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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Reporting Requirements) Financial Services Attachés
N° Cion doc.:	ST 14834 2023 INIT
Subject:	Reporting Requirements: compilation of replies to Presidency questionnaire - for final compromise - replies from 21 Member States

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Questions in the Presidency note for the Council Working Party of 27 March 2024 (WK 4484 2024 INIT)

Questions	MS comments
Q 1.1 – Suggestions related to the **position of NCAs**: NCAs could - on a voluntary basis - share information directly with other NCAs (see draft recital 5(a))	BG (MS comments): BG: We are of the view that the proposal should not interfere with the current arrangements on sharing of information among NCAs and thus we support the voluntary principle regarding NCAs which provides more flexibility for them in decision-making. CY (MS comments): **General comment: We note that all our comments are subject to a scrutiny reservation.** A.1.1 - We do not have a strong objection. CZ (MS comments): **General comment: The Czech Republic generally supports initiatives leading to the reduction of the administrative burden. In this case, however, we are concerned as the scope of information to be shared is still not clear enough. The relationship of this proposal and relevant sectoral legislation is also not sufficiently clear. Having a better understanding of the implications of the proposal before moving further would be helpful. Otherwise, it is very difficult to assess the necessity and the added value of the proposal.**

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Questions	MS comments
	To Q 1.1: From the very beginning we have preferred voluntary data sharing by NCAs. In this respect, the proposed changes are going in the right direction and we can support it. DE (MS comments): The latest PCY draft suggestion improves the situation for NCAs. Data sharing should be voluntary and in principle rest among ESAs. DK (): **General remarks.:** We acknowledge that the Presidency has tried to accommodate our concerns, which is very positive. We still remain concerned with the broad and unclear legal base in this proposal, which entails a very wide scope and potentially being very burdensome for NCAs. We still question the added value of this proposal and whether it actually will achieve a burden reduction both for authorities and financial institutions. We reiterate our question from the WP on 27/3 on annex 1 and the examples shared by the Commission services on double reporting. We find these examples very helpful but would still ask for a comprehensive mapping of which legislative acts will be impacted by this proposal and the inter-play between sectoral legislation and this proposal. Specifically, on the example of SFTR data, we would ask for an explanation as to whether this type of data would be eligible for sharing with a legal base in this proposal. If yes, this would be concerning, as the example specifically mentions that ESMA is not allowed to share this data, as because of market

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	characteristics, even aggregate data can lead to the identification of an individual trade repository. In the proposal in art. 15 (12) of the amending provisons to the ESRB regulation (line 31), it is stated that other Union legislation shall prevail if it regulates the exchange of information. In our understanding, this would mean that said SFTR data could not be shared. Before moving further with this proposal, it would helpful to have a more comprehensive overview and thorough understanding of the legal implications such as this. Furthermore, this would also be helpful in understading how this proposal achieves a burden reduction for financial institutions, as there should be clarity on where the ESA's etc. would share data rather than requesting it again. On Q1.1: On recital 5a, we can accept the drafting, as this is also the case today that NCAs an voluntarily share data. We would be open to specifying it in level 1 text as well if this is the preference of the Council. EE (MS comments): We agree that NCAs are (should be) allowed to share information directly with other NCAs. We don't have a strong preference regarding whether it should be specified in the recital or in the text. EL

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Questions	MS comments
	(MS comments): EL: We agree with the Presidency proposal related to the position of NCAs (draft recital 5(a)). ES (MS comments): We can support the proposed amendment to allow NCAs to share information with other NCAs on a voluntary basis. If information-sharing between NCAs would be mandatory, it should be clear which information has to be shared and how. Additionally, we would welcome clarifications on the anonymisation of data: if both NCAs have legal capacity to obtain the same data in a non-anonymised format, should the information to be shared be anonymised? We understand that when both authorities can have access to the same information there would be no need for anonymisation, but we would welcome clarity on this aspect. FI (MS comments): FI: The amendments are fine for us and we strongly support the recital 5a regarding the NCAs and the voluntary data sharing, but we are wondering if this should be in the article and not in the recital. We also want to note that the voluntary based framework (lines 27, 48, 73 & 98) reduces the effectiveness of the proposal. FR (MS comments): We can agree on the suggested drafting for a recital 5a to allow one NCA to share information with another at its own discretion.

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Questions	**MS comments**
	HR (MS comments): We can accept the proposal for including the recital 5(a) which foresees the possibility for the NCAs to share information directly with the other NCAs on a voluntary basis, however we do not see any particular added value if it is not included in the legal text appropriately. The exchange of information between NCAs is already covered by sectoral legislation and it is mainly mandatory if it is for the supervisory purposes For example, Article 101 of the UCITS Directive prescribes the following: "The competent authorities of the Member States shall cooperate with each other whenever necessary for the purpose of carrying out their duties under this Directive or of exercising their powers under this Directive or under national law. Member States shall take the necessary administrative and organisational measures to facilitate the cooperation provided for in this paragraph. Competent authorities shall use their powers for the purpose of cooperation, even in cases where the conduct under investigation does not constitute an infringement of any regulation in force in their Member State. 2. The competent authorities of the Member States **shall immediately provide each other with the information required for the purposes of carrying out their duties under this Directive.**" **For Credit institutions, Article 24 CRD: Cooperation between CAs:** **1. The relevant competent authorities shall fully consult each other when carrying out the assessment if the proposed acquirer is one of the following: a)**

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	credit institution... **2. The competent authorities shall, without undue delay, provide each other with any information which is essential or relevant for the assessment. In that regard, the competent authorities shall communicate to each other upon request all relevant information and shall communicate on their own initiative all essential information. A decision by the competent authority that has authorised the credit institution in which the acquisition is proposed shall indicate any views or reservations expressed by the competent authority responsible for the proposed acquirer.** However, there are also examples where the legal framework does not allow or foresee sharing the information, and in these cases recital 5(a) would not solve the problem. One example is Article 81. of EMIR which does not foresee sharing of trade repository data between eligible authorities. Another is SFTR and the lack of possibility for ESMA to share its analysis with NCAs. Therefore, we would suggest to consider if the proposal could try and address current obstacles in sectoral laws that prevent ESMA and NCAs from sharing information and pooling resources when it comes to data analysis, without creating additional mandatory burdens for NCAs. This proposal goes in the similar direction as the EP proposal to identify the legal obstacles in sectoral regulations that prevent an exchange of information between authorities. IE (MS comments): Welcome that the sharing of information between NCAs would be *"at their own discretion when deemed appropriate"* and also recognises that safeguarding should

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	be in place. Note the importance in recital 6, *"**existing** possibilities of information exchange provided for in Union law"* IT (MS comments): We fully support the mandatory obligation for the ESRB and the sectoral ESAs to share information (collected/received from the sectoral NCAs) with the other ESAs and other entitled Union and national authorities overseeing the financial system. However, in order to effectively reduce administrative burdens for market participants, we deem it important to maintain the obligation for NCAs to share information directly with each other. LT (MS comments): We support suggestion that NCAs could share information on a voluntary basis. Also we would support if that would be clearly stated in Articles. LU (MS comments): We support the proposed wording in recital 5a clarifying that the sharing of data between authorities remains voluntary. MT (MS comments): Malta agrees with the amendments made, and keeping in mind the necessary protection of data supports the fact that data sharing is on a voluntary basis.

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Questions	MS comments
	PL (MS comments): • We support the proposed approach regarding the position of NCAs, including the draft recital 5a. • We also suggest that each legal provision relating to information exchange (lines 27, 48, 73, 98) should explicitly mention safeguarding data protection, professional secrecy and intellectual property (as in line 14, recital 4). PT (MS comments): We welcome the Presidency's decision to not interfere with the current arrangements on sharing of information among NCAs and thus support the voluntary principle regarding NCAs which provides more flexibility for them in decision-making and avoids the risk of NCAs being flooded with information-sharing requests. In our view the scope of this regulation should be two folded. It should apply horizontally at EU level meaning it should regulate the sharing of information between the ESAs and other Union bodies such as the SRB or ESRB. And it should apply vertically by clarifying the condition under which the ESAs and other Union bodies can share information with NCAs. Regarding the proposal for new recitals 5(a) and 5(b), despite not having major concerns against, we believe that this provision is essentially 'soft-law', with little to no added-value, since (i) it is not mandatory, and (ii) entering into memoranda of understanding already occurs and thus we could support its deletion if that were the majority position of the Council. In the event this provision is kept, it should be

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	clarified that the exchange of information between NCAs at their discretion should safeguard any legal requirements applicable under sectoral legislation. Moreover, we do not support moving them beyond recitals into the articles, giving that it would not add value and could bring additional complexity, taking into account current practices. RO (MS comments): We support the proposal. SK (MS comments): We support sharing of data only on voluntary basis and on the basis of the Memorandums of understanding.
Q 1.2 – Suggestions on the inclusion of the European Authorities and the **review clause for AMLA**	AT (MS comments): We prefer an inclusion of the AMLA. However, given the concerns raised by other member states, a review clause could be a sensible compromise. BG (MS comments): BG: Regarding the inclusion of the to-be established AMLA we share the view that it would be premature to include them in the text and if there would be a support in the Council for a review clause it should be for a period longer than 2 years. CY (MS comments):

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Questions	MS comments
	With regard to the inclusion of the European Authorities (ECB/SSM and SRB) to issue a request for data sharing, we agree. With regard to the AMLA review clause (*to re-evaluate its inclusion within 2 years after the entry into force of the proposal)*, we agree. CZ (MS comments): Given the fact that legislative process on the AMLA have progressed we do not oppose the possibility to include the AMLA (and respective NCAs) as requesting party, provided its legal basis is established prior the end of negotiations. We can support the review clause for AMLA (as requesting party) as well. However, setting an appropriate deadline should be subject to further discussions. DE (MS comments): The latest PCY draft suggestion can be supported. Regarding AMLA, further assessment is needed since AMLA does not yet have a legal basis. Therefore, we can support a review clause for AMLA We also agree with the removal of NRAs as they are already included competent authorities in Regulation (EU) No 1093/2010. DK (): In terms of data sharing between the ESAs today, we understand it is already possible if they agree to do so through a MoU or similar type of instruments. This would also be a more flexible instrument rather than a level 1 legal text.

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Questions	MS comments
	Regarding AMLA, we would see a need for review clause of 5 years to ensure AMLA is fully operational. Furthermore, we suggest to include a wording in the review clause to leave it to the Commission to evaluate "*when the AMLA is operationally ready to engage in exchange of data with the European supervisory community and include AMLA in the scope of this regulation"*. We would also support specifying the inclusion of AMLA in a separate review clause article rather than in the body of the legal text. EE (MS comments): We agree with the Presidency's suggestion to leave AMLA out of the scope of the proposal at this stage and to insert a review clause to reevaluate the inclusion of AMLA within 2 years after the entry into force of the proposal. Regarding the 2-year deadline, we are open to extending it. EL (MS comments): EL: We agree with the Presidency proposal. ES (MS comments): We do not have strong views on the review clause for AMLA, although 2 years might not be enough time given the various tasks AMLA will have to carry out during its first years of functioning. FI

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Questions	MS comments
	(MS comments): FI: The suggestions are OK for us. FR (MS comments): We do not support the inclusion of a review clause and believe the issue should be discussed during the trilogues, considering that we have concerns over the inclusion of AMLA in the scope. HR (MS comments): We agree to include a review clause for AMLA in the text. IE (MS comments): We welcome that in the Presidency proposal AMLA is not in scope from the outset, and will be reviewed in years to come. However, we consider that reviewing the situation 2 years after entry into force of this regulation may well be premature, given that AMLA will still be very much in its formative stage, and as such the circumstances for an effective review would be very unfavourable. A longer period than 2 years would seem to be more sensible. IT (MS comments): We agree on the insertion of the two years review clause. LT

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Questions	MS comments
	(MS comments): We support review clause. However the period given to the Authority should be sufficient to make necessary assessments. LU (MS comments): We can support the inclusion of the proposed EU authorities. We support the proposal to leave AMLA out of scope of the proposal, and consider premature to provide for an AMLA review clause. MT (MS comments): Malta supports leaving the anti-money laundering authority (AMLA) out of scope of this Proposal at this stage. Malta is flexible on the wording of the review clause for AMLA. PL (MS comments): • We agree with the proposed approach. PT (MS comments): As before, we continue to be flexible regarding the inclusion of the to-be established AMLA and respective NCAs. Regarding the PCY proposal, notwithstanding understanding the concerns of other delegations namely in operational terms, we must bear in mind that from July 2025 onwards, Article 4 (2) (iii) of the EBA's Regulation will be repealed, thereby removing the AML Authorities from the scope

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	of the NCAs under the EBA's remit (EBA's powers in relation to AML Authorities will be transferred to the AMLA). Therefore, we question whether this might have an impact on the application of this Regulation as regards to AML Authorities. More specifically, once the AMLA Regulation enters into force, and pending further amendments to this Regulation, there may be a gap regarding AML data, as the proposal will not apply to AML authorities (as they are no longer included in the list of "other authorities" proposed by the PCY), nor to the AMLA. We are therefore of the opinion that this issue should be the subject to further consideration and assessment. Nevertheless, if the path proposed is pursued, we wonder whether, from a systematic point of view, it would be preferable to introduce a standalone article for the "review clause" in the Reporting Requirements Regulation, instead of introducing a provision in the ESRB / ESAs Regulations, being reviewed. Moreover, we incentivise assessing if the period of 2 years would be sufficient in this regard. RO (MS comments): We support the proposal, but longer period for the review clause. SK (MS comments): We agree with BE PRES proposal to leave AMLA out of scope of this proposal due to the fact that AMLA is still not established. We support review clause.
Q 1.3 – Suggestions with regards to the **information eligible for sharing**	CY (MS comments): We propose that only the data collected based on Union law, should be in the scope

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Questions	MS comments
	of the information to be shared. CZ (MS comments): The national requirements may differ across the member states and thus processing of such information may be challenging. Due to this fact, we do not support their inclusion. In this respect, we can support the proposed changes. DE (MS comments): The latest PCY draft suggestion can be supported. Information eligible for sharing should be limited to the information included in reporting requirements stemming from Union Law. DK (): We agree that only data stemming from Union law requirements and national transposition thereof should be shared. EE (MS comments): We agree that the information should be limited to the information included in reporting requirements stemming from Union Law. EL (MS comments): EL: We agree with the Presidency proposal. ES

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Questions	MS comments
	(MS comments): We support the proposed amendment to limit the information to be shared to information included in reporting requirements that stem from EU law and national transpositions. Information that stems from national requirements could be shared on a voluntary basis, on a case-by-case basis and with safeguards. FI (MS comments): FI: We support these suggestions, but we are wondering whether it would be possible to voluntarily share information base on national laws? FR (MS comments): We support the drafting suggestions. HR (MS comments): We agree with the proposal that the information eligible for sharing should be limited to the information included in reporting requirements stemming from Union law (including national transposition thereof) and that the national reporting requirements should be out of scope of this proposal. IE (MS comments): Agree that data shared should be limited to information included in reporting requirements stemming from Union Law and that national reporting should not be included in the scope.

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Questions	MS comments
	IT (MS comments): In line with our previous comments, we support the Presidency's proposal. LT (MS comments): We support that information eligible for sharing would be stemming from the reporting requirements adopted in the application of Union Law. LU (MS comments): We support the Presidency proposal. Information eligible for data sharing shall be limited to information stemming from EU reporting requirements only. MT (MS comments): Malta supports that the reporting requirements that are eligible for sharing stem from common EU law. PL (MS comments): • We agree with the proposed approach, i.e. that it should be limited only to the information included in reporting requirements stemming from Union Law (including national transpositions thereof).

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	PT (MS comments): For us, the important point here is that access to the information is contingent on the requesting Authority already having the powers to obtain the information from financial institutions or other competent authorities, irrespectively of where the information comes from. RO (MS comments): We support the proposal to limit the scope of sharing to the information included in the reporting requirements stemming from Union Law. SK (MS comments): We agree with BE PRES that shared information should be limited to the information included in reporting requirements stemming from the Union law, and that national reporting requirements will be out of scope of this proposal.
Q 2.1 – Suggestions related to the **Peer Reviews** (see draft for article 30)	AT (MS comments): Although we preferred a deletion of the amendment of article 30 (3) (e), however, a redraft to indicate that the focus of this paragraph lies on data collections stemming from Union law would also be acceptable. BG (MS comments): BG: In our view current Article 30(2)(b), addresses the degree of convergence in the application of Union law, and we continue to not see the need for this provision and,

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	therefore, would support the deletion of this paragraph e). In our understanding the reference to the national reporting requirements should be removed as they reflect the national context and may not necessarily align with EU regulations. CY (MS comments): We do not see how the new paragraph differentiates from article (30)(3) points (b) and (d). Our understanding is that point (e) overlaps hence we propose its deletion. *(e) the effectiveness ~~of national reporting requirements~~ and the degree of convergence ~~of such~~* ***reached with regard to the implementation of reporting*** *requirements ~~with the ones set out in~~* ***adopted in the application of*** *Union law***.** ***(b)*** *the degree of convergence reached in the application of Union law and in supervisory practice, including regulatory technical standards and implementing technical standards, guidelines and recommendations adopted pursuant to Articles 10 to 16, and the extent to which the supervisory practice achieves the objectives set out in Union law;* ***(d)*** *the effectiveness and the degree of convergence reached with regard to the enforcement of the provisions adopted in the implementation of Union law, including the administrative measures and sanctions imposed against persons responsible where those provisions have not been complied with.* CZ (MS comments): We can support proposed changes in Article 30. We would not oppose deletion of the 30 (3) (e) either. DE

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Questions	MS comments
	(MS comments): The amendments of Art. 30(3)(e) in the latest PCY draft suggestion can be supported. National reporting requirements should be out of the scope of the peer reviews. DK (): We still prefer to delete art.30(3)(e). In our view, the ESA's should not be spending their limited resources on the efficiency in national reporting requirements, even if it relates to provisions stemming from transposition of EU law. EE (MS comments): The added value of the proposed assessment in point e compared to the existing point b is not clear. According to the point b the peer review shall include an assessment of the degree of convergence reached in the application of Union law and in supervisory practice, including regulatory technical standards and implementing technical standards, guidelines and recommendations adopted under Articles 10 to 16, and the extent to which the supervisory practice achieves the objectives set out in Union law. EL (MS comments): EL: We agree with the Presidency proposal.

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Questions	MS comments
	ES (MS comments): We support the drafting suggestion to indicate that the focus of this paragraph lies on the implementation of data collections stemming from Union law. FI (MS comments): FI: We accept this amendment. We are also open to deletion if needed. FR (MS comments): We support the drafting suggestions. HR (MS comments): We agree with the PRES compromise draft proposal to clarify that the scope of the Peer Review is the implementation of data collections stemming from Union law. IE (MS comments): We would prefer the deletion of this provision as we do not want any changes to peer reviews. However, if it is to be retained, then we can support the proposed drafting. The remit should be kept within EU law requirements only. IT (MS comments): We support the Presidency's changes.

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Questions	MS comments
	LT (MS comments): We agree that peer reviews could assess implementation of reporting requirements adopted in the application of Union law. LU (MS comments): The proposed provisions set out in (new) Art 30e) appear to be already covered by current Art 30(2)(b). Our preferred solution would be to delete the newly proposed wording for art 30. MT (MS comments): Malta is flexible with the text of Article 30(e) and can thus support the suggestions. PL (MS comments): • Our most preferred approach would be still to delete that Article 30(3)(e) completely. However, we may support the Presidency's drafting, yet in our opinion it could be overinterpreted. PT (MS comments): To start with, we fully support removing the reference to the national reporting requirements, as they often reflect the national context and may not necessarily align with regulations defined at the EU level. Moreover, they cater to national needs, and hence it may not be adequate to conduct peer reviews.

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Questions	MS comments
	Regarding the question of Union law, we continue to find that such an assessment is already covered by the current Article 30(2)(b), which addresses the degree of convergence in the application of Union law, and hence we continue not to see the need for this provision and, therefore, would support the deletion of this paragraph e). In this context, one must acknowledge the support of several MS in the meeting to delete such paragraph. RO (MS comments): We prefer deleting the art 30,still open to redrafting. SK (MS comments): In this case, we support the revised compromise wording, which is focused on efficiency and the degree of convergence of the reporting requirements arising from EU regulations.
Q 3.1 – Sharing data with the Commission: to leave the responsibility with the NCAs to decide at their own discretion to deny a request from the Commission when the proper anonymization of the data cannot be guaranteed	BG (MS comments): BG: As previously stated in our written comments we have concerns regarding this proposal. This subject entails sensitivity of the data and we note that such sharing of information with the Commission is not present in sectoral legislation. Moreover, it is not clear what information could be shared and what are all its purposes. The drafting inserted in the recitals to “help in providing an evidence-based foundation for the formulation and evaluation of Union policies” is too broad and vague.

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Questions	**MS comments**
	In addition, the safeguard for cases where anonymization/aggregation should be included in the main text of the proposal and not only in a recital. CY (MS comments): We agree. CZ (MS comments): We welcome that the decision to reject the request from the Commission remains with the NCAs. However, we are of the opinion that such rejection should not be limited only to the cases concerning the anonymization of the data. The NCA should be entitled to deny the request from the Commission when the sharing of information would require further processing of this information or in case it would be associated with excessive and disproportionate costs. Thus, sharing of the information by the NCAs with the Commission should be voluntary under all conditions. We are also of the opinion that the Commission should ask for information primarily from the ESAs and other Union institutions before addressing the request to the NCA. DE (MS comments): The latest PCY draft suggestion (“may” instead of “shall”) can be supported. Data sharing with the Commission should remain at the NCAs’ full discretion. DK (): We strongly support evidence-based legislation and that the Commission performs

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Questions	MS comments
	robust impact assessments to support new union policies, and that the Commission should have the relevant data available. However, there is already a sensible division of tasks today through call for advice, where the ESA's also request input from NCAs, and where the competences and resources are already well-established. Thus, we prefer to delete this provision. In case, the majority of the Council prefers to keep this provision, we would prefer a clearer text in level 1 that makes sure that data sharing with the Commission is always voluntary as a general rule. Furthermore, given the sensitive nature of supervisory data, criteria should specify under which conditions ESAs, ESRB etc. can voluntarily share data with the Commission. Data sharing should only happen while safeguarding data protection, professional secrecy and intellectual property is ensured and if it is ensured that no individual financial institution can be identified – especially for smaller markets. Furthermore, it should be specified that data sharing with the Commission should only be used for impact assessments. EE (MS comments): We agree that NCA can decide to deny a request from the Commission, particularly when the proper anonymity of the entity cannot be guaranteed. But there should be an additional safeguard for situations where ESAs share the information. ESA should be obliged to assess whether the risks of predictability are mitigated regarding each individual Member State.

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	EL (MS comments): EL: Although we could support leaving the responsibility with the NCAs to decide at their own discretion, we nevertheless propose that the Commission should address all requests for information only to the ESAs. ES (MS comments): We can support the proposal to allow NCAs to deny information requests from the Commission when the data cannot be anonymised. While this is currently reflected in recital 7, we think it might be clearer if we also introduce this possibility in article 35a(6). FI (MS comments): FI: We support the phrasing of the recital 7 but what is the reason that the possibility to decline request is only written in the recital and not in the article? We are wondering if the recital is enough. FR (MS comments): As a compromise, we can support to make the data sharing from NCAs to the Commission voluntary. This discretion should be granted in a generic way. HR (MS comments): We can agree with the PRES proposal to consider the sharing data with the

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Questions	MS comments
	Commission as voluntary and to leave the responsibility with the NCAs to decide at their own discretion to deny a request from the Commission when the proper anonymization of the data cannot be guaranteed. With regard to the second option, that the Commission should have addressed all requests for information to the ESA, we would be supportive of that option but only insofar the requests are made with reference to the data that ESA already collected from the NCAs and/or directly from supervised entities based on the Union law, and not to collect them only for the purpose of responding to the Commission request. Exchange of the information with the Commission via ESAs (in an aggregated form) would help to ensure a sufficient degree of anonymisation of the information, especially in the case of MS with a small number of entities. IE (MS comments): While we support this in principle we have some concerns that it may lead to divergent practices across Member States. IT (MS comments): We are against granting NCAs discretion to deny a request from the Commission, since we consider the availability of data a key factor for a successful policy making activity. LT (MS comments): We believe that the Commission should be able to obtain information necessary to

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	perform impact assessments at Member State level to support evidence based legislative proposals. Therefore we support NCAs right/discretion to provide information to the Commission with appropriate safeguards. However, in our view ESAs should be obliged to share information when it is possible. If relevant information could be obtained from ESAs, the request for information should be addressed to ESAs first. LU (MS comments): We consider important to clarify as part of the main text, rather than as part of the recitals, that NCAs have the possibility to deny a request when the proper anonymization of the data cannot be guaranteed. MT (MS comments): Malta supports the "*may*" provision when sharing information with the Commission. Furthermore, Malta reiterates its position on the importance of protecting personal data, and thus supports the addition of the reference to the General Data Protection Regulation (GDPR). PL (MS comments): • We agree with the proposed approach. However, we suggest including the "right of denial" in a binding legal provision as well, not only in the recital. PT (MS comments):

Questions	MS comments
	We have doubts on this provision. To start with, we believe that this is a very important subject, which entails strong sensitivity of the data and thus would need a significant amount of debate and assessment which is not possible at the moment. We notice that this sharing of information is not present in sectoral legislation (it has been tried to be introduced in the context of several negotiations and it has never been achieved) and hence this can be seen as a waiver. In this context, we heard several times during the meeting that the principle beyond this proposal was that if two authorities already have the right to receive certain information, then they could share it between them. In this sense, we have strong doubts that sharing information with the COM lies within this principle. Moreover, it is not clear what information could be shared and what are all its purposes. In this context, it is not clear which information could be requested by the Commission because the notion of "*justified request*" could be excessively broad, having in mind its attributions by article 17/1 of the Treaty on European Union, thus generating useless information to the Commission, unless it is prepared suitably by the sharing Authority, being it only possible with an additional deployment of human resources (which are scarce) and hence increase costs. With this in mind, we have concerns on the path that is being proposed and would prefer to take a step back and have this discussion in more appropriate forums, such as sectoral legislation. Notwithstanding, if this path is pursued, we have the following points regarding the current text: - The safeguard for cases where anonymization/aggregation is not possible should

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	not be limited to the recital and should be included in the main text of the proposal, particularly because the recitals will not be easily accessible through the consolidated version of the text. Furthermore, we strongly support the remarks made by several MS in the meeting asking for an extension of the reasons that can justify denying the COM's request and also the remarks suggesting extending the guarantees foreseen under Article 58a of the CRD (applicable to other entities) to the information sharing with the COM. - Additionally, if, however, the majority of the Council strongly supports the idea of sharing information with the COM, we would prefer to foresee this rule on sectoral legislation, e.g., the CRD. - The reference inserted in the recitals to "help in providing an evidence-based foundation for the formulation and evaluation of Union policies" is too broad and vague. We need further specification on that part. - Lastly, the requirement of the 'justified request' still raises several doubts which continues not to be addressed by the COM's explanations. Moreover, we also strongly support the idea of locking in level 1 the use of such data, meaning that it could only be used for impact assessment regarding legislative proposals and nothing else. RO (MS comments): We support the proposal. SK (MS comments): We are against the PRES proposal because the fact that NCA cannot guarantee proper anonymization of the data is only one of many other reasons for which certain

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	data cannot be provided. Even addressing all requests for information from the Commission to ESAs is not appropriate proposal.
Q 3.2 – Sharing data with the Commission: any other suggestions	CY (MS comments): - CZ (MS comments): We are of the opinion that the discretion of the NCA to deny the Commission request should be explicitly mentioned in the legislative proposal and not only in the recital. DE (MS comments): See answer on Q 3.1 EE (MS comments): We do not have any other suggestions. EL (MS comments): EL: We propose that the Commission should address all requests for information only to the ESAs. ES (MS comments):

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	We would also add that the information requested by the Commission needs to be proportionate to the objectives it wants to achieve with such information. Also, we would welcome clarifications on the possibility that the Commission requests information from the NCA that is already in the hands of the ESA. In that case, should the Commission make the request to the NCA or the ESA? Additionally, who would decide the conditions under which the information is shared? FR (MS comments): We suggest to introduce some safeguards in order to reduce the burden for national authorities that would only provide information available « off the shelf ». We would also like to suggest to add an additional safeguard in order to avoid too many information requests in this context: the Commission should not be able to request information that is available or sourced from the ESAP. HR (MS comments): We think that the second option proposed by the PRES is worth exploring, as commented in the previous answer. IT (MS comments): As we previously did, we suggest exploring the feasibility of the use of synthetic data, which could be generated using the software put into service by the Commission for the EU DATA Hub. Thereby, the concerns around the

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Questions	MS comments
	anonymization would be addressed. LU (MS comments): We consider important to further frame data sharing with the Commission, aligning it with the principles set out in Article 58a(2) of directive 2013/36/EU (CRD). Information sharing shall be subject to minimum safeguards, i.e. the aim of the data access should be limited to tasks linked to pre-identified prudential policy development objectives (i.e. carrying out impact assessments), as stated in the recitals of the Commission proposal. The proposed safeguards are closely linked to the existing provisions (Art 58a CRD). Please see below for a drafting proposal: **Member States may exchange data with the Commission upon explicit request by the latter, where at least the following conditions are met:** **a) the information request is sufficiently precise as to the nature, scope, and format of the required information, and the means of its disclosure;** **b) the information request is strictly necessary for developing prudential policies, evaluating existing legislation and assessing the impact of potential legislative and non-legislative initiatives and does not go beyond the statutory tasks conferred on the requesting body;** **c) the information is transmitted exclusively to the persons directly involved in the performance of the specific tasks referred to in letter b);** d) **the persons having access to the information are subject to professional secrecy requirements at least equivalent to those to which the authority that initially obtained the information is subject.**

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Questions	MS comments
	Moreover, where EU Authorities share data (including with the Commission), additional safeguards are needed in order to ensure full anonymisation of the data shared: no identification of individual Member States shall be possible; this is of particular importance for smaller Member States, where a pseudonymisation of personal data may, due to the smaller size of their respective markets, lead to an identification of individual (pseudonymised) entities. Please see below for a drafting proposal for data sharing by the ESRB (the same shall be replicated for the ESAs): “The ESRB shall transmit that information in a form that does not allow the identification of individual **Member States, data subjects and** entities and does not contain personal data.” MT (MS comments): Malta has no further comments in this regard. PT (MS comments): Please refer to our comments in the previous item. RO (MS comments): - SK

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Questions	MS comments
	(MS comments): We do not have other suggestion.
Q 4 – Suggestions related to the arrangements for **sharing with third parties** – in particular to clarify the terms “legitimate interest” and “other entities” and on the anonymisation of information	BG (MS comments): BG: We have concerns for the proposed regulation for the sharing of supervisory information by the NCAs with third parties. We also have reservations that information collected in pursuance of the supervisory function could be used for commercial purposes and by entities outside the scope of financial authorities. Regarding the sharing of information of the ESAs with third parties we consider that in any event, information which was obtain by the ESAs through NCAs should not be shared by the ESAs without NCAs consent. In addition we find the concept for “legitimate interest” as too broad. CY (MS comments): We agree, we need more clarifications on the terms used such as “legitimate interest” and “other entities” and on the anonymisation of information. Additionally, we propose the information sharing by the Authority or the Competed Authorities with third parties, is performed only in cases where an MoU is in place and stressing the importance of *point 57,82 etc - Information received from another authority shall only be shared with the agreement of the authority that initially obtained the information.* CZ (MS comments): As regards the data sharing with third parties we can agree with the proposal to leave

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Questions	MS comments
	it up to the ESRB, ESAs and the NCAs. Generally, we reiterate that any information sharing with third parties must not endanger the NCA's supervision, including protection of supervisory information. We support further clarification of the terms "legitimate interest" and "other entities". DE (MS comments): Data sharing with third parties should should remain at the NCAs' full discretion. The term "legitimate interest" is still unclear and needs further clarification. The amendments of Recital 8 are not sufficient in this respect. DK (): It is already on the basis of existing regulation possible to share information with e.g. an academic purpose etc., if properly anonymized and protected as regard confidential information on the individual financial institutions. Therefore, our first best option would be a preference for deletion. As a second choice and if sufficiently framed, we can accept a wording in the level 1 text specifying that it is voluntary. We also would need to see a clearer definition of both "legitimate interest" and "other entities". A consideration could also be a consent mechanism, whereby the NCA's have to consent to the ESAs, ESRB etc. share the data with third parties. EE (MS comments): We agree that the terms "legitimate interest" and "other entities" should be clarified.

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Questions	MS comments
	EL (MS comments): EL: We agree with the Presidency proposal. ES (MS comments): We support the proposed amendments. In particular, the clarifications on the notions “legitimate interest” and “other entities”. However, we would welcome framing the notion “legitimate interest” a bit further in order to avoid an overload of requests from the industry and researchers, which supervisors might not be able to respond to. We think the clarifications should also be introduced in article 35a (7). FI (MS comments): FI: We are fine with the suggestions. However, should we also add the similar phrase as we have in the recital 7? For example: “In cases where it would not be possible to ensure that the information to be shared meets the requirements, the information should not be shared.” FR (MS comments): We are not convinced by the definition of legitimate interest introduced in the drafting and would like to see a clarification of the definition of other entities. HR (MS comments):

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Questions	**MS comments**
	The proposal leaves to the NCA full discretion to decide about information sharing, but does not prescribe any criteria or guidelines for making such decision. Such a solution is acceptable unless some degree of uniformity is expected, in which case some guidelines would be welcomed. Although the sharing of information with third parties is proposed to be on o voluntary basis (which we support), we think that we should include some provisions in the legal text, and not only in recitals. IT (MS comments): We agree on the fact that each authority should discretionally decide to grant access to information with third parties. Once again, we suggest exploring the feasibility of the use of synthetic data. LT (MS comments): We support the need to clarify the term "legitimate interest". Also we support drafting suggestions on anonymization of information. However we have a question concerning the conditions to be fulfilled for sharing information. We wonder how it would work in practise. As it is foreseen that NCAs may share information, but only where ESAs have ensured that all conditions are met (para 7 of Article 35a). LU (MS comments): We consider that the powers to share information with third parties shall remain at the national level.

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Questions	MS comments
	Should such an approach nevertheless not be pursued, we consider that, where EU Authorities share data with third parties, additional safeguards are needed in order to ensure full anonymisation of the data shared: no identification of individual Member States shall be possible; this is of particular importance for smaller Member States, where a pseudonymisation of personal data may, due to the smaller size of their respective markets, lead to an identification of individual (pseudonymised) entities. Please see below for a drafting proposal for data sharing by the ESRB (the same shall be replicated for the ESAs): "**The ESRB shall transmit that information in a form that does not allow the identification of individual Member States, data subjects and entities and does not contain personal data.**" MT (MS comments): Malta supports the definition of "*legitimate interest*" and "*other entities*" in view of data sharing with third parties. PL (MS comments): • We agree with the proposed approach, i.e. to keep data sharing with third parties at the discretion of the responsible authority. • As in case of sharing data with the Commission, we would strongly prefer to have the "right of denial" provided in a legal provision. • In our opinion, the NCAs should be legally empowered to dismiss information or data requests from third parties in at least a few situations - when: a) preparation of such information (including anonymisation) is too

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Questions	MS comments
	burdensome; b) NCAs received a large number of requests in the short time; c) the request is recurrent; d) data has been already published on NCAs website. • We agree that defining the terms "legitimate interest" and "other entities" will increase the legal clarity. For example, interest is often divided into "legal interest" which is protected by law and "actual interest" that does not have similar protection. PT (MS comments): We have reservations in regulating in this proposal the sharing of supervisory information with third parties. In particular when it comes to the sharing of information held by NCAs with these third parties, we recall that many Member-States already have national laws which regulate the access to information held by public bodies. This should therefore remain an issue regulated at national level. Moreover, the scope of this Proposal, which is intended to amend ESAs Regulations, on what concerns the data to be opened to such requesting entities should only encompass the relations of ESAs with third parties. As for the sharing of information held by the ESAs, we would prefer that it should follow the more horizontal framework regarding access to information held by EU Institutions and bodies. The ESAs already disclose information which are prepared for general public use and, when the European Single Access Point (ESAP) will be fully operational, the major information will be publicly available for a multitude of needs, specifically for the research in the financial sector and for fostering innovation.

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Questions	MS comments
	Moreover, we find it difficult to accept that information collected in pursuance of the supervisory function could be used for commercial purposes and by entities outside the scope of financial authorities. If, however, the majority of the Council would not oppose in regulating the sharing of information of the ESAs with third parties we consider that more safeguards are needed. In any event, information which was obtain through NCAs should not be shared without their consent. In this context, if the Council follows this path, focusing now on the new drafting proposal presented by the Presidency, we believe that it still does not address sufficiently our concerns. More specifically, (i) the concept of 'legitimate interest' proposed by the Presidency, although it is more complete than the explanations provided by the COM at the previous WP meeting, seems too open, which further deepens our concerns, and (ii) the reference to 'greater collaboration between various financial market participants' seems to open the door for the third party to freely reuse the information with other market players, which is another source of concern. Therefore, is this path is pursued a lot more work is needed by better defining "legitimate interest", how would that be assessed in practice and on the definition of "third parties". RO (MS comments): We support the proposal.

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Questions	**MS comments**
	SK (MS comments): We would like to accent the need for clarification the key terms like „legitimate interest“ and „other entities“. We are of view that NCAs are collecting data for supervisory purposes, and such data therefore could be provided only to third parties which will show legitimate interest and which may be considered as eligible institutions. Here should be always the possibility for NCAs to deny any request of third party to obtain data from NCAs. Sharing data with third parties assumes additional costs for anonymization of data by NCAs. The NCAs should have also the possibility to assess whether third party is eligible institution for sharing data purposes. Our concern is not only to eligibility of third party, eligibility should be assessed also for any partial information which is requested as well as for the purpose of use of these data. It is not entirely clear from the drafted provision whether it should stipulate a response to a request or whether this can be done also on the initiative of the given authority (it is also necessary to subsequently consider a possible modification of the terms for reasons of consistency with the wording within the whole Article 35a and in the previous provisions). If it should be a reaction to the request, it is possible to supplement the given adjustment with a requirement similar to the one defined in paragraph 2a of this article.
Q 5 – European Parliament’s proposal on “Single Integrated Reporting System”	AT (MS comments): Given the fact many (but not similar) initiatives regarding to the integration of supervisory reporting are on-going, we share the concerns of other Member States regarding its inclusion to this proposal.

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Questions	MS comments
	BG (MS comments): BG: We are sceptical to EP's proposal as the Presidency's note underlines this initiative seem to overlap with current workstreams and initiatives (such as SIRS) which are underway. EP's wording and timelines are too strict and we have concerns regarding costs and adaption obstacles and in our view one very ambitious proposal could significantly increase implementation costs. CY (MS comments): We agree with the need to standardize data-sharing to minimize burdens either through MoUs or through technical standards, providing which information has to be shared and when. It should be clarified though **which Authority would be responsible in developing these standards.** CZ (MS comments): Although we understand the potential positive aspects of the integrated system, it is necessary to take into account its costs and administrative burden. We prefer the step by step approach in the possible introduction of the Single Integrated Reporting System without setting any fixed deadlines. We consider as necessary to reject the horizontal approach and to analyse benefits and costs according to sector regulations. DE (MS comments): The purpose of the EP's proposal on a "Single Integrated Reporting System" is not

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Questions	MS comments
	clear to us. Currently, different initiatives with a similar goal are on the way like the ECB/EBA initiative for a joint bank reporting committee announced on 18 March 2024. It is important that such initiatives with similar goals are better coordinated and streamlined. Besides, we can not see the rationale for giving the ESRB such a central role in data sharing, as the EP proposes. DK (): We have a great concern with the EP's suggestion on the proposal of SIRS. It is not clear what benefit this new system would entail and we would expect substantial costs to build a new data system. Furthermore, we question the added value of yet another feasibility study, as this work is already on-going in EBA, the ESCB and the Commission's Strategy on Supervisory Data in EU Financial Services. The ESAs' workload is already substantial following this legislative term, and any new task will take resources away from other tasks. EE (MS comments): We think that by postponing the deadline and not considering this proposal at this stage would give an opportunity to wait for the launch of The Integrated Reporting Framework, where everyone would be able to learn from the mistakes made. Also, the simultaneous creation of several integrable system solutions might be burdensome for credit institutions. EL

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Questions	**MS comments**
	(MS comments): EL: We have concerns in relation to the European Parliament's proposal on "Single Integrated Reporting System". There are similar/overlapping ongoing initiatives at EU level (e.g. EBA, ECB). ES (MS comments): We are still analysing this proposal. We generally support further steps towards the integration of reporting but would welcome clarifications on how the EP's "Single Integrated Reporting System" would interact with other initiatives in this field (e.g., ESAP). Preliminarily, our view is that this project is too ambitious to be carried out in the near term. Even though it might make sense for the future, the EP's proposal is based on work that is still ongoing so the envisaged timeframes might not be feasible. It is also unclear how this proposal adds value to existing mechanisms and initiatives. FI (MS comments): FI: We have doubts regarding the overlapping and administrative burden of this proposal. We are open to discuss on the matter. FR (MS comments): We are not convinced of the added value of this proposal considering ongoing similar initiatives and the lack of details around its use combined with a short

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Questions	MS comments
	timeline for implementation (two years after the entry into force of the proposal). HR (MS comments): We are still analysing the EP proposal. As a first view, we think that the proposal might turn out to be very costly and resource intensive for the NCAs and the ESAs. Before introducing any integrated reporting system, a thorough cost-benefit analyse should be made. IE (MS comments): While we understand the rationale, we have serious concerns. The European Parliament's proposal on "Single Integrated Reporting System" is a major proposal that is essentially the creation of an entirely new instrument, in what has been put forward as a 'targeted' piece of legislation. We take good note of the different initiatives for integrated supervisory reporting detailed in the Presidency note and that this is part of a step-by-step approach to implement such a system. We cannot support the EP proposal on a "Single Integrated Reporting System". Seeking to 'layer on' this proposal to existing initiatives is adding additional uncertainty, complexity and cost. IT (MS comments): Overall, we are in favour of exploring the feasibility of a "Single Integrated Reporting System" architecture. However, we believe that the "status" of the ongoing work on the sectoral

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Questions	**MS comments**
	"integration" should be taken into account. In particular, the process of sectoral improvements in the banking sector with reference to reporting integration is still at the onset. A MoU between EBA and ECB on setting up a Joint Bank Reporting Committee to advance the integration of supervisory, statistical and resolution reporting was signed in March 2024. In the first meeting of the JBRC, planned for next June, the main item in the agenda will be the way forward to achieve a semantic/syntactic integration, a common "harmonized" data dictionary" and the "feasibility" of a Central data collection point. The preliminary activities carried out by an expert group only with reference to the "semantic integration" have led to an estimation of up to 2 years of work. In parallel, as one of the pillars of the integration of the banks' reporting, the IReF project is seeking to integrate existing ESCB statistical data requirements for banks as far as possible into a single, standardised reporting framework applicable across the euro area. Furthermore, for some aspects the SIRS seems redundant with the European Single Access Point (ESAP) for financial and non-financial information publicly disclosed by companies. ESAP is a platform that should provide an easy centralised access to information about entities and their product where any single entity submits information about its economic activities of relevance to financial services, to capital markets or concerning the sustainability. For all the above-mentioned reasons, we believe that, as far as SIRS is concerned, a pragmatic approach should be adopted. In particular, the feasibility of the SIRS should be considered only when the status of the ongoing work on sectoral integration has reached an adequate level of progress. LT (MS comments): We are reluctant to introduction of any new requirements without proper impact

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Questions	**MS comments**
	assessment. LU (MS comments): We do not support the inclusion of a reference to the "Single Integrated Reporting system" as part of the Council's position MT (MS comments): Malta adopts a cautious approach on the European Parliament's proposal on a "Single Integrated Reporting System" given that work in the area is already in progress. PL (MS comments): • We would favour a more step-by-step approach to implement such a system. Until the decision is made on that matter, we are of the opinion that there should be a more substantial experience derived from e.g. the functioning of ESAP. PT (MS comments): We totally follow the reservations of other MS in this topic. As the Presidency's note underlines, this initiative seems to overlap with current workstreams and initiatives which are underway. Hence, prior to move to a common framework like this single system, further consideration should be given to currently ongoing initiatives and their success. We also note that this would significantly extend the scope of a proposal which should be targeted, which raises concerns.

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Questions	MS comments
	Furthermore, although the EP proposal suggests that the ESRB should study the cost and benefits of the Single Integrated Reporting System, it mandates the ESRB and the ESAs to develop such a system regardless of the conclusions of their own report. In this sense, it doesn't seem to encompass a possibility for the ESRB and ESAs to conclude that the development of such system is not necessary or proportional to our objectives. Therefore, on that regard, we have strong concerns on that wording. Moreover, we must notice that the EP's wording and timelines appear to be too strict and that we have significant concerns regarding costs and adaption obstacles in light of the national specific features. Please note that a too ambitious proposal is more likely to significantly increase implementation costs. Furthermore, since this single system would involve the three sectors (banking, securities and insurance) such harmonization would face further challenges, since, currently, there is not an integrated supervision. All in all, at this moment, we have concerns on this proposal and hence we do not support such inclusion. RO (MS comments): Not convinced. SK (MS comments): We do not support this proposal from two reasons – one is that here are many akin initiatives on the ESAs level (i.e. from EBA) to create better platforms for sharing

Questions	MS comments
	data, second is that such complex system is in reality not necessary and we expect huge costs needed for establishment of this Single integrated reporting system. Currently the ESAs and NCAs have in place the systems for sharing data. We prefer improving current systems for sharing regulatory data before the establishment of new and very complex SIRS. Finally, such reporting system should not be accessible from third parties and should serve only for purpose of better sharing data among eligible ESAs with eligible NCAs.
Q 6 – Issues in the proposal other than those set out in the Presidency note	BG (MS comments): BG: Generally, we have concerns that the proposal would result in increased costs for authorities. In our view, it may impact the budget of the authorities covered by this Regulation, as the increasing costs for ESAs may also result in increased costs for NCAs. Furthermore, potential costs may also arise from the need to anonymize the shared information. And last, but not least, again as a general remark, we find it very important to maintain the role of NCAs as point of contact, except for the situations already prescribed by sectoral legislation. CY (MS comments): We propose to examine the cost implications of the proposal and potential cost sharing mechanisms. CZ (MS comments): - DE

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Questions	MS comments
	(MS comments): The latest amendments proposed by the PCY have taken up the criticism of the MS and made data exchange more voluntary, especially for NCAs. Although this has reduced concerns about the specific provisions in this proposal, it has also significantly weakened the potential for using the amended regulations. We, therefore, still remain highly sceptical whether this proposal will overcome existing obstacles to data exchange and thus achieve a significant reduction in reporting for financial institutions as envisaged by the Commission. We consider additional reviews and specifications by the Commission (together with the ESAs) necessary to determine where (i) specific, overlapping reporting obligations can be reduced or rationalized in the individual sectoral supervisory laws and (ii) how existing legal obstacles for data exchange will be overcome by this proposal. Such an impact assessment also analysing the costs is missing and should be provided by the Commission. EL (MS comments): EL: No further issues identified. ES (MS comments): While we appreciate the changes and clarifications, we would also welcome more clarity on some issues, including the process to inform about duplicities in case they are detected, the functioning of the Joint Committee and the format for providing the information (in particular, whether it should be provided on an individual vs

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Questions	MS comments
	aggregated basis and whether NCAs would have to change formats when information sets are not standardized at EU-level). We take the opportunity to make the following remarks and questions: On article 35a (1a) we think that the reference to article 2a of Regulation 1092/2010 might need to be revised (it only makes a reference to article 1 (2) of ESMA Regulation but article 1 (3) includes other areas that are relevant for ESMA such as derivatives). Article 2 letter (a) of Regulation 1092/2010 mentions "as well as any other undertaking or entity in the Union whose main business is of a similar nature". Does this mean that related entities as the ones mentioned in article 1 (3) of Regulation 1095/2010 (e.g., CCPs) are covered? We have a question on article 35a (2b): if the information that ESMA shares with another authority comes from an NCA that has received such information from a financial entity, shouldn't the entity be notified? Article 35a's title might need to be checked. FR (MS comments): We would like to know why the drafting on line 14 was changed from « should » to « could » since we believe the joint committee of the ESA is the right place to discuss and coordinate on these kinds of transversal matters. HR

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Questions	MS comments
	(MS comments): We did not identify any other issues. However, we would like to reiterate our previous comment regarding pooling resources when it comes to data analysis. As stated in Q1, we would suggest to consider if the proposal could try and address some current obstacles in sectoral laws that prevent ESAs and NCAs from pooling resources when it comes to data analysis, without creating additional mandatory burdens for NCAs. As an example, the proposal could empower NCAs, notwithstanding provisions in different sectoral legislation, to send their data to relevant ESAs which would perform various data analysis tasks for the NCAs - this could be done under outsourcing agreements on a voluntary basis, with a clear framework to safeguard data secrecy and personal data. The same framework could be envisioned for NCA-to-NCA data sharing, where NCA A could enter into an agreement with NCA B to perform, on its behalf, various data analysis. However, if the possibility of voluntary sharing of data between NCAs and/or NCAs and the ESAs is only set out in a recital, this is unlikely to override potential obstacles in existing sectorial legislation. One example is Article 81. of EMIR which does not foresee sharing of trade repository data between eligible authorities. Another is SFTR and the lack of possibility for ESMA to share its analysis with NCAs. We would also support comments made by several MS that it would be worth mapping the reporting requirements under the Union law to see where we have duplicative requirements that can be avoided. IE (MS comments): Ireland is supportive of any measure that would reduce administrative burden on

Questions	MS comments
	entities and supervisors. In this regard this proposal could potentially be a significant step forward, however, it is important that there is the proper time to thoroughly assess its implications. We should not favour quick agreements on legislative files over quality policy making. We consider that we should not seek to conclude negotiations with undue haste. We should take time to properly examine the implications and impacts of the Proposal. LU (MS comments): As regards the examples on duplicative reporting shared by COM, we consider important to be provided with a detailed overview of which legislative acts will be impacted by this proposal. This is important to allow for a thorough assessment of the extent of administrative cost/burden reduction at the level of the supervised entities, as well as to assess the future costs to be incurred by the ESAs for setting up inter-institutional data exchange platforms (to be recouped from supervised entities). MT (MS comments): Malta has no further issues to flag. PT (MS comments): We find it not entirely clear that this proposal will not result in increased costs for authorities. In our view, it may impact the budget of the authorities covered by this Regulation, as this proposal presents characteristics of “open data” which may result in additional operational costs for all involved authorities. As stated by the COM, authorities will have implementation and adaptation costs. In this regard we must

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Questions	MS comments
	acknowledge that increasing costs for ESAs may also result in increased costs for NCAs, which results in a double burden for NCAs. Furthermore, potential costs may arise from the need to anonymize the shared information. We are also concerned about the inadvertent identification of individual financial institutions even when sharing aggregate data, as even summarized information can be easily identifiable in small markets. Therefore, it's essential to carefully evaluate if such aggregated data could lead to unintentional identification through indirect inference. In scenarios where there's a risk of identifying financial institutions, such information should be withheld. The suggested amendments to the duty of notification to the relevant financial institutions to which information relates to do not address sufficiently our concerns, since (i) a very short and potentially burdensome timeline is maintained ('without undue delay'), and (ii) it is not foreseen the possibility to exempt this duty in cases where the notification of the financial institution is not convenient to the authorities' mission (e.g., ongoing investigations). It should also be made clear that NCAs must be aware of any requests for information, other than those directly addressed to them, made by the “other authorities” (cfr. lines 27, 48, 73 and 98 of the annex), to ensure that the NCAs are not cut out of the information and decision-making circuit regarding the institutions that they supervise. Additionally, since the information sharing is voluntary, there is a misalignment with CRD and other sectoral directives, where no information duty to financial institutions is foreseen.

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Questions	MS comments
	Since it is an individual information duty, if the NCA informs EBA about the whole banking system, it would have to inform (in Portugal) more than 100 financial institutions, which does not seem reasonable. Also, 'relevant financial institutions' is an open and indeterminate concept, so we are not even sure about the scope it covers for this purpose. Therefore, we suggest keeping only the information duty to the other competent authority (information provider), as currently established on CRD, and eliminating the duty to notify the 'relevant financial institutions'. Also in the context of NCAs, we reiterate the need for this Regulation to not change the powers of collecting information from market participants. More specifically, we find it very important to maintain the crucial role of NCAs in this regard and thus they should continue to be their point of contact, except for the situations already prescribed by sectoral legislation. RO (MS comments): - SK (MS comments): We have no suggestions.
Q 7 – Proposal to include a mandate for ESRB, the ESAs and the NCAs to identify the legal obstacles in sectoral regulations that prevent and exchange of information between authorities	BG (MS comments): BG: We are sceptical to the EP's proposal.

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Questions	MS comments
and other entities similar to the one included in the European Parliament's position	CY (MS comments): We agree with the ESRB and ESAs only. There is no need to include a mandate for the NCAs since the NCAs are included only as **requesting authorities.** If the NCAs share any information (i.e. with the Commission or third parties) this will be done at their own discretion on a voluntary basis. CZ (MS comments): We do not oppose the proposal to allow ESRB, ESAs and the NCAs to identify the legal obstacles in sectoral regulation that prevent the exchange of information provided it remains the possibility and not the obligation, i.e. on voluntary basis. DE (MS comments): Please see our comment on Q 6. We cannot see the rationale for giving the ESRB such a central role in this exercise. We agree with the example "information sharing between ESRB and NRAs" which is mentioned in the annex of the note. Sharing of results that for example include statistical monetary data is an on-going problem that has not only negative effects on efficiency but also on the quality of the results, as a sufficient quality assurance of the results cannot be ensured. EE

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Questions	MS comments
	(MS comments): We believe that reporting should be voluntary for NCA-s and mandatory for ESRB and ESAs. It should be a needs-based approach - NCA can report if there are any obstacles. EL (MS comments): EL: We propose to delete the reference to the NCAs, as we believe that the ESAs should report to COM directly (and not the NCAs). The NCAs will, of course, cooperate with the ESAs to the extent necessary in producing the report, but they should not report directly to the COM. ES (MS comments): We would not oppose the inclusion of such mandate, as it might be useful to identify and thus tackle legal obstacles to information-sharing. If this proposal goes forward, it should be coordinated by the ESAs if it relates to EU laws. This is an interesting proposal but in order to be useful it needs to be well-calibrated. FI (MS comments): FI: We are open for the inclusion of draft article 15 (14a) and 35a (7a). However we have concerns about the administrative burden what the report would cause. FR

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Questions	**MS comments**
	(MS comments): We do not see any issue with this proposal but we would prefer it to be adressed during the trilogues rather in the Council general approach. HR (MS comments): In line with our comments made under Q1, we support the EP proposal to include a mandate for ESRB, the ESAs and the NCAs to identify the legal obstacles in sectoral regulations that prevent an exchange of information between authorities. IE (MS comments): We consider it essential that such an exercise be carried out. IT (MS comments): We support the inclusion of a mandate to the ESRB and to the ESAs. This notwithstanding, we question the legal feasibility of the NCAs' inclusion. LT (MS comments): We could agree with the proposal, also we support the idea that this could be left for trilogues stage. MT (MS comments): Malta expresses flexibility in this regard towards the inclusion of such similar

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Questions	MS comments
	mandate for the European Systemic Risk Board (ESRB), the European Supervisory Authorities (ESAs) and the National Competent Authorities (NCAs) in order to identify legal obstacles in sectoral regulations preventing the exchange of information between authorities and other entities, in the main Council text. PL (MS comments): • We support a proposal aiming at identification of legal obstacles on sharing information across the parties of interest. We are of an opinion that identifying legal obstacles in sectoral regulations at an early stage will allow developing better legislative solutions. PT (MS comments): We have strong reservations on an inclusion of a mandate for the ESRB, ESAs and NCAs to identify legal obstacles in sectoral regulations that prevent an exchange of information between authorities and other entities, and to report this to the Commission. To be more specific, these restrictions were agreed within the co-legislators and hence we see this as a waiver to the sectoral legislation. In this regard, these questions should be duly addressed in their appropriate forums, namely in the revisions of each legislation piece. Regarding the assessment on non-material, obsolete, duplicative, and irrelevant reporting requirements, we fully support this exercise. Stakeholders and Member States have been in agreement regarding the need to reduce complexity and administrative burden so as to boost competitiveness. Nevertheless, it should contemplate adequate timings. We should bear in mind that strict deadlines would significantly hamper the effectiveness of the exercise.

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Questions	MS comments
	RO (MS comments): According to the proposal, the extent of the obligation and the deadline considered is likely to impose too burdensome task on the national competent authorities. SK (MS comments): We support proposal to mandate ESAs and NCAs to identify legal obstacles in sectoral regulations that prevent exchange of information.