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General Secretariat

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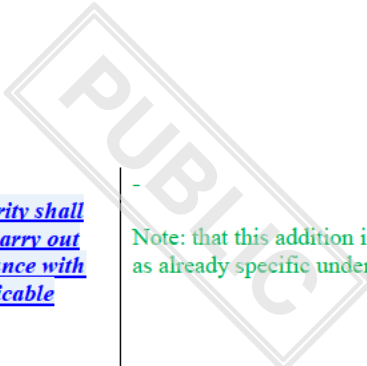
From: General Secretariat of the Council
To: Financial Services Attachés
Working Party on Financial Services and the Banking Union (AML)

Subject: Commission services non-paper on FIU provisions in the AMLA Regulation

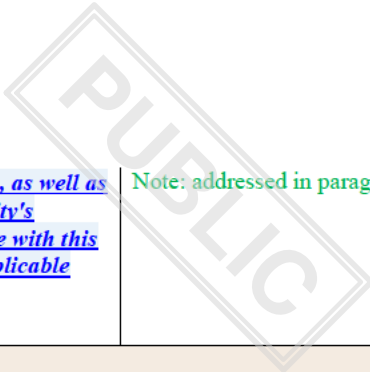
In the attached table, the Commission uses green font and comment boxes for its input.

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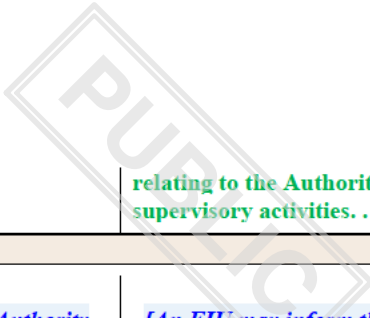
SECTION 6 FIUs SUPPORT AND COORDINATION MECHANISM	SECTION 6 FIUs SUPPORT AND COORDINATION MECHANISM		
Article -33			
		<p><u>Article -33</u> <u>The FIUs Support and Coordination Mechanism</u></p>	<p>EC to revert TM 20 26/09/2023</p> <p><u>Article -33</u> <u>The FIUs Support and Coordination Mechanism</u> <u>Cooperation between the Authority and Financial Intelligence Units</u></p>
Article -33(1), first subparagraph			
		<p><u>1. The Authority and FIUs shall constitute an FIUs Support and Coordination Mechanism. The Authority and FIUs shall work together and cooperate with each other to the greatest extent possible to prevent, detect and effectively combat money laundering and terrorist financing in the internal market.</u></p>	<p>1. The Authority shall be responsible for the effective and consistent cooperation between FIUs within the framework of the FIUs' support and coordination mechanism. To that end, the Authority shall support and coordinate the activities of Financial Intelligence Units.</p>
Article -33(1), second subparagraph			



		<p><u><i>The FIUs and the Authority shall perform their tasks and carry out their activities in accordance with this Regulation and applicable Union and national law.</i></u></p>	<p>-</p> <p>Note: that this addition is not needed as already specific under Article 5.</p>
Article -33(2), first subparagraph			
		<p><u><i>2. FIUs shall participate in, and contribute to, the activities of the FIUs Support and Coordination Mechanism in accordance with this Regulation and other applicable Union law. They shall in particular:</i></u></p>	<p>2. The Authority and FIUs shall be subject to a duty of cooperation in good faith, including in joint analyses supported or initiated by the Authority, and to an obligation to exchange information that is necessary to fulfil their respective tasks.</p> <p>Note: as above, reference to applicable law is not needed as already specific under Article 5.</p>
Article -33(2), first subparagraph, point (a)			
		<p><u><i>(a) be able to participate in joint analyses as an integral part of their tasks, as well as in other activities undertaken by the Authority pursuant to its mandate;</i></u></p>	<p>-</p> <p>Note: addressed in paragraph 2.</p>
Article -33(2), first subparagraph, point (b)			
		<p><u><i>(b) provide the Authority with the relevant data and information</i></u></p>	<p>-</p>



		<u>required to fulfil its tasks, as well as to implement the Authority's indications in accordance with this Regulation and other applicable Union law.</u>	Note: addressed in paragraph 2.
Article -33(2), second subparagraph			
		<u>All information obtained through participation in the activities of the Authority shall be covered by the strictest obligations of confidentiality.</u>	- Note: this is addressed under FIUs' professional secrecy requirements mandated under AMLD (line under the
Article -33(3), first subparagraph			
		<u>3. The Authority shall promote cooperation between FIUs by means of guidelines and recommendations pursuant to Article 43, or practical arrangements, where appropriate.</u>	We suggest not including this as the Regulation already grants the Authority all these tools and it is therefore redundant. We suggest to have the following paragraph instead on the separation between FIU and supervisory activities. 3. The Authority shall have dedicated human, financial and IT resources to support the tasks referred to under Article 5(5), and shall ensure, where necessary, organisational separation of the staff dedicated to those tasks from the staff carrying out the tasks



relating to the Authority's supervisory activities. .

Section 6a

An FIU may inform the Authority in the case of a disagreement with another FIU. In that case, the Authority shall act as a mediator.

[An FIU may inform the Authority in the case of a failure to cooperate with another FIU. In that case, the Authority shall act as a mediator.]

comment: failure to cooperate

EC to revert

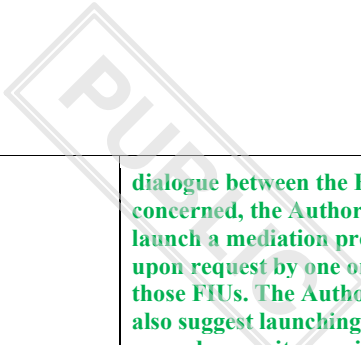
Text Origin: EP Mandate

Article 36a
Mediation between FIUs

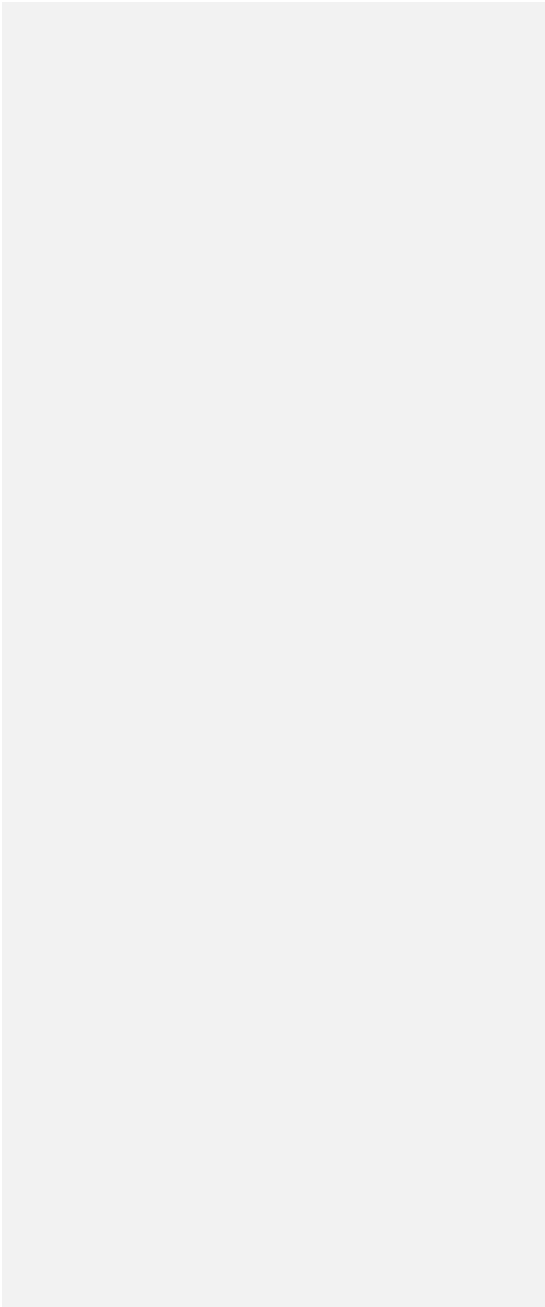
1. The Authority may facilitate a solution in the case of a disagreement between two or more FIUs regarding individual cases related to cooperation, including the exchange of information, under Directive [insert reference to 6AMLD] between FIUs. The purpose of such mediation shall be to reconcile divergent points of view between the FIUs and to adopt a non-binding opinion.

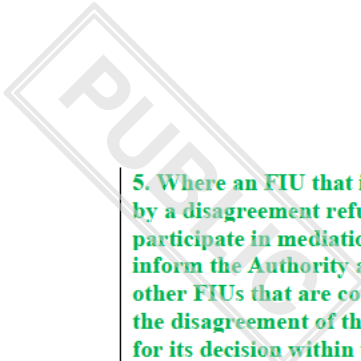
2. Where a disagreement cannot be solved by direct contact and

Commented []: This comes from the ELA Regulation. But there, it is about Member States regarding individual cases of application of Union law. The "without prejudice to powers of the ECJ is a reference to Article 259 TFEU. But here, we are at a lower level, namely of administrative cooperation. Shouldn't we reflect this also in the wording?

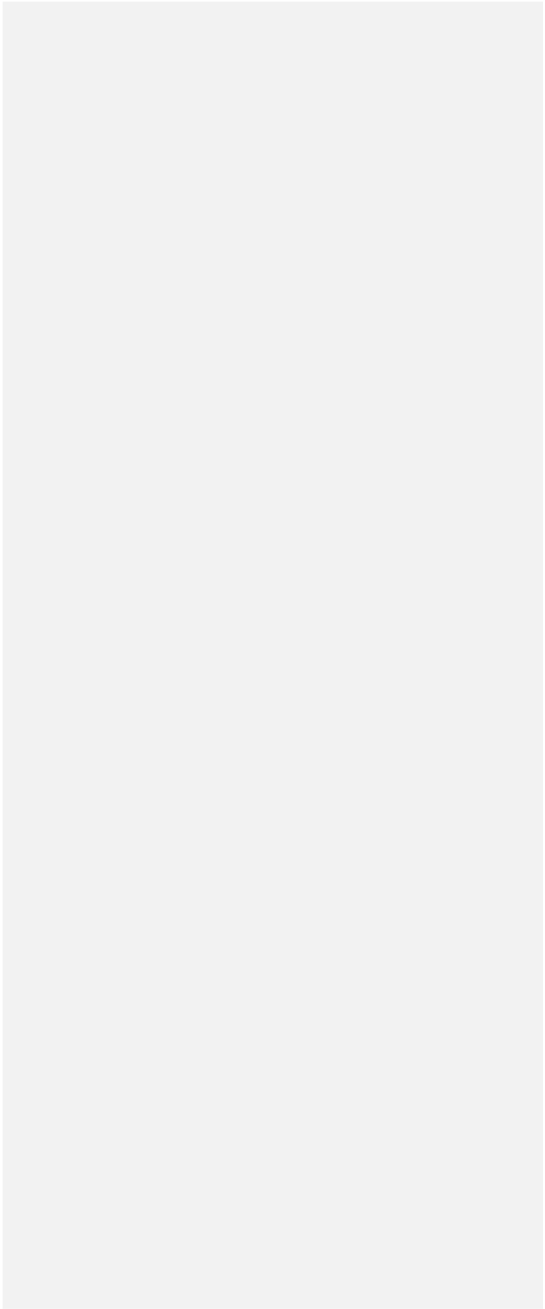


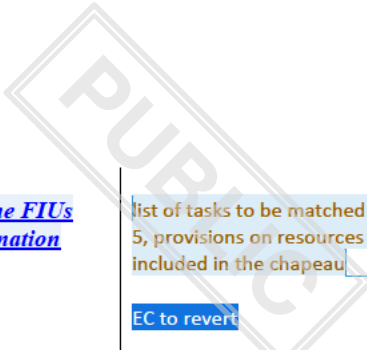
			<p>dialogue between the FIUs concerned, the Authority shall launch a mediation procedure upon request by one or more of those FIUs. The Authority may also suggest launching a mediation procedure on its own initiative. Mediation shall be conducted only with the agreement of all FIUs concerned.</p> <p>3. The mediation procedure shall be launched before the Authority's General Board in FIU composition. All members of the General Board in FIU composition, except the Heads of the FIUs that concerned by the disagreement, shall seek to reconcile the points of view of the FIUs that concerned by the disagreement and shall agree on a non-binding opinion. Where relevant, experts from the Commission may be invited to participate in the mediation in an advisory capacity.</p> <p>4. The General Board in FIU composition shall adopt the rules of procedure for mediation, including the applicable deadlines.</p>
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		<p>5. Where an FIU that is concerned by a disagreement refuses to participate in mediation, it shall inform the Authority and the other FIUs that are concerned by the disagreement of the reasons for its decision within the period set in the rules of procedure referred to in paragraph 4.</p> <p>6. Within three months of the adoption of the non-binding opinion, the FIUs that are concerned by the disagreement shall report to the General Board in FIU composition with regard to the measures that they have taken for the purpose of following up on the opinion or, where they have not taken measures, with regard to the reasons why they have not done so.</p> <p>New point under Article 5(5) AMLA Regulation</p> <p>da) provide assistance to FIUs, upon their specific requests, including any requests for mediation in case of disagreement between FIUs;</p>
Article -33a		





		<p><u>Article -33a</u> <u>Cooperation within the FIUs</u> <u>Support and Coordination</u> <u>Mechanism</u></p>	<p>list of tasks to be matched with article 5, provisions on resources to be included in the chapeau.</p> <p>EC to revert</p> <p>TM 20 26/09/2023</p>
Article -33a(1)			
		<p><u>1. The Authority shall support FIUs in relation to the following tasks:</u></p>	
Article -33a(1), point (a)			
		<p><u>(a) to support, coordinate and, where necessary, direct, joint analyses to be performed with the relevant FIUs pursuant to Article 33 and Article 5(5), points (a) to (d), as well as to develop methods and procedures to coordinate and facilitate their planning, organisation and conduct;</u></p>	<p>Already covered under Article 5(5)</p>
Article -33a(1), point (b)			
		<p><u>(b) to support cooperation among FIUs, pursuant to Article 5(5), point (a), and Article 36 of this</u></p>	<p>Already covered under Article 5(5)</p>

Commented [redacted]: We confirm the comments made in the TMs that the provisions of this Article are duplicative of existing tasks (and not all) under Article 5 and thus not needed. As regards resources, there are already provisions regulating the management of AMLA's programming (Article 54) and to assess whether the allocation of resources is sufficient (see Article 88). It is thus a duty of the budgetary authority to ensure that sufficient resources are devoted to support the performance of AMLA's tasks, not a requirement of the Regulation.

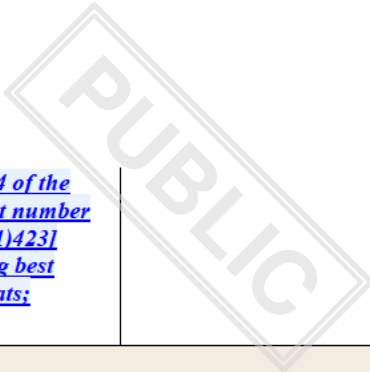
We advise removing this article but retaining the principle of independent operations in the previous article.

As regards Article 5(5), we consider that the following proposals by the EP can be taken on board:

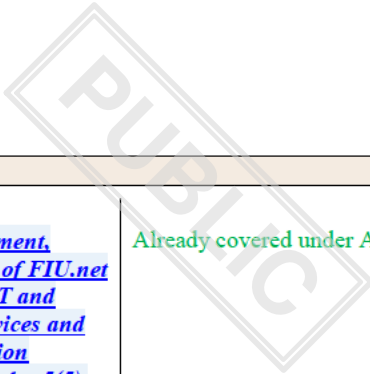
- (-a) maintain an up-to-date list of FIUs within the Union;
- (da) provide assistance to FIUs, upon their specific requests, including any requests for mediation in case of disagreement between FIUs;
- (db) coordinate peer reviews of the activities of FIUs;

We do not think that the following indents should be added as they do not reflect 'tasks' of the authority:

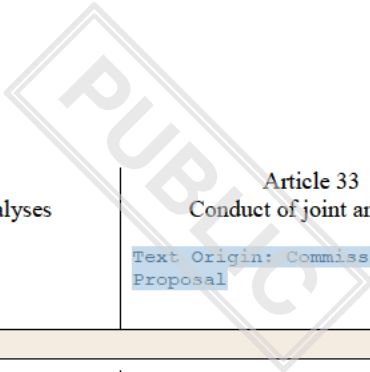
- (ca) issue guidelines and recommendations in cases where it identifies vulnerabilities or deficiencies that are not sufficiently addressed;
- (ia) report to the Commission instances where the absence of effective and efficient cooperation between FIUs derives from an inadequate or lack of transposition of Union law into national law.



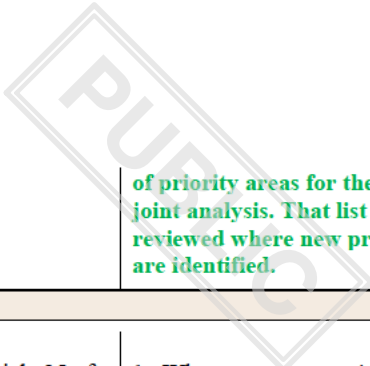
		<u>Regulation and Article 24 of the [OP please insert the next number to the AMLD, COM(2021)423] particularly by developing best practices, methods, formats;</u>	
Article -33a(1), point (c)			
		<u>(c) to develop expert knowledge on detection analysis and dissemination methods, pursuant to Article 5(5), point (f);</u>	Already covered under Article 5(5)
Article -33(1), point (d)			
		<u>(d) to develop criteria for the identification of cross-border cases that FIUs are required to share, pursuant to article 24 of the [OP please insert the next number to the AMLD, COM(2021)423];</u>	This is a specific mandate under AMLD that does not need to be replicated (and should not, AMLD is sufficient)
Article -33a(1), point (e)			
		<u>(e) to prepare indicators, formats, contents for the detection and reporting of STRs pursuant to article 50 of Regulation [OP please insert the next number of the AMLR, COM(2021)420] and other disclosures received by FIUs;</u>	This is a specific mandate under AMLR that does not need to be replicated (and should not, AMLR is sufficient)



Article -33a(1), point (f)			
		<u>(f) to follow the management, maintenance and update of FIU.net and the development of IT and artificial intelligence services and tools for secure information sharing, pursuant to Articles 5(5), point (e), and Article 37;</u>	Already covered under Article 5(5)
Article -33a(1), point (g)			
		<u>(g) to follow the work of international and European fora on FIU-related matters.</u>	Already covered under Article 81
Article -33a(2)			
		<u>2. In performing the tasks referred to in paragraph 1, the Authority shall have dedicated human, financial and IT resources, and shall guarantee their independence from the supervisory functions provided for in Chapter II, Section 2 to 6. They shall be supported by national FIU delegates, pursuant to Article 35.</u>	Covered under article 33-a, paragraph (3)
Article 33			



Article 33 Conduct of joint analyses	Article 33 Conduct of joint analyses	Article 33 Conduct of joint analyses	Article 33 Conduct of joint analyses <small>Text Origin: Commission Proposal</small>
Article 33(1)a, first subparagraph			
	<p><u><i>1.a The Authority shall define methods and criteria for the selection and prioritisation of cases relevant for joint analyses, in accordance with article 25 of IOP please insert the next number to the AMLD, COM(2021)423].</i></u></p>	<p><u><i>-1. The Authority shall adopt internal procedures defining methods and criteria for the identification, selection and prioritisation of cases relevant for joint analyses.</i></u></p>	<p><u><i>-1a The Authority shall define methods and criteria for the selection and prioritisation of cases relevant for the conduct of joint analyses in accordance with Article 25 of IOP please insert the next number to the AMLD, COM(2021)423] to be supported by the Authority.</i></u></p> <p><small>Text Origin: Council Mandate TM 20 26/09/2023</small></p>
Article 33(1)a, first subparagraph			
	<p><u><i>The Authority shall establish, on an annual basis, a list of priority areas for the conduct of joint analyses.</i></u></p>		<p><u><i>-1b The Authority shall establish, on an annual basis, a list of priority areas for the conduct of joint analyses. That list may be reviewed where new priorities are identified.</i></u></p> <p><small>Text Origin: Council Mandate TM20 26/09/2023</small></p> <p>To that end, the Authority shall draw up, on an annual basis, a list</p>



			of priority areas for the conduct of joint analysis. That list may be reviewed where new priority areas are identified.
Article 33(-1b)(1)			
1. Where, pursuant to Article 25 of [OP please insert the next number to the AMLD, COM(2021)423], a FIU of a Member State identifies a potential need to conduct a joint analysis with one or several FIUs in other Member States, it shall notify the Authority thereof. The Authority shall inform the FIUs in all the relevant Member States and invite them to take part in the joint analysis within five days of the initial notification. To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis. The Authority shall ensure that the joint analysis is launched within 20 days of the initial notification.	1. Where, pursuant to Article 25 of [OP please insert the next number to the AMLD, COM(2021)423] <u>and with respect to the criteria referred to in paragraph 1</u> , a FIU of a Member State identifies a potential need to conduct a joint analysis with one or several FIUs in other Member States, it shall notify the Authority thereof. <u>If the Authority assesses the case to be relevant, pursuant to the methods and criteria mentioned in paragraph 1</u> , it shall inform the FIUs in all the relevant Member States <u>promptly</u> and invite them to take part in the joint analysis within five days of the initial notification . To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis. <u>If at least one other FIU accepts to join the Joint analysis team</u> , the Authority shall ensure that the joint analysis is launched within 20 days of the initial	1. Where, pursuant to Article 25 of [OP please insert the next number to the AMLD, COM(2021)423], <u>and with respect to the criteria listed in paragraph 1a of this Article</u> , a FIU of a Member State identifies a potential need to conduct a joint analysis with one or several FIUs in other Member States, it shall notify the Authority thereof. The Authority shall inform the FIUs in all the relevant Member States and invite them to take part in the joint analysis within five days of the initial notification. To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis. The Authority shall ensure that the joint analysis is launched within 20 days of the initial notification.	1. Where, pursuant to Article 25 of [OP please insert the next number to the AMLD, COM(2021)423] <u>and with respect to the criteria referred to in paragraph -1a</u> , a FIU of a Member State identifies a potential need to conduct a joint analysis with one or several FIUs in other Member States, it shall notify the Authority thereof. The Authority shall register all notifications received pursuant to the first subparagraph and assess the relevance of the case in accordance with the methods and criteria referred to in paragraph -1a. Where If the Authority <u>assesses that the case to be relevant, pursuant to the methods and criteria mentioned in paragraph -1a</u> , the case is relevant, it shall inform <u>within five days of the initial notification</u> the FIUs in all the relevant Member States and invite them to take part in the joint analysis within five days of the initial

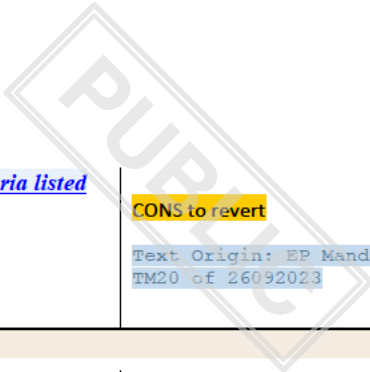
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	<p>notification promptly, taking into account the urgency of the case.</p>		<p>notification. To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis. The Authority shall ensure that the joint analysis is launched within 20 days of the initial notification.</p> <p>Text Origin: Council Mandate TM 20 26/09/2023</p>
Article 33(1), second subparagraph			
		<p><u>The notification of the need for a joint analysis as provided for in the first subparagraph shall be registered by the Authority. The Authority shall assess the relevance of the registered cases with regard to the criteria listed in paragraph 1a. To that end, the Authority shall establish and regularly update a list of cases that could be the subject of joint analysis. Based on the level of priority, the urgency of cases and available resources, the Authority shall establish a work plan and launch the joint analysis.</u></p>	<p><u>The notification of the need for a joint analysis as provided for in the first subparagraph shall be registered by the Authority. The Authority shall assess the relevance of the registered cases with regard to the criteria listed in paragraph 1a. To that end, the Authority shall establish and regularly update a list of cases that could be the subject of joint analysis. Based on the level of priority, the urgency of cases and available resources, the Authority shall establish a work plan and launch the joint analysis.</u></p> <p>-</p>

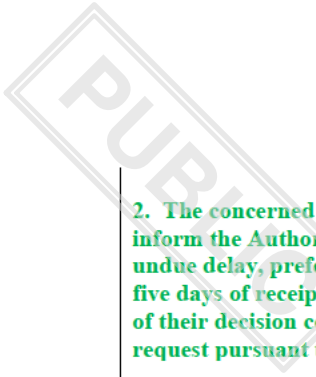
Commented [REDACTED]: Integrated under previous line



			<p>EC to make redrafting proposals to reconcile need for predictability and need to work on operational requests.</p> <p>EC to revert</p> <p>Text Origin: EP Mandate</p> <p>TM 20 26/09/2023</p>
Article 33(-1c)			
		<p><u>When launching a joint analysis, the Authority shall inform the FIUs in all the relevant Member States and invite them to take part in the joint analysis within five days of the initial assessment. To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis.</u></p>	<p><u>-1c. (deleted)</u></p> <p>covered in line 428</p> <p>TM20 20092023</p>
Article 33(-1d)			
		<p><u>If at least one other FIU agrees to join the joint analysis, the Authority shall ensure that the joint analysis is instituted within 20 days of the initial assessment, unless the urgency of the case justifies the imposition of a shorter deadline in</u></p>	<p><u>-1d. [If at least one other FIU agrees to join the joint analysis, the Authority shall ensure that the joint analysis is instituted within 20 days of the initial assessment, unless the urgency of the case justifies the imposition of a shorter deadline.]</u></p>



		<u>accordance with the criteria listed in paragraph 1a.</u>	CONS to revert Text Origin: EP Mandate TM20 of 26092023
Article 33(1), fifth subparagraph			
		<u>If no FIU agrees to join the joint analysis, the Authority may, on its own initiative, choose to institute a joint analysis.</u>	-
Article 33(-1e)			
		<u>1a. Where an FIU has not submitted a request to establish a joint analysis, the Authority may, on its own initiative, institute a joint analysis where it identifies cases in which:</u>	EC to make drafting proposals on joint analysis triggered by AMLA EC to revert New Article 33a Request by the Authority for the initiation of joint analysis 1. In specific cases where the Authority identifies a potential need to conduct a joint analysis pursuant to Article 33 of this Regulation and Article 25 of Directive [Insert reference to 6AMLD], it shall inform the concerned FIUs and invite them to take part in the joint analysis.

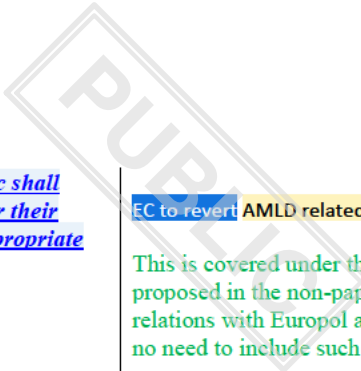


			<p>2. The concerned FIUs shall inform the Authority without undue delay, preferably within five days of receipt of the request, of their decision concerning a request pursuant to paragraph 1.</p> <p>3. Where one of the FIUs invited to take part in the joint analysis refuses to accede to a request made by the Authority pursuant to paragraph 1, it shall inform the Authority of the reasons for its decision without undue delay, preferably within five days of receipt of the request.</p>
Article 33(1a), first subparagraph, point (a)			
		<p><u>(a) an FIU's operational analyses require difficult and demanding analyses having links with other Member States;</u></p>	
Article 33(1b), first subparagraph, point (b)			
		<p><u>(b) a number of FIUs are conducting operational analyses in which the circumstances of the case necessitate coordinated, concerted</u></p>	

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		<u>action in the Member States involved;</u>	
Article 33(1c), first subparagraph, point (c)			
		<u>(c) it directly received information indicating a suspicion of money laundering or financing of terrorism that could affect the internal market or relate to cross-border activities.</u>	
Article 33(1a), second subparagraph			
		<u>The Authority shall be responsible for the establishment and composition of the joint analysis team and its coordination.</u>	
Article 33(-1f), first subparagraph			
		<u>1b. Europol may take part in the joint analysis, subject to the agreement of any participating FIUs, where relevant, and within the limits of the responsibilities of Europol and for the performance of its tasks.</u>	<u>EC to revert AMLD related</u> This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust
Article 33(1b), second subparagraph			

Commented [REDACTED]: We suggest that the points on the AMLA-initiated joint analysis feed into a corresponding recital.

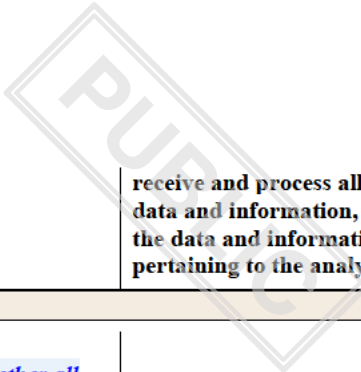


		<p><u>Paragraphs 1b, 2b and 2c shall enter into force only after their transposition into the appropriate legal act.</u></p>	<p>EC to revert AMLD related</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust, no need to include such a provision</p>
Article 33(-1g)			
		<p><u>1c. Eurojust may take part in the joint analysis, subject to the agreement of any participating FIUs, where relevant.</u></p>	<p>EC to revert AMLD related</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>
Article 33(2)			
<p>2. Any FIU that declines to participate in the conduct of the joint analysis shall provide the reasons thereof in writing to the Authority, within five days of the receipt of the invitation. The Authority shall provide such explanation without delay to the FIU having identified the need for a joint analysis.</p>	<p>2. Any FIU that declines to participate in the conduct of the joint analysis shall <u>may</u> provide the reasons thereof in writing to the Authority, within five days of the receipt of the invitation. The Authority shall provide such explanation without delay to the FIU having identified the need for a joint analysis.</p>	<p>2. Any FIU that declines <u>FIUs that are concerned by a joint analysis shall have a duty</u> to participate in the conduct of the joint analysis, <u>Exceptionally, an FIU may decline to participate in the conduct of the joint analysis by duly explaining and justifying it shall provide the reasons thereof in writing</u> to the Authority, <u>in writing</u> within five days of the receipt of the invitation. The Authority shall provide such explanation without delay to the FIU having identified the need for a other <u>FIUs that are concerned by the joint analysis.</u></p>	<p>2. Any FIU that declines to participate in the conduct of the joint analysis shall provide the reasons thereof in writing to the Authority, within five days of the receipt of the invitation. The Authority shall provide such explanation without delay to the FIU having identified the need for a joint analysis.</p> <p><u>[Recital: the reasons provided do not need to be elaborated upon extensively.]</u></p> <p>EC to revert</p>

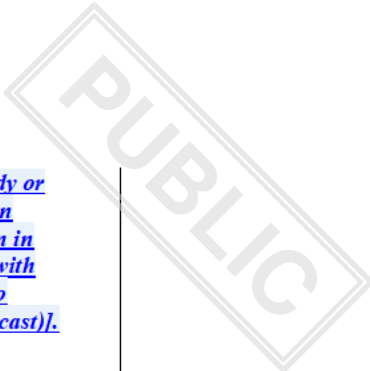
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Proposal

We suggest integrating recital 32:

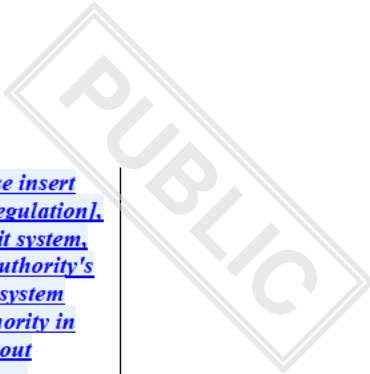
(32) In order to analyse suspicious activity affecting multiple jurisdictions, the relevant FIUs that received linked reports should be able to efficiently conduct joint analyses of cases of common interest. To this end, the Authority should be able to propose, coordinate and support with all appropriate means the joint analyses of cross-border suspicious transactions or activities. The joint analyses should be triggered where there is a need to conduct ~~just~~ such joint analyses pursuant to the relevant provisions in Union law. An FIU that declines to take part in a joint analysis exercise should explain the primary reasons for its refusal to the Authority. Where relevant, these reasons should be provided to the FIU that identified the need to carry out joint analysis. Upon the explicit consent of the FIUs participating in the joint analyses, the staff of the Authority supporting the conduct of joint analyses should be able to



			receive and process all necessary data and information, including the data and information pertaining to the analysed cases.
Article 33(2a)			
		<p><u>2a. In order to bring together all relevant information at an early stage of the joint analysis and with the aim of better detecting suspicious activities or transactions, the joint analysis may encompass by default the anonymous matching of subject-matter data with that of other FIUs.</u></p>	<p>AML related EC to revert</p> <p>TM20 of 26092023</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>
Article 33(2b), first subparagraph			
		<p><u>2b. In order to bring together all relevant information at an early stage of the joint analysis and with the aim of carrying out financial analysis at cross-border level, Europol shall take all appropriate measures to enable the Authority to have indirect access on the basis of a hit/no hit system to data related to offences within the Authority's mandate. That hit/no hit system shall notify only Europol in the case of a hit and without prejudice to any restrictions indicated by the</u></p>	<p>EC to revert</p> <p>TM20 of 26092023</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>



		<p><u>Member State, Union body or international organisation providing the information in question, in accordance with [please insert reference to Regulation 2016/794 (Recast)].</u></p>	
Article 33(2b), second subparagraph			
		<p><u>In the case of a hit, Europol shall initiate the procedure by which the information that generated the hit is permitted to be shared, in accordance with the decision of the provider of the information to Europol, and only to the extent that the data generating the hit are necessary for the performance of the Authority's tasks.</u></p>	<p>EC to revert</p> <p>TM20 of 26092023</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>
Article 33(2c)			
		<p><u>2c. In order to bring together all relevant information with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, the Authority shall take all appropriate measures to enable Europol to have indirect access to data related to financial information and financial analysis</u></p>	<p>EC to revert</p> <p>TM20 of 26092023</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>



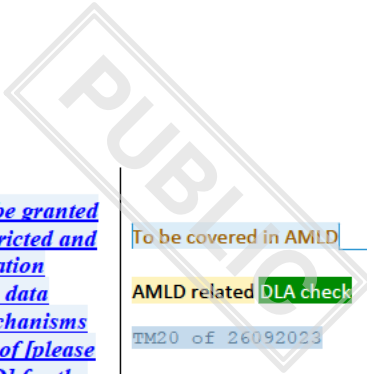
		<p><u>within the limits of [please insert reference to Europol's Regulation], on the basis of a hit/no hit system, in accordance with the Authority's mandate. That hit/no hit system shall notify only the Authority in the case of a hit and without prejudice to any restrictions indicated by the FIU, Member State, Union body or international organisation providing the information in question.</u></p>	
Article 33(2d)			
		<p><u>In the case of a hit, the Authority shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the Authority's mandate, and only to the extent that the data generating the hit are necessary for the performance of Europol's tasks.</u></p>	<p>EC to revert TM20 of 26092023 This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>
Article 33(3), first subparagraph			
<p>3. Upon explicit consent of the FIUs participating in the joint analysis, the staff of the Authority supporting the joint analysis shall be granted access to all the data pertaining to the</p>	<p>3. Upon explicit consent of <u>all</u> the FIUs participating in the joint analysis, the staff of the Authority supporting the joint analysis shall be granted access to all the data</p>	<p>3. Upon explicit consent of the FIUs <u>The joint analysis shall be supported by the participating in the joint analysis, the staff of the Authority FIU's delegates pursuant</u></p>	<p>EC to revert TM20 of 26092023</p>

<p>subject-matter of the joint analysis and shall be able to process those data.</p>	<p>pertaining to the subject-matter of the joint analysis and shall be able to process those data <u>for the purposes of conducting the joint analysis.</u></p>	<p><u>to Article 35 of this Regulation. FIU delegates</u> supporting the joint analysis shall be granted access, <u>directly or indirectly,</u> to all the data pertaining to the subject-matter of the joint analysis and shall be able to process those data <u>for the purposes of conducting the joint analysis in accordance with the applicable data protection rules, in particular in respect of receiving and analysing suspicious transactions and other information in accordance with Article 17 of [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].</u></p>	<p>3. Upon explicit consent of the FIUs participating in the joint analysis, the staff of the Authority supporting the joint analysis shall be granted access to all the data pertaining to the subject-matter of the case and shall be able to process those data for the purposes of supporting the joint analysis.</p> <p>Where an FIU refuses to grant access to the staff of the Authority to the information it holds that is relevant to the case, it shall ensure that the information is otherwise provided in a way that does not impede the staff of the Authority to provide operational support to the joint analysis, nor effectively hamper their ability to provide such support.</p> <p>Where several FIU refuse to grant access to the information relevant for the case, the Authority shall re-assess whether the tasks that its staff would perform justify its support to the joint analysis, and consider recommending that the joint analysis proceeds without its support instead.</p>
<p>Article 33(3), first subparagraph</p>			

Commented [REDACTED] Note that we have not specified what the role of the delegates should be. For example, some Member States may send analysts to AMLA while other Member States may send people with experience in policy (who will be working on the ITS and GLs) or people with IT expertise (who will work on FIU.net and development of other technological solutions).

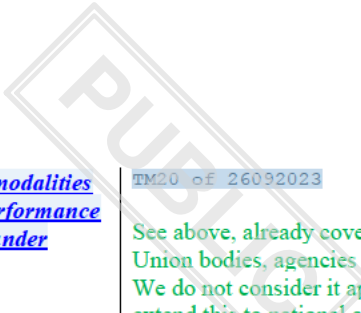


	<p><u><i>If unanimous consent is not obtained, the joint analysis shall be supported by FIU delegates pursuant to article 35 of this Regulation. FIU delegates supporting the joint analysis shall be granted access to all data pertaining to the subject-matter of the joint analysis and shall be able to process those data for the purposes of conducting the joint analysis. AMLA staff may provide support to the joint analysis for tasks that do not require access to operational data.</i></u></p>	<p><u><i>Upon explicit consent of the FIUs participating in the joint analysis, the staff of the Authority supporting the joint analysis shall be granted access to all the data pertaining to the subject-matter of the joint analysis and shall be able to process those data for the purpose of conducting the joint analysis in accordance with the applicable data protection rules. If unanimous consent is not obtained, the staff of the Authority may provide other types of support to the joint analysis. FIUs shall remain the sole owners of the operational information they exchange with other FIUs, the Authority, Europol, EPPO and Eurojust.</i></u></p>	<p>EC to revert TM20 of 26092023</p> <p>Do not see added value in this provisions; it is already covered above. Article 35(4) already covers the involvement of delegates in the performance of the Authority's tasks.</p>
Article 33(3), first subparagraph			
		<p><u><i>3a. The Authority may request any information from the participating FIUs with the purpose of ensuring a better conduct of the joint analysis. If the Authority's request is denied by a participating FIU, that FIU shall provide its reasoning to the Authority.</i></u></p>	<p>EC to revert TM20 of 26092023</p> <p>This is not needed as FIUs will be in the lead and it will not be for the Authority to be requesting information; staff of the Authority will be supporting</p>
Article 33(3), first subparagraph			

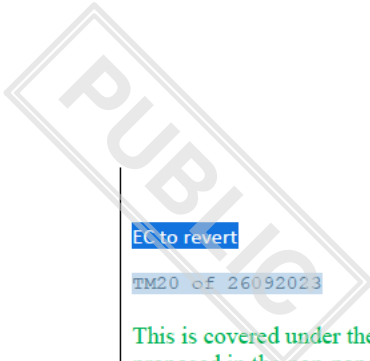


		<p><u>3b. The Authority shall be granted direct, immediate, unrestricted and free access to the information available in the registers, data retrieval systems and mechanisms referred to in Chapter II of [please insert reference to AMLD] for the purpose of conducting joint analyses under this Article.</u></p>	<p>To be covered in AMLD</p> <p>AML related DLA check</p> <p>TM20 of 26092023</p>
Article 33(3), first subparagraph			
		<p><u>3c. The Authority may transmit the results of a joint analysis initiated on request by an FIU or on its own initiative, as well as any additional information relating to this joint analysis, upon consent of participating FIUs, to Europol, law enforcement, and customs authorities where there are grounds to suspect money laundering, its predicate offences or terrorist financing.</u></p>	<p>EC to revert</p> <p>TM20 of 26092023</p> <p>As far as Europol is concerned, this is covered under the revisions proposed in the non-papers on relations with EPPO and OLAF and Europol and Eurojust. However, as explained, AMLA should not replace national FIUs in the dissemination to national competent authorities. National dissemination should remain the task of the FIUs.</p>
Article 33(3c), second subparagraph			
		<p><u>The Authority and the competent authorities shall conclude a memorandum of understanding</u></p>	<p>EC to revert</p>

Commented [redacted]: Indeed, as explained AMLA already has access to the BO and bank account registers' interconnection. For the other registers, this will depend on the outcome of political discussions



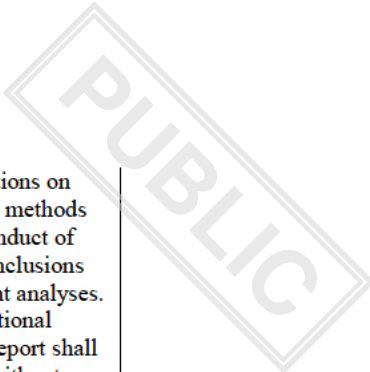
		<p><u>setting out the practical modalities for cooperation in the performance of their respective tasks under Union law.</u></p>	<p>TM20 of 26092023</p> <p>See above, already covered for Union bodies, agencies and offices. We do not consider it appropriate to extend this to national authorities that are not the direct counterparts to AMLA (i.e. supervisors and FIUs), and relations with whom are already regulated under the AMLA Regulation</p>
Article 33(4)			
<p>4. The Authority shall provide all the necessary tools and operational support required for the conduct of the particular joint analysis, in accordance with the developed methods and procedures. In particular, the Authority shall set up a dedicated, secured channel of communication for the performance of the joint analysis, and shall provide the appropriate technical coordination, including IT support, budgetary and logistical support.</p>	<p>4. The Authority shall provide all the necessary tools and, <u>where relevant</u>, operational support required for the conduct of the particular joint analysis, in accordance with the developed methods and procedures. In particular, the Authority shall set up a dedicated, secured channel of communication for the performance of the joint analysis, and shall provide the appropriate technical coordination, including IT support, budgetary and logistical support.</p>	<p>4. The Authority shall provide all the necessary tools and operational support required for the conduct of the particular joint analysis, in accordance with the developed methods and procedures. In particular, the Authority shall set up a dedicated, secured channel of communication for the performance of the joint analysis, and shall provide the appropriate technical coordination, including IT support, budgetary and logistical support.</p>	<p>EC to revert</p> <p>TM20 of 26092023</p> <p>4. The Authority shall provide all necessary tools and operational support required for the conduct of the particular joint analysis, in accordance with the developed methods and procedures. In particular, the Authority shall set up a dedicated, secured channel of communication for the performance of the joint analysis, and shall provide the appropriate technical coordination, including IT support, budgetary and logistical support.</p>
Article 33(4a)			



	<p><u>5. The FIUs participating in the joint analysis shall, on the basis of unanimity, grant prior consent for disseminating the outputs of the joint analysis and define the arrangements for such dissemination.</u></p>		<p>EC to revert TM20 of 26092023</p> <p>This is covered under the revisions proposed in the non-paper on relations with Europol and Eurojust</p>
Article 34			
<p>Article 34 Review of the methods, procedures and conduct of the joint analyses</p>	<p>Article 34 Review of the methods, procedures and conduct of the joint analyses</p>	<p>Article 34 Review of the methods, procedures and conduct of the joint analyses</p>	<p>Article 34 Review of the methods, procedures and conduct of the joint analyses</p> <p>Text Origin: Commission Proposal</p>
Article 34(1)			
<p>1. The Authority shall ensure that the methods and procedures established for the conduct of the joint analyses are periodically reviewed and updated where necessary.</p>	<p>1. The Authority shall ensure that the establish methods and procedures established for the conduct of the joint analyses are and periodically reviewed and updated <u>review and update them</u> where necessary. <u>Such review and update shall also apply to the procedures referred to in article 33 (1a).</u></p>	<p>1. The Authority shall ensure that the methods and procedures established for the conduct of the joint analyses <u>referred to in Article 33</u> are periodically reviewed and updated where necessary.</p>	<p>1. The Authority shall ensure that the establish methods and procedures established for the conduct of the joint analyses are and periodically reviewed and updated <u>review and update them</u> where necessary. <u>Such review and update shall also apply to the procedures referred to in Article 33 (-1a).</u></p> <p>To be aligned with article 33</p> <p>Text Origin: Council Mandate TM20 of 26092023</p>

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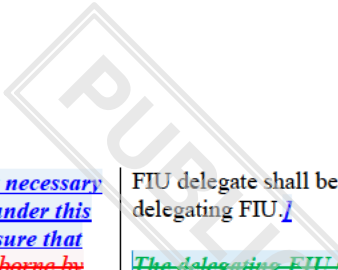
Article 34(2)			
<p>2. The FIUs that participated or were otherwise involved in one or more joint analyses may provide their feedback on the conduct of the analysis, including feedback on the operational support provided by the Authority in the process of the joint analysis, as well as feedback on the outcome of the analysis working methods and arrangements in place, the tools available and the coordination between the participating FIUs. The feedback may be labelled as confidential, in which case it will not be shared with other FIUs.</p>	<p>2. The FIUs that participated or were otherwise involved in one or more joint analyses may provide their feedback <u>to the Authority</u> on the conduct of the analysis, including, <i>where relevant</i>, feedback on the operational support provided by the Authority in the process of the joint analysis, as well as feedback on the outcome of the analysis working methods and arrangements in place, the tools available and the coordination between the participating FIUs. The feedback may be labelled as confidential, in which case it will not be shared with other FIUs.</p>	<p>2. The FIUs that participated or were otherwise involved in one or more joint analyses may provide their feedback <u>to the Authority</u> on the conduct of the analysis, including feedback on the operational support provided by the Authority in the process of the joint analysis, as well as feedback on the outcome of the analysis working methods and arrangements in place, the tools available and the coordination between the participating FIUs. The feedback may be labelled as confidential, in which case it will not be shared with other FIUs.</p>	<p>2. The FIUs that participated or were otherwise involved in one or more joint analyses may provide their feedback <u>to the Authority</u> on the conduct of the analysis, including feedback on the operational support provided by the Authority in the process of the joint analysis, as well as feedback on the outcome of the analysis working methods and arrangements in place, the tools available and the coordination between the participating FIUs. <u>The feedback may be labelled as confidential, in which case it will not be shared with other FIUs.</u></p> <p>CONS to revert</p> <p>Text Origin: EP Mandate TM20 of 26092023</p>
Article 34(3)			
<p>3. On the basis of the feedback referred to in paragraph 2, or on its own initiative, the Authority may issue follow-up reports relating to the conduct of joint analyses,</p>	<p>3. On the basis of the feedback referred to in paragraph 2, or on its own initiative, the Authority may issue follow-up reports relating to the conduct of joint analyses <u>The</u></p>	<p>3. On the basis of the feedback referred to in paragraph 2, or on its own initiative, the Authority may issue follow-up reports relating to the conduct of joint analyses,</p>	<p>EC to revert</p> <p>TM20 of 26092023</p>



<p>including specific suggestions on adjustments regarding the methods and procedures for the conduct of the joint analyses, and conclusions on the outcome of the joint analyses. The procedural and operational aspects of the follow-up report shall be shared with all FIUs, without disclosing confidential or restricted information on the case. The conclusions and recommendations relating to the conduct of the joint analyses shall be shared with the FIUs that participated in the relevant joint analyses, and with all the other FIUs insofar as these conclusions do not contain confidential or restricted information.</p>	<p><u>Authority shall establish procedures for gathering, sharing and taking stock of the feedback obtained pursuant to paragraph 2</u>, including specific suggestions on adjustments regarding the methods and procedures for the conduct of the joint analyses, and conclusions on the outcome of the joint analyses. The procedural and operational aspects of the follow-up report shall be shared with all FIUs, without disclosing confidential or restricted information on the case. The conclusions and recommendations relating to, in order to adjust the methods and procedures for the conduct of the joint analyses shall be shared with the FIUs that participated in the relevant joint analyses, and with all the other FIUs insofar as these conclusions do not contain confidential or restricted information <u>analysis</u>.</p>	<p>including specific suggestions on adjustments regarding the methods and procedures for the conduct of the joint analyses, and conclusions on the outcome of the joint analyses. The procedural and operational aspects of the follow-up report shall be shared with all FIUs, without disclosing confidential or restricted information on the case. The conclusions and recommendations relating to the conduct of the joint analyses shall be shared with the FIUs that participated in the relevant joint analyses, and with all the other FIUs insofar as these conclusions do not contain confidential or restricted information.</p>	
Article 35			
Article 35 National FIU delegates	Article 35 National FIU delegates	Article 35 National FIU delegates	Article 35 National FIU delegates Text Origin: Commission Proposal
Article 35(1)			



<p>1. The FIU of each Member State may delegate one staff member to the Authority. The national FIU delegate shall have his or her regular place of work at the seat of the Authority.</p>	<p>1. The FIU of each Member State may delegate one staff member to the Authority. The national FIU delegate shall have his or her regular place of work at the seat of the Authority.</p>	<p>1. The FIU of each Member State may<u>shall</u> delegate one <u>or more</u> staff member<u>members</u> to the Authority. The national FIU delegate shall have his or her regular place of work<u>regular place of work of the national FIU delegate shall be</u> at the seat of the Authority.</p>	<p>1. The FIU of each Member State may<u>shall</u> delegate one <u>or more</u> staff member<u>members</u> to the Authority. The national FIU delegate shall have his or her regular place of work<u>regular place of work of the national FIU delegate shall be</u> at the seat of the Authority.]</p> <p>CONS to revert</p> <p>Text Origin: EP Mandate TM20 of 26092023</p>
<p>Article 35(1a)(2)</p>			
<p>2. FIU delegates shall have the status of staff personnel of the delegating FIU at the time of their appointment and for the entire duration of their delegation. Member States shall appoint their FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. The salaries and emoluments of the FIU delegate shall be borne by the delegating FIU.</p>	<p>2. FIU delegates shall have the status of staff personnel of the delegating FIU at the time of their appointment and for the entire duration of their delegation. Member States shall appoint their FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. The <u>FIU delegate shall remain under the authority of the delegating FIU and shall comply with the security and confidentiality rules of the delegating FIU, including relevant national law.</u> <u>The</u> salaries and emoluments of the</p>	<p>2.1a. FIU delegates shall have the status of staff personnel of the delegating FIU at the time of their appointment and for the entire duration of their delegation. Member States<u>The delegating FIU shall appoint their</u> <u>facilitate the exercise of the functions of the</u> FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. The salaries and emoluments of and refrain from any action or policy that could adversely affect the FIU delegate's career or status in the national system. In particular, the delegating FIU shall provide the FIU delegate with the</p>	<p>2. FIU delegates shall have the status of staff personnel of the delegating FIU at the time of their appointment and for the entire duration of their delegation. Member States shall appoint their FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. The FIU <u>delegate shall remain under the authority of the delegating FIU and shall comply with the security and confidentiality rules of the delegating FIU, including relevant national law.</u> <u>[The</u> salaries and emoluments of the</p>



FIU delegate shall be borne by the delegating FIU.

resources and equipment necessary to exercise its functions under this Regulation, and shall ensure that the FIU delegate shall be borne by the delegating remains fully integrated into its FIU.

FIU delegate shall be borne by the delegating FIU.]

~~The delegating FIU shall facilitate the exercise of the functions of the FIU delegate and refrain from any action or policy that could adversely affect the FIU delegate's career or status in the national system. In particular, the delegating FIU shall provide the FIU delegate with the resources and equipment necessary to exercise its functions under this Regulation, and The FIU shall ensure that the FIU delegate remains fully integrated into its FIU.~~

[The operational independence of FIU delegates shall be beyond doubt and they shall not seek nor take instructions from Union institutions, bodies, offices or agencies, nor from any government or any other public or private body in the performance of their duties under this Regulation.]

EC to revert

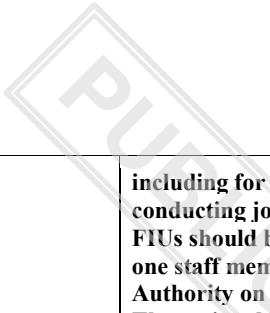
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(34) In order to facilitate and improve cooperation between FIUs and the Authority,

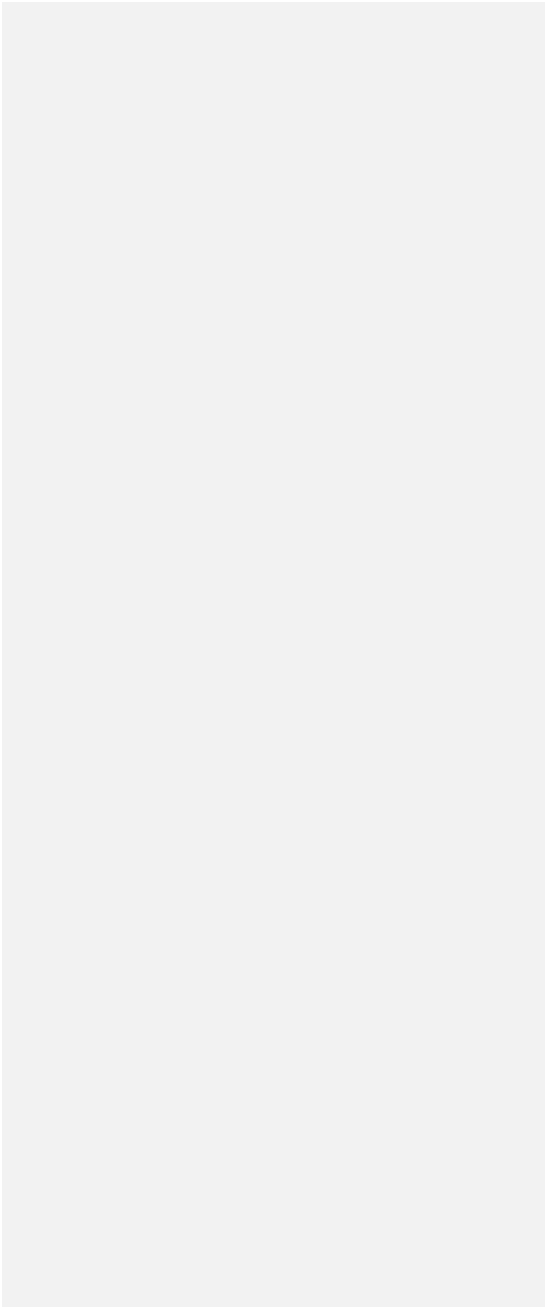
Commented [redacted]: We propose to delete this as equipment is for AMLA to provide (office, laptop, etc)

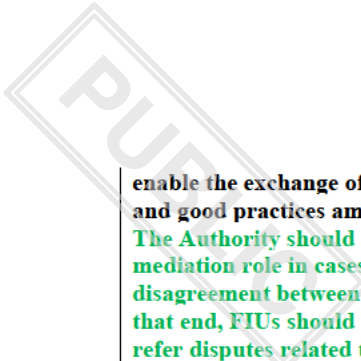
Commented [redacted]: We do not think this is appropriate as the person is seconded to AMLA and we should not create suspicion that FIUs would exercise pressure on the delegate

Commented [redacted]: Integrated in recital 34 on FIU delegates.



			<p>including for the purposes conducting joint analyses, the FIUs should be able to delegate one staff member per FIU to the Authority on a voluntary basis. The national FIU delegates should support the Authority's staff in carrying out all the tasks relating to FIUs, including the conduct of joint analyses and the preparation of threat assessments and strategic analyses of money laundering and terrorist financing threats, risks and methods. FIU delegates should be operationally independent and autonomous when carrying out their tasks and duties under this Regulation. They should not receive instructions from Union institutions, bodies, offices or agencies, or from governments or other public or private bodies. Their tasks and duties should be without prejudice to the security and confidentiality rules of FIUs.</p> <p>(34a) Apart from the joint analyses, the Authority should encourage and facilitate various forms of mutual assistance between FIUs, including training and staff exchanges in order to improve capacity building and</p>
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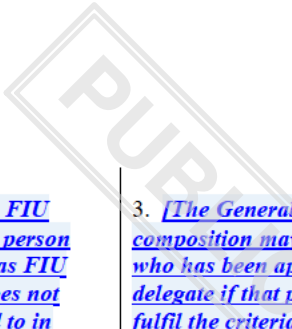


			<p>enable the exchange of knowledge and good practices amongst FIUs. The Authority should also have a mediation role in cases of disagreement between FIUs. To that end, FIUs should be able to refer disputes related to cooperation, including the exchange information between FIUs, to the Authority for mediation after failing to solve them by means of direct contact and dialogue.</p>
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Article 35(1a), (2) a

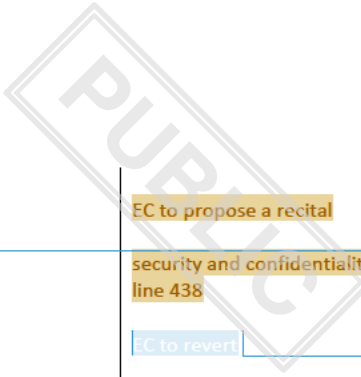
		<p><u>Member States shall appoint their FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. The independence of FIU delegates shall be beyond doubt and they shall not seek nor take instructions from Union institutions, bodies, offices or agencies, nor from any government or any other public or private body in the performance of their duties under this Regulation. The salaries and emoluments of the FIU delegate shall be borne by the delegating FIU.</u></p>	<p><u>- (deleted)</u></p> <p>Linked to 438</p> <p>TM20 of 26092023</p>
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Article 35(3)



<p>3. The term of office of the FIU delegates shall be three years, renewable once with consent of the delegating FIU.</p>	<p>3. The term of office of the FIU delegates shall be three years, renewable once with consent of the delegating FIU.</p>	<p>3. <u><i>The General Board in FIU composition may reject a person who has been appointed as FIU delegate if that person does not fulfil the criteria referred to in paragraph 2.</i></u> The term of office of the FIU delegates shall be three years, renewable once with consent of the delegating FIU.</p>	<p>3. <u><i>[The General Board in FIU composition may reject a person who has been appointed as FIU delegate if that person does not fulfil the criteria referred to in paragraph 2.]</i></u> The term of office of the FIU delegates shall be three years, renewable once with consent of the delegating FIU.</p> <p>Linked to paragraph 1 for CONS</p> <p>CONS to revert</p> <p>Text Origin: EP Mandate TM20 of 26092023</p>
<p>Article 35(4)</p>			
<p>4. FIU delegates shall support the Authority in carrying out the tasks set out in Article 5(5). To that end, the national FIU delegates shall be granted access to the Authority's data and information necessary for the performance of their tasks for the duration of the delegation.</p>	<p>4. FIU delegates shall support the Authority in carrying out the tasks set out in Article 5(5). To that end, the national FIU delegates shall be granted access to the Authority's data and information necessary for the performance of their tasks for the duration of the delegation.</p>	<p>4. FIU delegates shall support the Authority in carrying out the tasks set out in Article 5(5). To that end, the national FIU delegates shall be granted access to the Authority's data and information necessary for the performance of their tasks for the duration of the delegation.</p>	<p>4. FIU delegates shall support the Authority in carrying out the tasks set out in Article 5(5). To that end, the national FIU delegates shall be granted access to the Authority's data and information necessary for the performance of their tasks for the duration of the delegation.</p> <p>Text Origin: Commission Proposal</p>
<p>Article 35(5)</p>			

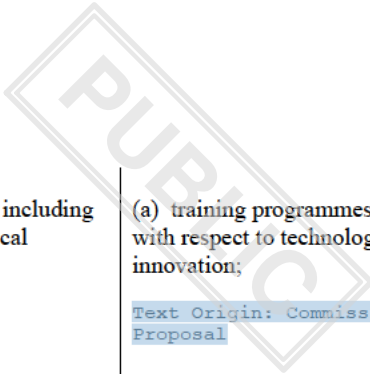
<p>5. FIU delegates may be granted access to any data accessible by their delegating FIU for the purposes of carrying out the tasks referred to in paragraph 4, subject to consent of their delegating FIU.</p>	<p>5. FIU delegates may be granted access to any data accessible by their delegating FIU for the purposes of carrying out the tasks referred to in paragraph 4, subject to consent of their delegating FIU.</p>	<p>5. FIU delegates mayshall be granted access to any data accessible by their delegating FIU for the purposes of carrying out the tasks referred to in paragraph 4, subject to consent of their delegating FIU.</p>	<p>5. FIU delegates mayshall be granted access to any data accessible by their delegating FIU for the purposes of carrying out the tasks referred to in paragraph 4, subject to consent of their delegating FIU.</p> <p>Text Origin: EP Mandate TM20 of 26092023</p>
<p>Article 35(6), first subparagraph</p>			
<p>6. The Executive Board shall determine the rights and obligations of the FIU delegates in relation to the Authority.</p>	<p>6. The Executive Board shall determine the rights and obligations of the FIU delegates in relation to the Authority <u>in agreement with the General Board in FIU composition. FIUs shall ensure that their FIU delegate complies with those rights and obligations.</u></p>	<p>6. The Executive Board shall determine the rights and obligations of the FIU delegates in relation to the Authority. <u>Adequate arrangements shall be in place to ensure that the FIU delegate's rights relating to social security, pension and insurance coverage under the national scheme are maintained. The total remuneration of the FIU delegate shall not be lower than what it would be if that FIU delegate had chosen to remain only a member of staff of the delegating FIU.</u></p>	<p>6. The Executive Board shall determine the rights and obligations of the FIU delegates in relation to the Authority <u>taking into account the opinion of the General Board in FIU composition. FIUs shall ensure that their FIU delegate complies with those rights and obligations.</u></p> <p>Text Origin: Council Mandate TM20 of 26092023</p>
<p>Article 35(6), first subparagraph</p>			
	<p><u>The rights and obligations of FIU delegates referred to in the first subparagraph shall not be in</u></p>		<p><u>6a. - (deleted)</u> <u>NEW RECITAL</u></p>



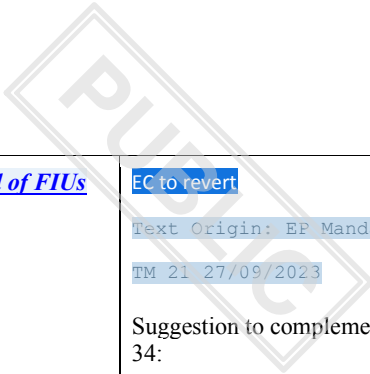
	<u>conflict with the national laws transposing Chapter III of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] and shall be without prejudice to the security and confidentiality rules of FIUs.</u>		EC to propose a recital security and confidentiality covered in line 438 EC to revert
Article 36			
Article 36 Mutual assistance in the area of cooperation between FIUs	Article 36 Mutual assistance in the area of cooperation between FIUs	Article 36 Mutual assistance in the area of cooperation between FIUs	Article 36 Mutual assistance in the area of cooperation between FIUs Text Origin: Commission Proposal
Article 36(1)			
1. In the context of promoting cooperation and support of the work of the FIUs, the Authority shall organise and facilitate at least the following activities:	1. In the context of promoting cooperation and support of the work of the FIUs, the Authority, <u>taking into account the needs of FIUs</u> , shall <u>promote common approaches, methods and best practices</u> . <u>The Authority shall also</u> organise and facilitate at least the following activities:	1. In the context of promoting cooperation and support of the work of the FIUs, <u>and taking into account their needs</u> , the Authority shall organise and facilitate at least the following activities:	1. In the context of promoting cooperation and support of the work of the FIUs, the Authority, <u>taking into account the needs of FIUs</u> , shall <u>promote common approaches, methods and best practices</u> . <u>The Authority shall also</u> organise and facilitate at least the following activities: Text Origin: Council Mandate TM 21 27/09/2023
Article 36(1), point (a)			

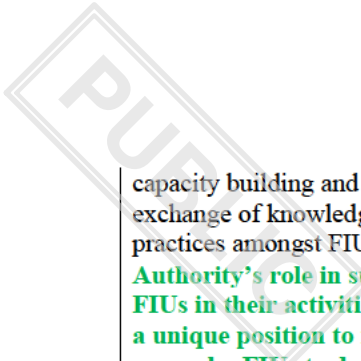
Commented [redacted]: We advise against this as there cannot be rights and obligations under the AMLAR that are in contradiction to the national rules transposing the AMLD. This should not be included in a recital either as it would raise doubts regarding application of Union law

Commented [redacted]: Wording above; integrated into recital 34

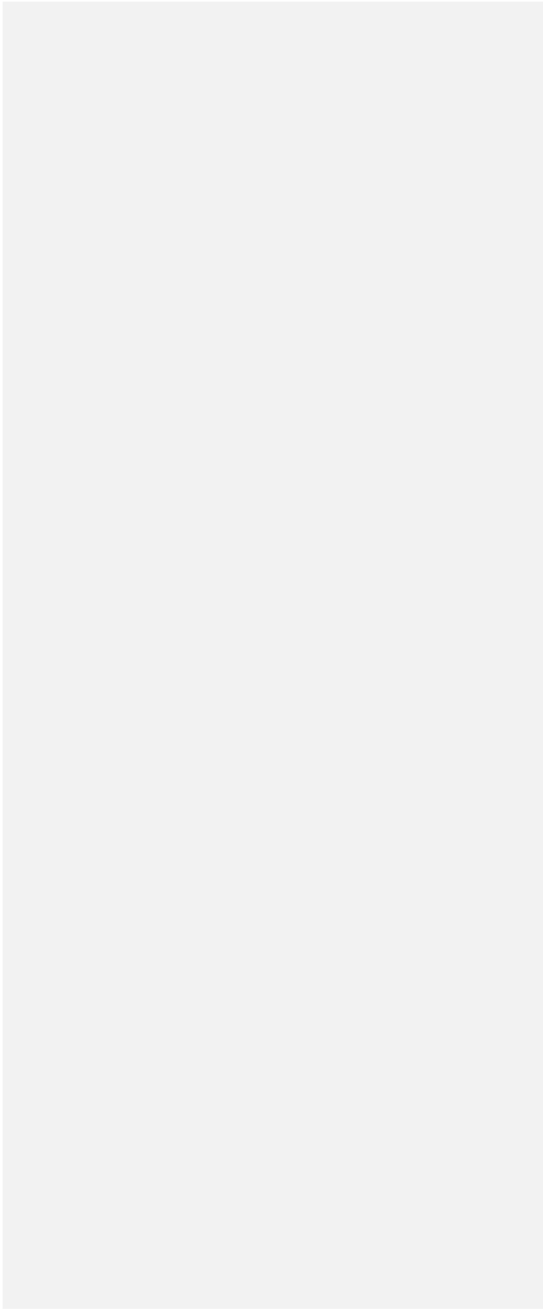


(a) training programmes, including with respect to technological innovation;	(a) training programmes, including with respect to technological innovation;	(a) training programmes, including with respect to technological innovation;	(a) training programmes, including with respect to technological innovation; <small>Text Origin: Commission Proposal</small>
Article 36(1), point (b)			
(b) personnel exchanges and secondment schemes, including secondment of FIU staff from a Member State to the Authority;	(b) personnel exchanges and secondment schemes, including secondment of FIU staff from a Member State to the Authority;	(b) personnel exchanges and secondment schemes, including secondment of FIU staff from a Member State to the Authority;	(b) personnel exchanges and secondment schemes, including secondment of FIU staff from a Member State to the Authority; <small>Text Origin: Commission Proposal</small>
Article 36(1), point (c)			
(c) exchanges of practices between FIUs, including sharing expertise in a specific area.	(c) exchanges of practices between FIUs, including sharing expertise in a specific area.;	(c) exchanges of practices between FIUs, including sharing expertise in a specific area.	(c) exchanges of practices between FIUs, including sharing expertise in a specific area.;
<small>Text Origin: Council Mandate TM 21 27/09/2023</small>			
Article 36(1), point (ca)			
		<u>(ca) access to operational analysis tools and commercially-held data and the provision of training to the</u>	<u>(ca)</u> EC to propose a recital to cover it



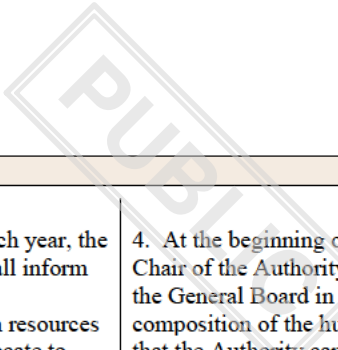


			capacity building and enable the exchange of knowledge and good practices amongst FIUs. The Authority's role in supporting FIUs in their activities grants it a unique position to facilitate access by FIUs to databases and tools that are instrumental to improve the quality of financial intelligence. The Authority should use its position to negotiate, on behalf of all FIUs, contracts with providers of those tools and databases, as well as relevant training for its staff and the staff of FIUs.
Article 36(1), point (cb)			
	<u><i>(d) development or procurement of IT tools and services to enhance the analysis capabilities of FIUs.</i></u>	<u><i>(cb) development or procurement of IT tools and services to enhance the analysis methods of FIUs.</i></u>	<u><i>(d) development or procurement of IT tools and services to enhance the analysis capabilities of FIUs.</i></u> <small>Text Origin: Council Mandate TM 21 27/09/2023</small>
Article 36(2)			

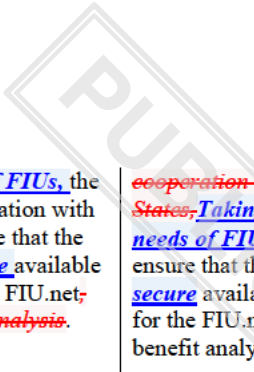




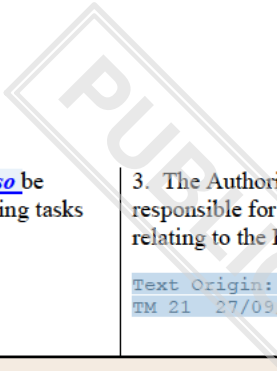
<p>2. Any FIU may submit to the Authority a request for assistance related to the tasks of the FIU, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more than one FIU, or a combination thereof. The FIU requesting assistance shall ensure the access to any information and data necessary for the provision of such assistance. The Authority shall keep and regularly update information on specific areas of expertise and capacity of FIUs to provide mutual assistance.</p>	<p>2. Any FIU may submit to the Authority a request for assistance related to the tasks of the FIU, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more than one FIU, or a combination thereof. The FIU requesting assistance shall ensure the access to any information and data necessary for the provision of such assistance. The Authority shall keep and regularly update information on specific areas of expertise and capacity of FIUs to provide mutual assistance.</p>	<p>2. Any FIU may submit to the Authority a request for assistance related to the tasks of the FIU, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more than one FIU, or a combination thereof. The FIU requesting assistance shall ensure the access to any information and data necessary for the provision of such assistance. The Authority shall keep and regularly update information on specific areas of expertise and capacity of FIUs to provide mutual assistance <u>related to the tasks of FIUs</u>.</p>	<p>2. Any FIU may submit to the Authority a request for assistance related to the tasks of the FIU, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more than one FIU, or a combination thereof. The FIU requesting assistance shall ensure the access to any information and data necessary for the provision of such assistance. The Authority shall keep and regularly update information on specific areas of expertise and capacity of FIUs to provide mutual assistance <u>related to the tasks of FIUs</u>.</p> <p>Text Origin: EP Mandate TM 21 27/09/2023</p>
<p>Article 36(3)</p>			
<p>3. The Authority shall make every effort to provide the requested assistance, including by considering the support to be provided with its own human resources as well as coordinating and facilitating the provision of any form of assistance by other FIUs on a voluntary basis.</p>	<p>3. The Authority shall make every effort to provide the requested assistance, including by considering the support to be provided with its own human resources as well as coordinating and facilitating the provision of any form of assistance by other FIUs on a voluntary basis.</p>	<p>3. The Authority shall make every effort to provide the requested assistance, including by considering the support to be provided with its own human resources as well as coordinating and facilitating the provision of any form of assistance by other FIUs on a voluntary basis.</p>	<p>3. The Authority shall make every effort to provide the requested assistance, including by considering the support to be provided with its own human resources as well as coordinating and facilitating the provision of any form of assistance by other FIUs on a voluntary basis.</p> <p>Text Origin: Commission Proposal</p>



Article 36(4)			
<p>4. At the beginning of each year, the Chair of the Authority shall inform the General Board in FIU composition of the human resources that the Authority can allocate to providing the assistance referred to in the previous paragraph. When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(5), the Chair of the Authority shall inform the General Board in FIU composition thereof.</p>	<p>4. At the beginning of each year, the Chair of the Authority shall inform the General Board in FIU composition of the human resources that the Authority can allocate to providing the assistance referred to in the previous paragraph. When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(5), the Chair of the Authority shall inform the General Board in FIU composition thereof.</p>	<p>4. At the beginning of each year, the Chair of the Authority shall inform the General Board in FIU composition of the human resources that the Authority can allocate to providing the assistance referred to in the previous paragraph. When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(5), the Chair of the Authority shall inform the General Board in FIU composition thereof.</p>	<p>4. At the beginning of each year, the Chair of the Authority shall inform the General Board in FIU composition of the human resources that the Authority can allocate to providing the assistance referred to in the previous paragraph. When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(5), the Chair of the Authority shall inform the General Board in FIU composition thereof.</p> <p>Text Origin: Commission Proposal</p>
Article 37			
<p>Article 37 FIU.net</p>	<p>Article 37 FIU.net</p>	<p>Article 37 FIU.net</p>	<p>Article 37 FIU.net</p> <p>Text Origin: Commission Proposal</p>
Article 37(1)			
<p>1. The Authority shall ensure adequate and uninterrupted hosting, management, maintenance, and development of the FIU.net. The Authority shall, in cooperation with</p>	<p>1. The Authority shall ensure adequate and uninterrupted hosting, management, maintenance, and development of the FIU.net. The Authority shall, in cooperation with</p>	<p>1. The Authority shall ensure adequate <u>,uninterrupted and secure</u>and uninterrupted hosting, management, maintenance, and development of the FIU.net. <u>Taking</u></p>	<p>1. The Authority shall ensure adequate and, uninterrupted <u>and secure</u> hosting, management, maintenance, and development of the FIU.net. The Authority shall, in</p>



<p>the Member States, ensure that the most advanced available technology is used for the FIU.net, subject to a cost-benefit analysis.</p>	<p>the Member States, ensure that the most advanced available technology is used for the FIU.net, <u>taking into account the needs of FIUs</u>, subject to a cost-benefit analysis.</p>	<p><u>into account the needs of FIUs</u>, the Authority shall, in cooperation with the Member States, ensure that the most advanced <u>and secure</u> available technology is used for the FIU.net; subject to a cost-benefit analysis.</p>	<p>cooperation with the Member States; <u>Taking into account the needs of FIUs, the Authority shall</u> ensure that the most advanced <u>and secure</u> available technology is used for the FIU.net, subject to a cost-benefit analysis.</p> <p>Text Origin: EP Mandate TM21 27/09/2023</p>
Article 37(2)			
<p>2. The Authority shall ensure uninterrupted functioning of the FIU.net and keep it and up to date. Where necessary to support or strengthen the exchange of information and cooperation between the FIUs and based on the needs of FIUs, the Authority shall design and implement, or otherwise make available, upgraded or additional functionalities of FIU.net.</p>	<p>2. The Authority shall ensure uninterrupted functioning of the FIU.net and keep it and up to <u>date up-to-date</u>. Where necessary to support or strengthen the exchange of information and cooperation between the FIUs and based on the needs of FIUs, the Authority shall design and implement, or otherwise make available, upgraded or additional functionalities of FIU.net.</p>	<p>2. The Authority shall ensure uninterrupted functioning of the FIU.net and keep it and up to date. Where necessary to support or strengthen the exchange of information and cooperation between the FIUs and based on the needs of FIUs, the Authority shall, <u>after consulting the EDPS</u>, design and implement, or otherwise make available, upgraded or additional functionalities of FIU.net.</p>	<p>2. The Authority shall ensure uninterrupted functioning of the FIU.net and keep it and up to <u>date up-to-date</u>. Where necessary to support or strengthen the exchange of information and cooperation between the FIUs and based on the needs of FIUs, the Authority shall design and implement, or otherwise make available, upgraded or additional functionalities of FIU.net.</p> <p>Text Origin: Council Mandate TM 21 27/09/2023</p>
Article 37(3)			



<p>3. The Authority shall be responsible for the following tasks relating to the FIU.net:</p>	<p>3. The Authority shall <u>also</u> be responsible for the following tasks relating to the FIU.net:</p>	<p>3. The Authority shall <u>also</u> be responsible for the following tasks relating to the FIU.net:</p>	<p>3. The Authority shall <u>also</u> be responsible for the following tasks relating to the FIU.net:</p> <p>Text Origin: Council Mandate TM 21 27/09/2023</p>
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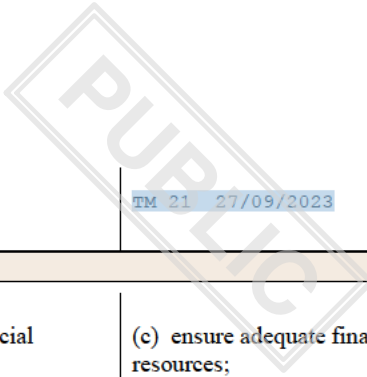
Article 37(3), point (a)

<p>(a) ensure the required level of security of the system, including the implementation of the appropriate technical and organizational measures to address and mitigate data protection risks;</p>	<p>(a) <u>implement appropriate technical and organizational measures to ensure the required</u> a level of security <u>of the system, including the implementation of the appropriate technical and organizational measures to address and mitigate data protection risks</u> <u>appropriate to the risk of data breaches and to data subject rights, including the keeping of appropriate information access records and logs;</u></p>	<p>(a) ensure the required <u>implement appropriate technical and organizational measures to ensure</u> a level of security <u>of the system, including the implementation of the appropriate technical and organizational measures to address and mitigate data protection risks</u> <u>appropriate to the data protection risks with a view to ensuring data subject rights, including the keeping of appropriate information, access records and logs;</u></p>	<p>(a) ensure the required <u>implement appropriate technical and organizational measures to ensure</u> a level of security <u>of the system, including the implementation of the appropriate technical and organizational measures to address and mitigate data protection risks</u> <u>appropriate to mitigate data protection risks with a view to ensuring protection of personal data subject rights, including the keeping of appropriate information, access records and logs;</u></p> <p>Text Origin: EP Mandate TM 21 27/09/2023</p>
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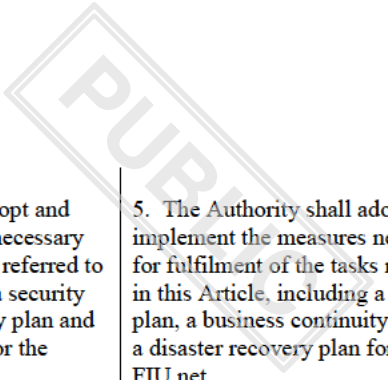
Article 37(3), point (b)

<p>(b) coordinate, manage and support any testing activities;</p>	<p>(b) <u>plan,</u> coordinate, manage and support any testing activities;</p>	<p>(b) <u>plan,</u> coordinate, manage and support any testing activities;</p>	<p>(b) <u>plan,</u> coordinate, manage and support any testing activities;</p> <p>Text Origin: Council Mandate</p>
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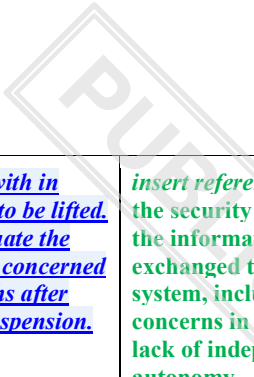
Commented [REDACTED]: Note that EUDPR applies to AMLAR and GDPR applies to AMLD, so we should minimise any reference to GDPR requirements that would suggest only parts of the regulation apply

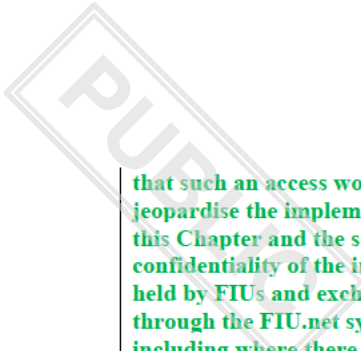


			TM 21 27/09/2023
Article 37(3), point (c)			
(c) ensure adequate financial resources;	(c) ensure adequate financial resources;	(c) ensure adequate financial resources;	(c) ensure adequate financial resources; Text Origin: Commission Proposal
Article 37(3), point (d)			
(d) provide training on the technical use of FIU.net by end-users.	(d) provide training on the technical use of FIU.net by end-users.	(d) provide training on the technical use of FIU.net by end-users.	(d) provide training on the technical use of FIU.net by end-users. Text Origin: Commission Proposal
Article 37(4)			
4. For the purposes of carrying out the tasks referred to in paragraphs 1, 2 and 3, the Authority shall be empowered to conclude or enter into legally binding contracts or agreements with third party service providers.	4. For the purposes of carrying out <u>In order to support its implementation</u> of the tasks referred to in paragraphs 1, 2 and 3, the Authority shall be empowered to conclude or enter into legally binding contracts or agreements with third party service providers, <u>after appropriate audits of their security standards.</u>	4. For the purposes of carrying out the tasks referred to in paragraphs 1, 2 and 3, the Authority shall be empowered to conclude or enter into legally binding contracts or agreements with third party service providers, <u>after appropriate audits of their security standards.</u>	4. For the purposes of carrying out the tasks referred to in paragraphs 1, 2 and 3, the Authority shall be empowered to conclude or enter into legally binding contracts or agreements with third party service providers, <u>after appropriate audits of their security standards.</u> Text Origin: EP Mandate TM21 27/09/2023
Article 37(5)			

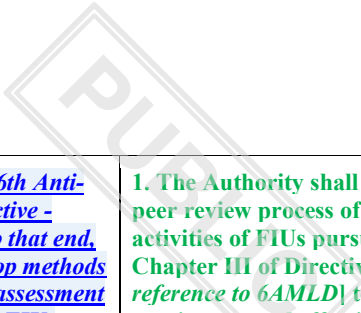


<p>5. The Authority shall adopt and implement the measures necessary for fulfilment of the tasks referred to in this Article, including a security plan, a business continuity plan and a disaster recovery plan for the FIU.net.</p>	<p>5. The Authority shall adopt and implement the measures necessary for fulfilment of the tasks referred to in this Article, including a security plan, a business continuity plan and a disaster recovery plan for the FIU.net.</p>	<p>5. The Authority shall adopt and implement the measures necessary for fulfilment of the tasks referred to in this Article, including a security plan, a business continuity plan and a disaster recovery plan for the FIU.net.</p>	<p>5. The Authority shall adopt and implement the measures necessary for fulfilment of the tasks referred to in this Article, including a security plan, a business continuity plan and a disaster recovery plan for the FIU.net.</p> <p>Text Origin: Commission Proposal</p>
<p>Article 37(5a)</p>			
		<p><u><i>5a. The General Board in FIU composition may unanimously decide to suspend the access by a specific FIU to FIU.net where the report of the peer review in accordance with Article 36a concludes that requirements relating to the independence, integrity, professionalism, confidentiality or security of that FIU, as set out in Article 17 of the [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], have not been fulfilled. The affected FIU shall not vote. When it issues the decision of suspension, the Authority shall also issue an assessment which explains and indicates the follow-up measures</i></u></p>	<p>comment: Link with AMLD. EC proposal to decouple from peer-review</p> <p>AML related EC to revert</p> <p>TM 21 27/09/2023</p> <p>5a. The General Board in FIU composition, acting unanimously, may decide to suspend the access of an FIU or counterpart in a third country or Union body, office or agency to the FIU.net where it has grounds to believe that such an access would jeopardise the implementation of Chapter III of Directive [please</p>





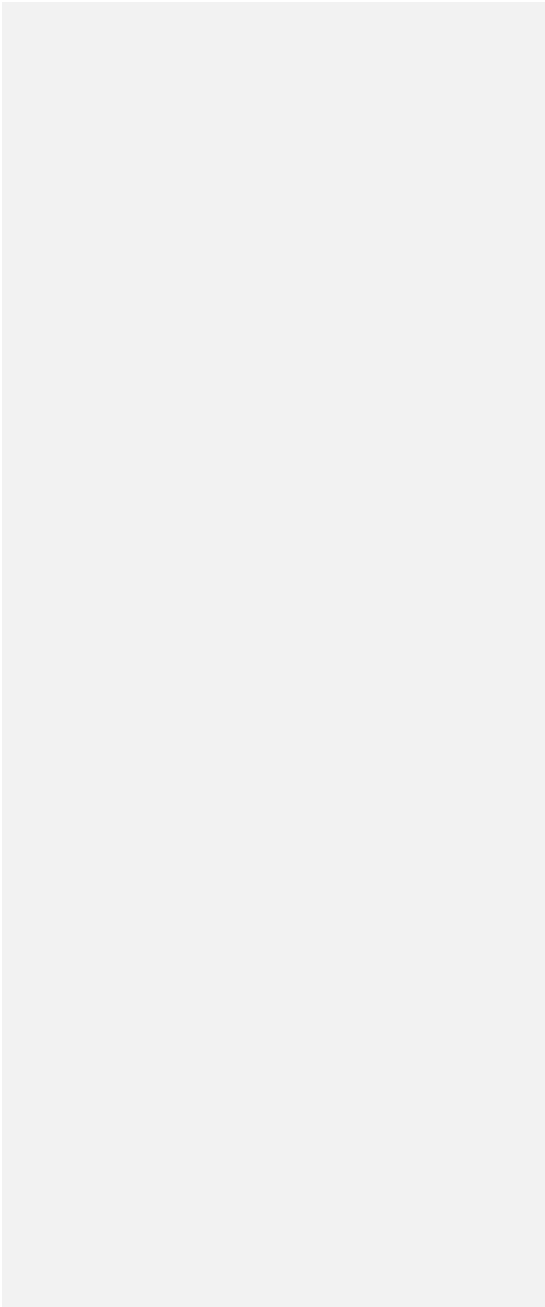
			that such an access would jeopardise the implementation of this Chapter and the security and confidentiality of the information held by FIUs and exchanged through the FIU.net system, including where there are concerns in relation to an FIU's lack of independence and autonomy.
Article 37(5b)			
	<u>6. The Authority shall not have access to the content of the information exchanged within FIU.net, except where it is an intended recipient of such information.</u>		EC to revert TM 21 27/09/2023
Article 37(5c)			
		<u>Article 37a</u> <u>Peer review</u>	EC to revert
Article 37(5d)			
		<u>1. The Authority shall periodically conduct peer reviews of the fulfilment by FIUs of the requirements laid down in Chapter III of Directive [please insert</u>	EC to revert TM 21 27/09/2023

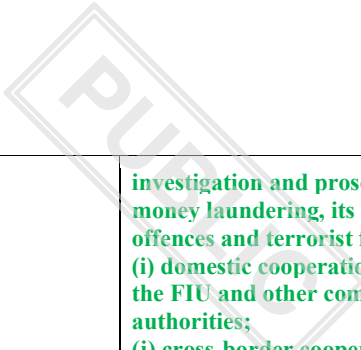


		<p><u>reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]. To that end, the Authority shall develop methods to allow for an objective assessment and comparison between FIUs reviewed.</u></p>	<p>1. The Authority shall set up a peer review process of the activities of FIUs pursuant to Chapter III of Directive [insert reference to 6AMLD] to strengthen consistency and effectiveness of FIU activities and to facilitate the exchange of best practices between FIUs. The Authority shall develop methods to allow for an objective assessment of the FIUs reviewed and rules of procedure for the conduct of peer reviews.</p> <p>Where relevant, the planning and conducting of peer reviews shall take due account of the evaluations, assessments and reports drawn up by international organisations and intergovernmental bodies with competence in the field of preventing money laundering, its predicate offences and terrorist financing.</p> <p>2. For the purposes of the first paragraph, the Authority shall set up a peer review team, which shall be composed of staff of the Authority and representatives of FIUs participating in the peer review.</p>
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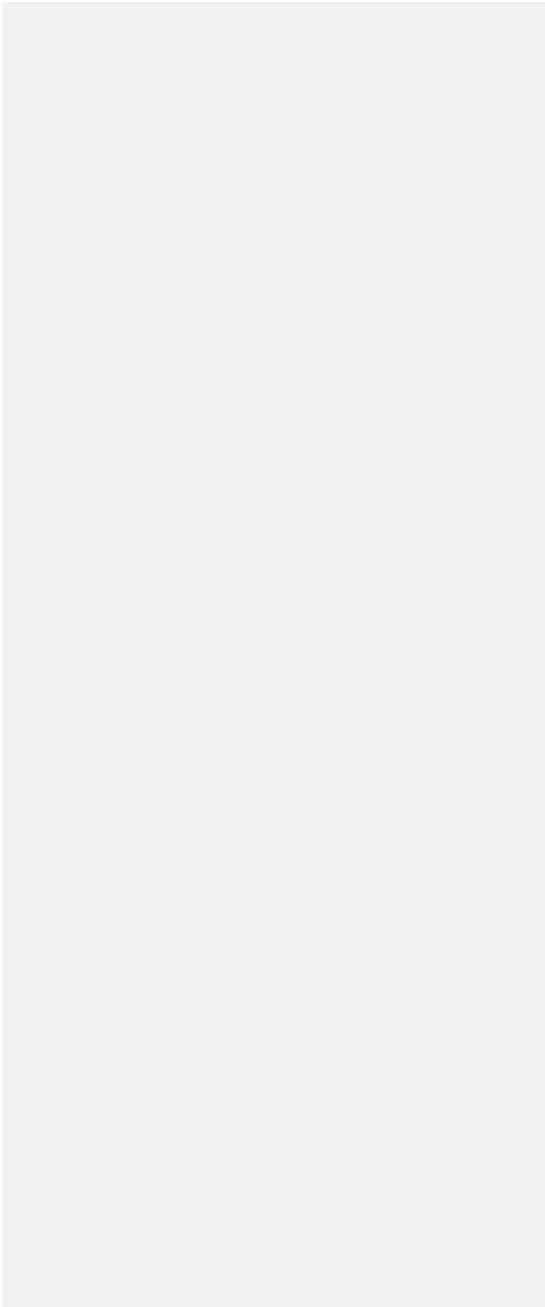
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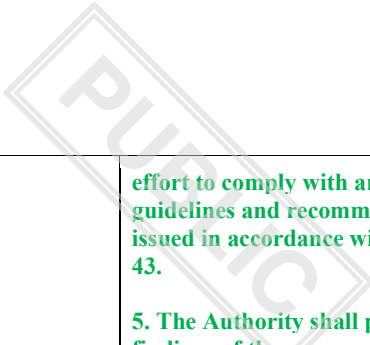
			<p>3. The peer review shall include an assessment of, but shall not be limited to:</p> <ul style="list-style-type: none">(a) the adequacy of the FIU's resources, including human and technical and IT resources, to perform its functions;(b) the measures implemented to ensure it has operational independence and autonomy and it is not subject to undue influence;(c) the measures the FIU has put in place to protect the security and confidentiality of information;(d) the FIU's function to receive STRs and other disclosures, including the number and nature of disclosures received and their quality;(e) the measures the FIU has put in place to enhance the reporting of STRs by obliged entities, in particular in relation to their quality;(f) the FIU's access to and use of additional information to enrich its analysis;(g) the tools used by the FIU to carry out analysis;(h) the extent to which FIU's analysis and dissemination support the operational needs of authorities competent for the
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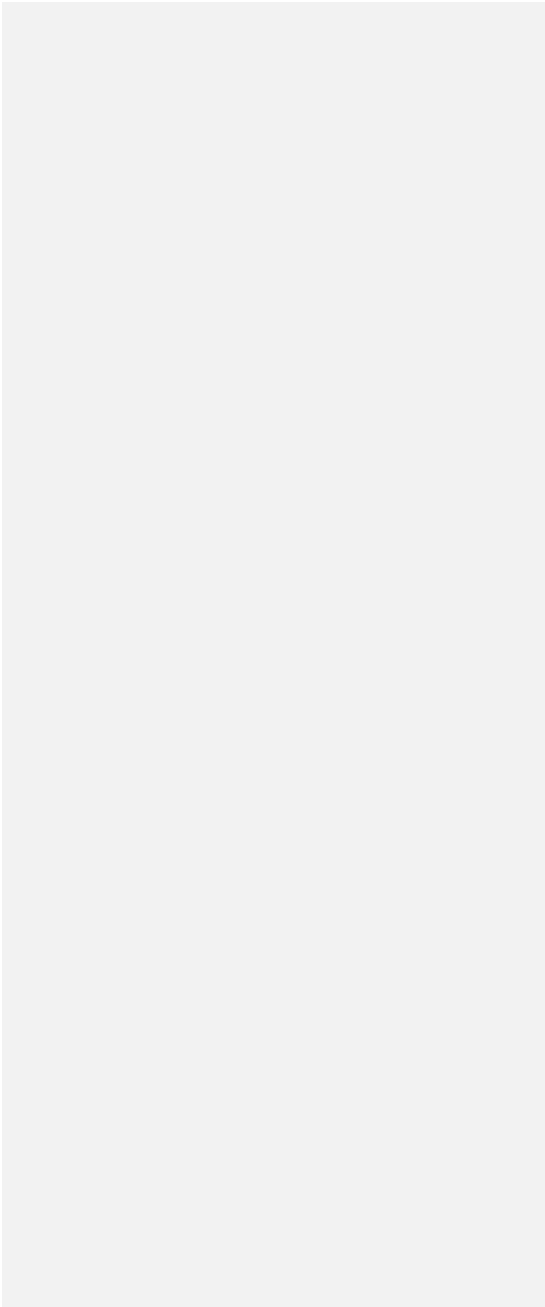


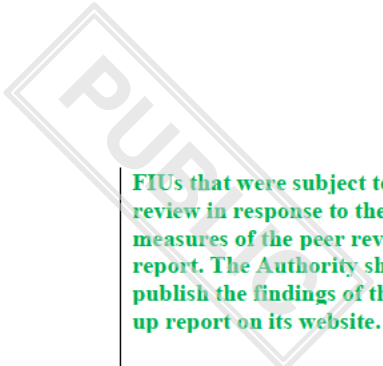
			<p>investigation and prosecution of money laundering, its predicate offences and terrorist financing; (i) domestic cooperation between the FIU and other competent authorities; (j) cross-border cooperation between the FIU and counterpart FIUs from other Member States.</p> <p>4. The Authority shall produce a report setting out the results of the peer review. That peer review report shall be jointly prepared by the staff of the Authority and the relevant staff of the FIUs involved in the peer review team and adopted by the Executive Board, having received the observations of the General Board in FIU composition as to the consistency of application of the methodology with other peer review reports. The report shall include good practices identified and, where relevant, follow-up measures that are deemed appropriate, proportionate and necessary as a result of the peer view. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 43 and opinion pursuant to Article 44. FIUs shall make every</p>
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			<p>effort to comply with any guidelines and recommendations issued in accordance with Article 43.</p> <p>5. The Authority shall publish the findings of the peer review on its website and submit an opinion to the Commission where, having regard to the outcome of the peer review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of Union rules applicable to FIUs would be necessary from the Union's perspective.</p> <p>6. The Authority shall provide a follow-up report two years after the publication of the peer review report. The follow-up report shall be jointly prepared by the staff of the Authority and the relevant staff of the FIUs involved in the peer review team and adopted by the Executive Board, having received the observations of the General Board in FIU composition on the consistency with other peer review reports. The follow-up report shall include an assessment of the adequacy and effectiveness of the actions undertaken by the</p>
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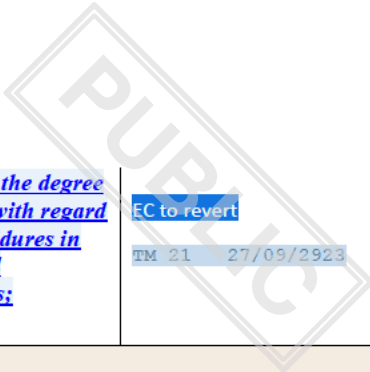




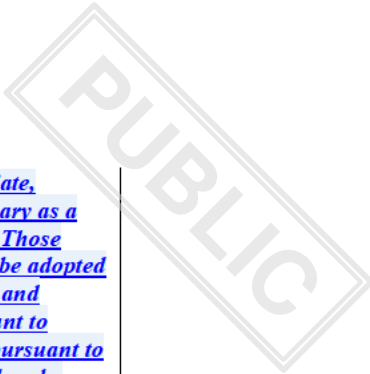
			<p>FIUs that were subject to the peer review in response to the follow-up measures of the peer review report. The Authority shall publish the findings of the follow-up report on its website.</p> <p>7. For the purposes of this Article, the Executive Board shall adopt a peer review work plan every two years, which shall reflect the lessons learnt from the past peer review processes and discussions held in the General Board in FIU composition. The peer review work plan shall constitute a separate part of the annual and multiannual working programme and shall be included in the Single Programming Document.</p>
Article 37(5e)			
		<p><u>2. The peer reviews shall be carried out by the staff of the Authority in cooperation with the staff of FIUs.</u></p>	<p><u>2. [The peer reviews shall be carried out by the staff of the Authority in cooperation with the staff of FIUs.]</u></p> <p>Text Origin: EP Mandate</p> <p>TM21 27/09/2023</p>
Article 37(5f)			

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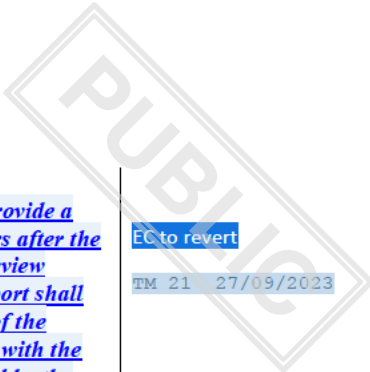
		<u>3. The peer review may include an assessment of:</u>	<u>3. [The peer review may include an assessment of:]</u> Text Origin: EP Mandate TM21 27/09/2023
Article 37(5f), point (a)			
		<u>(a) the adequacy of powers and human and technical resources, the governance arrangements and professional standards of the FIU under review;</u>	<u>(a) [the adequacy of powers and human and technical resources, the governance arrangements and professional standards of the FIU under review;]</u> Text Origin: EP Mandate TM 21 27/09/2023
Article 37(5f), point (b)			
		<u>(b) the effectiveness and the degree of convergence reached in the application of Union law and in FIUs practice with regard to the functions and dissemination of analyses, and the extent to which the practice of the FIU under review achieves the objectives set out in Union law in that regard;</u>	<u>EC to revert</u> TM 21 27/09/2023
Article 37(5f), point (c)			



		<p><u>(c) the effectiveness and the degree of convergence reached with regard to the methods and procedures in view of the functions and dissemination of analyses;</u></p>	<p>EC to revert</p> <p>TM 21 27/09/2023</p>
<p>Article 37(5f), point (d)</p>			
		<p><u>(d) the effectiveness and the degree of cooperation and coordination with other FIUs;</u></p>	<p>EC to revert</p> <p>TM 21 27/09/2023</p>
<p>Article 37(5f), point (e)</p>			
		<p><u>(e) the application of best practices developed by FIUs whose adoption might be of benefit for other FIUs.</u></p>	<p>EC to revert</p> <p>TM 21 27/09/2023</p>
<p>Article 37(5g)</p>			
		<p><u>4. The Authority shall produce a report setting out the results of the peer review. That peer review report shall be prepared by the staff of the Authority in cooperation with the staff of FIUs and adopted by the Executive Board, which shall share it in a timely manner with that FIU. The report shall explain and indicate the follow-up measures</u></p>	<p>Comment: General Board / Executive Board</p> <p>EC to revert For Political level</p> <p>TM 21 27/09/2023</p>



		<p><u>that are deemed appropriate, proportionate and necessary as a result of the peer review. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 43 and opinions pursuant to Article 44. The FIU shall make every effort to comply with any guidelines and recommendations issued, in accordance with Article 43. The Authority shall transmit such reports without delay, on a confidential basis, at least to the European Parliament.</u></p>	
Article 37(5h)			
		<p><u>5. The Authority shall publish a summary of the findings of the peer review on its website and submit an opinion to the Commission where, having regard to the outcome of the peer review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of Union rules applicable to obliged entities or FIUs would be necessary from the Union's perspective.</u></p>	<p>EC to revert</p> <p>TM 21 27/09/2023</p>
Article 37(5i)			



		<p><u>6. The Authority shall provide a follow-up report two years after the publication of the peer review report. The follow-up report shall be prepared by the staff of the Authority in cooperation with the staff of FIUs and adopted by the Executive Board, which shall share it in a timely manner with the FIU under review. The follow-up report shall include an assessment of the adequacy and effectiveness of the actions undertaken by the FIUs that were subject to the peer review in response to the follow-up measures of the peer review report. The Authority shall publish the findings of the follow-up report on its website.</u></p>	<p>EC to revert TM 21 27/09/2023</p>
Article 37(5j)			
		<p><u>7. For the purposes of this Article, the Executive Board shall adopt a peer review work plan every two years, which shall reflect the lessons learnt from the past peer review processes and discussions held in the General Board in FIU composition. The peer review work plan shall constitute a separate part of the annual and multiannual</u></p>	<p>EC to revert TM 21 27/09/2023</p>

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		<p><u>working programme and shall be included in the Single Programming Document. In cases of urgency or unforeseen events, the Authority may decide to carry out additional peer reviews.</u></p>	
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