, competent authorities shall cooperate ~~consult~~ with the supervisory authorities established pursuant to Regulation (EU) 2016/679. ~~before exercising their supervisory powers~~.	Following MS comments, and legal uncertainties of the drafting suggestions, the Presidency proposes maintaining the original text.
Article 27 Settlement of disagreements between competent authorities	Article 27 Settlement of disagreements between competent authorities	
1. Where a competent authority of a Member State considers that, in a particular matter, cross-border cooperation with competent authorities of another Member State as referred to in Articles 28 or 29 of this	1. Where a competent authority of a Member State considers that, in a particular matter, cross-border cooperation with competent authorities of another Member State as referred to in Articles 28 or 29 of this	Inclusion of EIOPA with respect to insurance or occupational pension's schemes matters. Inclusion of ESMA with respect to securities and market matters.

Regulation does not comply with the relevant conditions set out in those provisions, it may refer the matter to EBA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.	Regulation does not comply with the relevant conditions set out in those provisions, it may refer the matter to EBA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. **In case of insurance or occupational pension's competent authorities, they may refer the matter to EIOPA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In case of securities and markets competent authorities, they may refer the matter to ESMA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1095/2010.**	
2. Where EBA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1093/2010 without undue delay. EBA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1093/2010.	2. Where EBA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1093/2010 without undue delay. EBA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1093/2010.	
	3. Where EIOPA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No	Relevance to paragraph 1

	1094/2010 without undue delay. EIOPA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1094/2010.	
	3. Where ESMA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1095/2010 without undue delay. EIOPA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1095/2010.	Relevance to paragraph 1.
TITLE VII Cross Border access to data	TITLE VII Cross Border access to data	
Article 28 Cross-border access to data by financial information service providers	Article 28 Cross-border access to data by financial information service providers **and financial institutions**	

1. Financial information service providers and financial institutions shall be allowed to have access to the data listed in Article 2(1) of Union customers held by data holders established in the Union, pursuant to the freedom to provide services or the freedom of establishment	1. Financial information service providers and financial institutions shall **upon request from a customer or upon request from a data user and based on the customer's explicit permission in accordance with Article 5(1),** be allowed to have access to the data listed in Article 2(1) of ~~Union~~ customers held by data holders established in the Union, pursuant to the freedom to provide services or the freedom of establishment.	.
2. A financial information service provider wishing to have access to the data listed in Article 2(1) of this Regulation for the first time in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicate the following information to the competent authorities in its home Member State:	2. A financial information service provider wishing to have access to the data listed in Article 2(1) ~~of this Regulation~~ for the first time **from a data holder** in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicate the following information to the competent authorities in its home Member State:	
(a) the name, the address and, where applicable, the authorisation number of the financial information service provider;	(a) the name, **legal form, the legal entity identifier**, the address and, where applicable, the authorisation number of the financial information service provider;	
(b) the Member State(s) in which it intends to have access to the data listed in Article 2(1);	(b) the Member State(s) in which it intends to have access to the data listed in Article 2(1);	
(c) the type of data it wishes to have access to;	(c) the type of data it wishes to have access to;	

(d) the financial data sharing schemes it is a member	(d) the financial data sharing schemes it is a member **of**.	
	(e) where the financial information service provider intends to make use of a branch:	Alignment of passporting regime with Article 30 of PSD3 proposal.
	(i) the information referred to in Article 12(2), points (b) and (e), with regard to the service business in the host Member State;	
	(ii) a description of the organisational structure of the branch;	
	(iii) the identity of those responsible for the management of the branch.	
Where the financial information service provider intends to outsource operational functions of data access to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly.	Where the financial information service provider intends to outsource operational functions of data access to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly.	
3. Within 1 month of receipt of all of the information referred to in paragraph 1 the competent authorities of the home Member State shall send it to the competent authorities of the host Member State.	3. Within ~~**a maximum delay of**~~ 1 month of receipt of all of the information referred to in paragraph 1 the competent authorities of the home Member State shall send it to the competent authorities of the host Member State. **The financial information service providers may then start to access data in the notified host**	The inclusion of the word "maximum delay of" was added by PCDY BE during WP5. However, following MS comments, the PCDY BE deletes this drafting proposal.

	Member State.	
4. The financial information service provider shall communicate to the competent authorities of the home Member State without undue delay any relevant change regarding the information communicated in accordance with paragraph 1, including additional entities to which activities are outsourced in the host Member States in which it operates. The procedure provided for under paragraphs 2 and 3 shall apply.	4. The financial information service provider shall communicate to the competent authorities of the home Member State without undue delay any relevant change regarding the information communicated in accordance with paragraph 1, including additional entities to which activities are outsourced in the host Member States in which it operates. The procedure provided for under paragraphs 2 and 3 shall apply.	
	5. The European Supervisory Authorities (ESAs), through the Joint Committee, shall develop draft regulatory technical standards specifying the framework for cooperation, and for the exchange of information, between competent authorities of the home and of the host Member State in accordance with this Article. **Those draft regulatory technical standards shall specify the method, means and details of cooperation in the notification of financial information service providers operating on a cross-border basis and, in particular, the scope and treatment of information to be submitted, including common terminology and standard notification templates to ensure a consistent and efficient notification process. Those draft regulatory technical standards shall be aligned**	Strong majority of MS argued for the ESAs to develop draft RTS fostering convergence for passporting notifications while ensuring consistency with the Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017. Wording from PSD3 proposal.

	with the Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017. **The ESAs shall submit those draft regulatory technical standards to the Commission by [OP please insert the date= 18 months after the date of entry into force of this Regulation].** **Power is delegated to the Commission to adopt the regulatory technical standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.**	
Article 29 Reasons and communication	Article 29 Reasons and communication	
Any measure taken by the competent authorities pursuant to Article 18 or Article 28 involving penalties or restrictions on the exercise of the freedom to provide services or the freedom of establishment shall be properly justified and communicated to the financial information service provider concerned.	Any measure taken by the competent authorities pursuant to Article 18 or Article 28 involving penalties or restrictions on the exercise of the freedom to provide services or the freedom of establishment shall be properly justified and communicated to the financial information service provider concerned.	
TITLE VIII	TITLE VIII	
Final provisions	Final provisions	
Article 30 Exercise of delegation	Article 30 Exercise of delegation	

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	
2. The power to adopt the delegated act referred to in Article 11, shall be conferred on the Commission for a period of XX months from … [OP please insert: date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the XX-month period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	2. The power to adopt the delegated act referred to in Article 11, shall be conferred on the Commission for a period of XX months from … [OP please insert: date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the XX-month period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	
3. The delegation of powers referred to in Article 11, may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of powers referred to in Article 11, may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	
4. Before adopting a delegated act, the Commission shall consult experts signated by each Member State in	4. Before adopting a delegated act, the Commission shall consult experts signated by each Member State in	

accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
6. A delegated act adopted pursuant to Article 11, shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months on the initiative of the European Parliament or of the Council.	6. A delegated act adopted pursuant to Article 11, shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months on the initiative of the European Parliament or of the Council.	
Article 31 Evaluation of this Regulation and report on access to financial data	Article 31 Evaluation of this Regulation and report on access to financial data	
1. By [OP please insert the date = 4 years after the date of entry into application of this Regulation, the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to	1. By [OP please insert the date = 4 years after the date of entry into application of this Regulation, the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to	The timing will have to be modified according to the decisions taken on the scope and schemes.

the European Economic and Social Committee. That evaluation shall assess, in particular:	the European Economic and Social Committee. That evaluation shall assess, in particular:	
(a) other categories or sets of data to be made accessible;	(a) other categories or sets of data to be made accessible;	
(b) the exclusion from the scope of certain categories of data and entities;	(b) the exclusion from the scope of certain categories of data and entities;	
(c) changes in contractual practices of data holders and data users and the operation of financial data sharing schemes;	(c) changes in contractual practices of data holders and data users and the operation of financial data sharing schemes;	
(d) the inclusion of other types of entities to those entities granted the right of access to data.	(d) the inclusion of other types of entities to those entities granted the right of access to data.	
(e) the impact of compensation on the ability of data users to participate in financial data sharing schemes and access data from data holders.	(e) the impact of compensation on the ability of data users to participate in financial data sharing schemes and access data from data holders.	
	(f) the activities under this Regulation of any undertaking designated as a gatekeeper or entities owned or controlled by a gatekeeper to evaluate whether additional measures, including the exclusion of such designated entities, are required. The competent authorities of Member States shall provide any relevant information they have that the Commission may require for the purposes of	Presidency proposal to give COM the possibility to assess the activities of gatekeepers or entities owned/controlled by a gatekeeper and to propose additional measures, up to and including exclusion.

	drawing up the assessment to this effect;	
	(g) the financial implications on data holders, including costs and benefits to consumers;	Strong majority of MS argued for a comprehensive assessment of the financial implications on data holders, including costs and benefits to consumers, in the review report.
	(h) data users' compliance with the provisions set out in Article 7.	Assessment that the data processed complies with the rules governing the scope of use of the data as defined in the Article 7.
2. By [OP please insert the date = 4 years after the date of entry into force of this Regulation, the Commission shall submit a report to the European Parliament and the Council assessing the conditions for access to financial data applicable to account information service providers under this Regulation and under Directive (EU) 2015/2366. The report can be accompanied, if deemed appropriate, by a legislative proposal.	2. By [OP please insert the date = 4 **5** years after the date of entry into force of this Regulation, the Commission shall submit a report to the European Parliament and the Council assessing the conditions for access to ~~financial~~ **customer** data applicable to account information service providers under this Regulation and ~~under Directive (EU) 2015/2366~~ **under proposal for a Regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation (EU) No 1093/2010.** The report can be accompanied, if deemed appropriate, by a legislative proposal.	The timing will have to be modified according to the decisions taken on the scope and schemes. BE PCDY proposed to use the wording "customer data" troughout the whole text to ensure consistency.
Article 32 Amendment to Regulation (EU) No 1093/2010	Article 32 Amendment to Regulation (EU) No 1093/2010	

In Article 1(2) of Regulation (EU) No 1093/2010, the first subparagraph is replaced by the following:	In Article 1(2) of Regulation (EU) No 1093/2010, the first subparagraph is replaced by the following:	
‘The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC*, Directive 2009/110/EC, Regulation (EU) No 575/2013**, Directive 2013/36/EU***, Directive 2014/49/EU****, Directive 2014/92/EU*****, Directive (EU) 2015/2366******, Regulation (EU) 2023/1114 (*******), Regulation (EU) 2024/…/EU (********) of the European Parliament and of the Council and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013*********.	‘The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC*, Directive 2009/110/EC, Regulation (EU) No 575/2013**, Directive 2013/36/EU***, Directive 2014/49/EU****, Directive 2014/92/EU*****, Directive (EU) 2015/2366******, Regulation (EU) 2023/1114 (*******), Regulation (EU) 2024/…/EU (********) of the European Parliament and of the Council and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013*********.	
* Directive 2008/48/EC Of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).	* Directive 2008/48/EC Of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).	
** Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on	** Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on	

prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).	prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).	
*** Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).	*** Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).	
**** Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).	**** Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).	
***** Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).	***** Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).	
****** Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).	****** Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).	

******* Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).	******* Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).	
******** Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1095/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).	******** Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1095/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).	
********* Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).'	********* Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).'	
Article 33 Amendment to Regulation (EU) No 1094/2010	Article 33 Amendment to Regulation (EU) No 1094/2010	
In Article 1(2) of Regulation (EU) No 1094/2010, the first subparagraph is replaced by the following:	In Article 1(2) of Regulation (EU) No 1094/2010, the first subparagraph is replaced by the following:	
'The Authority shall act within the powers conferred by this Regulation and within the scope of Regulation (EU)	'The Authority shall act within the powers conferred by this Regulation and within the scope of Regulation (EU)	

2024/…/EU (*), of Directive 2009/138/EC with the exception of Title IV thereof, of Directive 2002/87/EC, Directive (EU) 2016/97 (**) and Directive (EU) 2016/2341 (***) of the European Parliament and of the Council, and, to the extent that those acts apply to financial information services providers, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision and insurance intermediaries, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.'	2024/…/EU (*), of Directive 2009/138/EC with the exception of Title IV thereof, of Directive 2002/87/EC, Directive (EU) 2016/97 (**) and Directive (EU) 2016/2341 (***) of the European Parliament and of the Council, and, to the extent that those acts apply to financial information services providers, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision and insurance intermediaries, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.'	
* Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010, (EU) 1094/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L …, ..., p.).	* Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010, (EU) 1094/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L …, ..., p.).	
** Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).	** Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).	
*** Directive (EU) 2016/2341 of the European Parliament and of the Council	*** Directive (EU) 2016/2341 of the European Parliament and of the Council	

of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).	of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).	
Article 34 Amendment to Regulation (EU) No 1095/2010	Article 34 Amendment to Regulation (EU) No 1095/2010	
In Article 1(2) of Regulation (EU) No 1095/2010, the first subparagraph is replaced by the following:	In Article 1(2) of Regulation (EU) No 1095/2010, the first subparagraph is replaced by the following:	
‘The Authority shall act within the powers conferred by this Regulation and within the scope of Directives 97/9/EC, 98/26/EC, 2001/34/EC, 2002/47/EC, 2004/109/EC, 2009/65/EC, Directive 2011/61/EU of the European Parliament and of the Council*, Regulation (EC) No 1060/2009 and Directive 2014/65/EU of the European Parliament and of the Council**, Regulation (EU) 2017/1129 of the European Parliament and of the Council***, Regulation (EU) 2023/1114of the European Parliament and of the Council**** Regulation (EU) 2024/… of the European Parliament and of the Council***** and to the extent that those acts apply to firms providing investment services or to collective investment undertakings marketing their units or shares, issuers or offerors of crypto-assets, persons seeking admission to trading or crypto-asset service providers, financial information service providers and the	‘The Authority shall act within the powers conferred by this Regulation and within the scope of Directives 97/9/EC, 98/26/EC, 2001/34/EC, 2002/47/EC, 2004/109/EC, 2009/65/EC, Directive 2011/61/EU of the European Parliament and of the Council*, Regulation (EC) No 1060/2009 and Directive 2014/65/EU of the European Parliament and of the Council**, Regulation (EU) 2017/1129 of the European Parliament and of the Council***, Regulation (EU) 2023/1114of the European Parliament and of the Council**** Regulation (EU) 2024/… of the European Parliament and of the Council***** and to the extent that those acts apply to firms providing investment services or to collective investment undertakings marketing their units or shares, issuers or offerors of crypto-assets, persons seeking admission to trading or crypto-asset service providers, financial information service providers and the	

competent authorities that supervise them, within the relevant parts of, Directives 2002/87/EC and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.	competent authorities that supervise them, within the relevant parts of, Directives 2002/87/EC and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.	
_____	_____	
* Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).	* Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).	
** Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).	** Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).	
*** Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).	*** Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).	

**** Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p.40).'	**** Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p.40).'	
***** Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).	***** Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).	
Article 35 Amendment to Regulation (EU) 2022/2554	Article 35 Amendment to Regulation (EU) 2022/2554	
Article 2(1) of Regulation (EU) 2022/2554 is amended as follows:	Article 2(1) of Regulation (EU) 2022/2554 is amended as follows:	
	(1) In point (u), "ICT third-party service providers." is replaced by "financial information service providers;"	MS proposal in order to make the DORA requirements of chapters II-VI applicable to FISP. Thus making FISP subject to the same DORA requirements as data users as stated in recital. 32 of FIDA.
(1) In point (u), the punctuation mark "."is replaced by ";"	~~(1) In point (u), the punctuation mark "."is replaced by ";"~~	

(2) the following point (v) is added:	(2) the following point (v) is added:	
““(v) financial information service providers.””	**“(v) ICT third-party service providers .”**	
	Article 2(2) of Regulation (EU) 2022/2554 is amended as follows:	
	For the purposes of this Regulation, entities referred to in paragraph 1, points (a) to (u), shall collectively be referred to as ‘financial entities’	
	Article 46 of Regulation (EU) 2022/2554 is amended as follows:	PCDY BE proposal to amend Article 46 of DORA, as agreed by MS during WP 5.
	(1) In point (q), the punctuation mark “.”is replaced by “;”	
	(2) the following point (r) is added:	
	(r) for financial information service providers, the competent authority designated in accordance with Article 17(1) of Regulation on Financial Data Access (FIDA).	
Article 36 Entry into force and application	Article 36 Entry into force and application	

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	**1.** This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.	
It shall apply from [OP please insert the date = 24 months after the date of entry into force of this Regulation]. However, Articles 9 to 13 shall apply from [OP please insert the date = 18 months after the date of entry into force of this Regulation].	~~It shall apply from [OP please insert the date = 24 months after the date of entry into force of this Regulation]. However, Articles 9 to 13 shall apply from [OP please insert the date = 18 months after the date of entry into force of this Regulation].~~	
	2. For the customer data listed in:	Gradual approach
	(i) Article 2(1)(a) with regard to data on credit agreements for consumers;	
	(ii) Article 2(1)(a) with regard to data on accounts;	
	(iii) Article 2(1)(b) with regard to data on savings;	
	(iv) Article 2(1)(e) with regard to data on motor insurance, including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/97;	
	it shall apply from [OP please insert the date = 24	

	months after the date of entry into force of this Regulation]. However, Articles 9 to 11 shall apply from [OP please insert the date = 18 months after the date of entry into force of this Regulation].	
	3. For the customer data listed in:	
	(i) Article 2(1)(a) with regard to data on mortgage credit agreements;	
	(ii)Article 2(1)(b) with regard to data on investments in financial instruments, including data related to customers' sustainability preferences and other data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 25 of Directive 2014/65/EU;	
	(iii) Article 2(1)(b) with regard to data on insurance-based investment products, including data related to customers' sustainability preferences and other data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 30 of Directive (EU) 2016/97;	
	(iv) Article 2(1)(b) with regard to data on crypto assets, including data collected for the purposes of carrying out an assessment of suitability and	

	appropriateness in accordance with Article 81(1) of Regulation (EU) 2023/1114;	
	(v) Article 2(1)(d),	
	it shall apply from [OP please insert the date = 36 months after the date of entry into force of this Regulation]. However, Articles 9 to 11 shall apply from [OP please insert the date = 30 months after the date of entry into force of this Regulation].	
	4. For the customer data listed in:	
	(i) Article 2(1)(a) with regard to data on credit agreements except for data on credit agreements for consumers and data for mortgage credit agreements;	
	(ii) Article 2(1)(a) with regard to data which forms part of a creditworthiness assessment of a firm and which is collected as part of a credit agreement application process or a request for a credit rating;	
	(iii) Article 2(1)(c) and	
	(iv) Article 2(1)(e) other than data on motor insurance, including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/9,	

	it shall apply from [OP please insert the date = 48 months after the date of entry into force of this Regulation]. However, Articles 9 to 11 shall apply from [OP please insert the date = 42 months after the date of entry into force of this Regulation].	
This Regulation shall be binding in its entirety and directly applicable in all Member States	**5.** This Regulation shall be binding in its entirety and directly applicable in all Member States.	
Done at Brussels,	Done at Brussels,	
For the European Parliament For the Council	For the European Parliament For the Council	
The President The President	The President The President	