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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a framework for Financial Data Access

(Text with EEA relevance)

{SWD(2023) XXX} - {SWD(2023) YYY} - {SEC(2023) ZZZ}

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In 2020, the Commission communication on a European strategy for data identified that in order to release Europe's potential to be successful in a data-agile economy, there needs to be balancing of the flow and wide use of data, while preserving high privacy, security, safety and ethical standards. The EU should create an attractive policy environment so that, by 2030, the EU's share of the data economy – data stored, processed and put to valuable use in Europe - at least corresponds to its economic weight, not by fiat but by choice. For this reason the Commission proposed the Data Act and announced the creation of sector- and domain-specific data spaces. In finance, the Commission identified the promotion of data-driven finance as one of the priorities in its 2020 Digital Finance Strategy and stated its intention to put forward a legislative proposal on a framework for financial data access. The Capital Markets Union Communication adopted in 2021 confirmed the Commission's ambition to accelerate its work on promoting data-driven financial services and announced the establishment of the Expert Group on the European Financial Data Space to provide input on a first set of use cases. Most recently, President von der Leyen confirmed in her 2022 State of the Union Letter of Intent that data access in financial services is among the key new initiatives for 2023.

The EU financial sector customers currently do not have effective control over their data and as a result they do not have access to data-driven financial services and financial products beyond payments. A set of inter-related problems explain the limited access to data. First, in the absence of rules and tools to manage data sharing permissions, customers do not trust that potential risks of sharing data are addressed, so they are often reluctant to share their data. Second, even where they want to share data, the rules governing such sharing are either absent or unclear. As a result, data holders such as credit institutions, insurers and other financial institutions holding customer data are not always obliged to enable the access of data users such as FinTech companies or financial institutions that provide financial services and develop financial products on the basis of data sharing to their data. Third, data sharing is made more costly as both the data itself and the technical infrastructure upon which it would rely are not standardised and hence differ significantly. Addressing these problems is furthermore made more difficult by market participants' (i.e. data holders' and data users') diverging interests. This proposal aims to address these problems by providing better access to consumers' and firms' financial data and hence make it possible for consumers and firms to realise the gains stemming from financial products and services that are tailored to the needs of consumers and firms based on the data that is relevant to them, while avoiding the inherent risks.

The general objective of this proposal is to promote digital transformation and speed up adoption of data-driven business models in the EU financial sector to improve economic outcomes for financial services customers (consumers and businesses) and financial sector firms. Once achieved, consumers would be able to access individualised, data-driven products and services that may better fit their specific needs. Corporates, notably SMEs, would enjoy wider access to financial products and services. Financial institutions would be able to take full advantage of digital transformation trends, whilst third-party service providers would enjoy new business opportunities in data-driven innovation. Consumers and firms will be given access to their financial data in order to enable data users to provide tailored financial products and services that better suit customers' and firms' needs.

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There are no administrative cost savings, as it is a new legislation not amending previous EU rules. For the same reason, this is also not a REFIT initiative.

- **Consistency with existing policy provisions in the policy area**

This initiative builds on the revised Payment Services Directive (PSD2), which enabled the sharing of payments account data ("open banking"). This proposal enables the sharing of a broader set of financial services data as well as set the rules according to which the sharing of this broader set of financial services data is going to be achieved and the rules applicable to the market participants who will engage in this activity.

- **Consistency with other Union policies**

This proposal is in full compliance with the General Data Protection Regulation (GDPR) which provides for general rules regarding the processing of personal data related to a data subject and ensures the protection of personal data as well as the free movement of personal data.

This proposal also is a sectoral building block fitting into the broader Data Strategy for Europe and ensuring its full effectiveness for data sharing within the financial sector and with other sectors. It is based upon the key principles for data access and processing set out in the Commission's cross-sectoral initiatives, in particular the Data Governance Act which focuses on increasing trust in data sharing and improving interoperability between data spaces and creates a framework for data intermediation service providers. Another example is the Digital Markets Act which establishes new data-sharing requirements to tackle the market power of gatekeeper platforms and level the playing field in digital markets by allowing financial institutions to access data held by gatekeeper platforms. Finally, the proposal for a Data Act [Regulation (EU) XX] establishes new data access rights as regards the Internet of Things (IoT) data for both product users and providers of related services and establishes generally applicable obligations for those data holders, which are legally obliged to make data available to data recipients under Union law or national legislation adopted in accordance with Union law.

This proposal also complements the EU strategy for retail investors and will support its objective to improve the functioning of the retail investor protection framework by providing safeguards in the use of retail investor data in financial services. Moreover, it will ensure compliance with the applicable rules on cybersecurity and operational resilience in the financial sector, as set out in the Digital Operational Resilience Act which entered into force on 16 January 2023.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The Treaty on the Functioning of the European Union (TFEU) confers to the European institutions the competence to lay down appropriate provisions for the approximation of laws of the Member States, that have as their objective the establishment and functioning of the internal market (Article 114 TFEU). This encompasses the power to enact legislation at EU level to approximate requirements on the increasingly important use of data for financial institutions, as financial institutions active across borders would otherwise face diverging national requirements, rendering cross-border activity more costly. Creating uniform rules for data sharing in the financial sector will contribute to the functioning of the internal market by ensuring a harmonised regulatory framework on financial data governance, in line with the European strategy for data. These results will best be achieved by a directly applicable Regulation.

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- **Subsidiarity (for non-exclusive competence)**

The data economy is an integral part of the EU internal market. Data flows form an intrinsic part of digital activities, and they mirror existing supply chains and collaborations between firms and consumers. Any initiative aiming to organize such data flows must address the whole EU single market. As data holders are generally licensed financial institutions subject to EU supervision, action at EU level is needed to set uniform conditions and preserve a level playing field among financial institutions to safeguard market integrity, consumer protection and financial stability. Another reason for action at EU level in the financial sector is its high level of integration. The EU financial sector is governed by broad and detailed set of rules largely set out in directly applicable regulations and supervisory arrangements for which convergence is ensured at EU level. There is also significant cross-border activity of financial institutions.

The problems described in the impact assessment accompanying this proposal are common for all EU Member States. Legislation in the area of financial services is a shared competence between the EU and its Member States. The problem cannot be solved by Member States acting alone, given that the holders and potential users of customer data in finance often operate across several Member States in the internal market for financial services. Therefore, a single customer may have data held by financial institutions in different Member States, and to enhance trust and allow the integrated use of this data all these financial institutions would need to be subject to the same framework and the same technical standards. Individual national initiatives would result in overlapping requirements and disproportionately high compliance costs for firms without providing most of the benefits to firms and consumers due to a lack of interoperable standards, which are fragmented along national lines.

- **Proportionality**

In accordance with the principle of proportionality, the proposed rules will not go beyond what is necessary to achieve the objectives of this proposal. This proposal will cover only the aspects that Member States cannot achieve on their own and where the administrative burden and costs are commensurate with the specific and general objectives to be achieved. Proportionality is carefully designed in terms of scope and intensity and using qualitative and quantitative assessment criteria to ensure that the new rules will have a wide material scope. Proportionality is explained in more detail in the accompanying impact assessment in Annex 5 where the access on selected data sets is explained in terms of proportionality and Annex 8 regarding the impact of the proposal on SMEs.

- **Choice of the instrument**

This initiative should take the form of a regulation directly applicable in all Member States, to ensure uniform rules across Member States concerning access to financial services customer data, as well as by whom and under which conditions access may occur.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

This is a new initiative and does not rely on any existing legislation. It builds on the open banking regime set up in Directive (EU) 2015/2366 but creates a new data access right for sets of data not previously covered by any other EU legislative framework.

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- **Stakeholder consultations**

On 10 May 2022, the European Commission launched a call for evidence on financial data access. The call for evidence closed on 2 August 2022, gathering 79 responses. Individual respondents were initially critical towards financial data access and considered that the framework should tackle issues by adopting clear safeguards, such as privacy dashboards, clear delineation of its scope and a level playing field among market participants. Firms were rather positive subject to safeguards. The consultation showed that if designed in an appropriate way, financial data access could have the potential to have a positive impact.

On 10 May 2022, the European Commission also launched a joint public consultation on the review of the revised payment services directive (PSD2) and financial data access. The public consultation closed on 2 August 2022. The responses on financial data access confirmed the views expressed in the call for evidence. While the majority of citizen respondents would in principle want to share their data based on strong consumer consent/agreement, they mentioned some concerns as regards the sharing of financial data due to a lack of trust which stems from concerns over privacy, data protection and digital security, and a generalised sense of not being able to control how their data is used. The initiative is tackling those issues.

Professional respondents were more favourable to data sharing and mentioned benefits to the customer journey in terms of increased competition and innovation for financial products and services. A significant minority of professional respondents also voiced concerns over competition, security and data misuse.

Finally, on 10 May 2022, the European Commission also launched a targeted consultation on financial data access and data sharing in the financial sector. The targeted consultation closed on 5 July 2022 gathering 94 responses from professional stakeholders.

The purpose of the targeted consultation was to gather input from professional stakeholders that have in-depth knowledge and/or working experience in the field of data sharing in finance. Professional stakeholders targeted included financial institutions, data vendors, fintechs, corporate users, consumer protection associations as well as relevant public authorities and national regulators). Overall, responses to the targeted consultation highlighted that most professional respondents see the potential benefits of a framework for financial data access and accordingly express support for regulatory intervention in some areas. However, views diverge substantially amongst stakeholders, and support, in particular by consumers and data holders comes with conditions on how data will be accessed and shared.

- **Collection and use of expertise**

On 24 October 2022, the Commission received a report on open finance from the Expert Group on the European Financial Data Space. The Expert Group brings together experts from academia, consumers, and industry (including banking, insurance, pensions, investment, as well as third party providers and fintech firms). The report describes key components of an open finance ecosystem as seen by the expert group (data accessibility, data protection, data standardisation, liability, level playing field and the key actors) and sets out considerations on each element. To illustrate the challenges and opportunities of open finance, the expert group has carried out an assessment of several specific use cases which are detailed in the report. The use cases and the findings of the report were used as the basis for the development of this initiative, especially in determining the data in scope of the proposal.

- **Impact assessment**

The proposal is accompanied by an impact assessment, which was submitted to the Regulatory Scrutiny Board (RSB) on the 3 February 2023 and approved on the 3 March 2023. The RSB recommended improvements in some areas with a view to strengthen the evidence

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base, put additional emphasis on customer trust and protection of vulnerable consumers, as well as spell out better the limitations and uncertainties of the cost-benefit analysis of this initiative. The impact assessment has been amended accordingly, also addressing the more detailed comments made by the RSB.

Policy options have been chosen based on the Commission Expert Group on the European Financial Data Space and on stakeholder feedback.

Several options were considered aimed at enhancing customer trust in data sharing, namely the mandatory use of financial data access permission dashboards, eligibility rules on who can access customer data and complement these rules with other safeguard features like guidelines that ensure that protect the consumer against unfair treatment or exclusion risks.

Another option examined was the extent to which data holders could be obliged to share their customer data with data users. This could be done on a mandatory basis, subject to the customer request. The types of entities to be obliged to share data was also considered (credit institutions, payment service providers and other types of financial institutions across the entire financial sector.)

Several options were considered for the promotion of standardisation of customer data and interfaces. One option would be for market participants to jointly develop common standards for customer data and interfaces as part of financial data sharing schemes. Consideration was given as to whether market participants should be part of such a scheme on a voluntary or mandatory basis in order to access data or even develop such a scheme through Level II legislation.

Finally, a number of options were considered for the implementation of high-quality interfaces for customer data sharing. One option could be for data holders to be required to put in place application programming interfaces (APIs) implementing the common standards for data and interfaces and make them available to data users without a contract and without being able to receive any compensation from data users for using these interfaces. Another option would be to allow for reasonable compensation for the setting up and use of such interfaces and agree on contractual liability.

The Commission considered that the preferred option involves an EU Regulation that establishes a framework for financial data access with the following characteristics:

- Require market participants to provide customers with financial data access permission dashboards, set eligibility rules on access to customer data and empower the European Supervisory Authorities (ESAs) to issue guidelines to protect consumers against unfair treatment or exclusion risks.
- Mandate access for data users to selected customer data sets across the financial sector
- Require market participants to develop common standards for customer data and interfaces concerning data that are subject to mandatory access, as part of schemes
- Require data holders to put in place APIs against compensation, implementing the common standards for customer data and interfaces developed as part of schemes and require scheme members to agree on contractual liability

As regards the provisions on data sharing in Title VIII, these were not included in the impact assessment submitted to the Regulatory Scrutiny Board.

[The proposed provisions for the exchange of information between authorities overseeing the financial sector aim to avoid duplicative reporting requests where multiple authorities have

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the power to collect certain data from entities (whether they already collect it or not) but lack the explicit legal basis to share it among themselves, and to facilitate access to clean or processed versions of such data (as opposed to all authorities having to clean and process the data separately). Improved data sharing between authorities is one of the objectives of the wider Commission strategy on supervisory data in EU financial services[1], which aims at modernising EU supervisory reporting and putting in place a system that delivers accurate, consistent, and timely data to supervisory authorities at EU and national level, while minimising the aggregate reporting burden for all relevant parties. The proposed provisions do not impose data sharing between authorities. Sharing the data would remain subject to a voluntary request but would become easier to implement. Therefore, while the provisions are expected to contribute to reducing administrative burden for reporting entities and authorities, their exact impact cannot be estimated *ex ante*. This is also due to the future-proof characteristic of this policy, that will allow the authorities to use the enabling provisions to change and adapt the data sharing arrangements to respond to their constantly evolving information needs.]

[Even though not included in the impact assessment, these proposed provisions are the result of extensive review and consultation activities. In 2019 the Commission published a comprehensive fitness check of EU supervisory reporting requirements[2], which identified data sharing as one of the areas for improvement. As a result, in its 2021 Strategy on supervisory data in EU financial services[3], the Commission has undertaken to propose removing any undue legal obstacles to data sharing between authorities, to reduce the burden on reporting entities by avoiding duplicative data requests. In the context of the implementation of the Strategy, from June to September 2022, DG FISMA conducted a targeted consultation of authorities overseeing the EU financial system in order identify barriers to data sharing amongst them. Of the 58 respondents, almost 70% reported facing legal obstacles to data sharing when requesting data, and 40% did so when wanting to provide it. The results were further analysed in a workshop with more than 130 representatives of said authorities held on 16 February 2023, where there was wide support for more sharing of data within the banking, insurance and financial markets sectors, and also across them, to improve the use of collected data and reduce redundant reporting. At the workshop, authorities generally took the view that strengthening and clarifying the legal basis for data sharing in EU legislation is key and considered that both targeted changes in sectoral legislation and horizontal enabling provisions would be needed to deliver a comprehensive, systematic and future-proof outcome.]

[In addition, to support evidence-informed policy making in accordance with the Commission's better regulation agenda, the proposal would enhance the ability by the Commission to obtain data to carry out impact assessments of legislative and non-legislative initiatives, and of implementing and delegated acts, and evaluations of existing legislation. This access would be limited to data that is aggregated or does not allow the identification of individual entities.]

- **Regulatory fitness and simplification**

This initiative will support SMEs and their access to finance. In order to mitigate any negative impact on SMEs as data holders, it includes a number of measures: for example, by

[1] COM(2021) 798 final
[2] SWD (2019) 402 final
[3] COM(2021) 798 final

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introducing compensation for data access, smaller market participants would be allowed to recover costs borne by the requirement to provide technical interfaces for data access ("application programming interfaces"). Moreover, SMEs acting as data holders can further reduce their implementation costs by developing joint interfaces or making use of external service providers. In addition, SMEs acting as data users will be able to access customer data against a reduced compensation, capped at cost, in line with Article 9(2) of the Data Act proposal. An option considered and rejected would be to exclude SMEs as data holders from the scope of the obligations to make data available. However, this option would have several disadvantages: it would considerably reduce the positive impact of the proposal, as a number of use cases rely on data from all financial institutions serving a particular customer and thus holding his data to be pulled together. For example, some use cases, such as in the area of investment advice or personal financial management tools would only work efficiently if all relevant data on a customer's assets and investments (whether they are held with smaller or larger firms) are comprehensively available for access. Moreover, it would not be consistent in ensuring that all market participants abide by key rules to ensure a level playing field.

The provisions on the exchange of information between authorities represent a first step towards a system where entities report data only once, and the latter is shared and reused as needed by the different authorities overseeing the financial system in the EU. They will therefore help avoid duplicative reporting by entities, and foster cooperation between authorities, thereby reducing costs.

- **Fundamental rights**

This initiative has an impact on the fundamental rights of consumers, notably Article 7 and 8 on the right to respect for private life and the right to the protection of personal data enshrined in the EU Charter on Fundamental Rights. The proposal establishes access rights for data in the financial sector, which will contribute to increased sharing of data, including personal data, at customers' request. The impact to fundamental rights will be mitigated by ensuring that in accordance with Article 38 of the EU Charter of Fundamental Rights there is a high level of consumer protection and that data sharing is strictly subject to the request of the customer. With the view to uphold Articles 7 and Article 8 of the Charter, some provisions, notably financial data access permission dashboards and targeted guidelines in areas of higher exclusion risk, will enhance customer trust and provide a framework of user control sharing personal data. The dashboard will strengthen customer control notably when personal data is processed based on consent or necessary for the performance of a contract. Introducing the new category of authorised 'financial information service providers' would ensure that only trusted and secure providers are eligible to access and process customer data in the financial sector. In addition, consumers will be protected with strong security safeguards against possible data misuse and data breaches as both data holders as well as data users will be subject to the rules of the Digital Operational Resilience Act.

4. BUDGETARY IMPLICATIONS

This proposal holds very little implications in terms of costs and administrative burden for the European Supervisory Authorities. These costs will only depend on the number of mandates provided to the European Supervisory Authorities to prepare draft regulatory or implementing standards or guidelines for the better application of this Regulation. There are no supervisory or monitoring tasks provided for these authorities. Any costs may be covered by the existing budget of the European Supervisory Authorities.

There are limited implications in terms of costs and administrative burden for NCAs. Their magnitude and distribution will depend on the requirement placed on financial information

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service providers to apply for a license provided by an NCA and the related supervisory and monitoring tasks. These costs to NCAs would be partially offset by the supervisory fees that NCAs would levy on financial information service providers.

Regulated financial institutions that already have a licence would not be affected by the requirement, and there would be no additional regulatory reporting, licensing or other requirements. For the firms that would need to seek a licence, the total costs of seeking a licence is estimated to be about EUR 18.5 million, assuming that about 350 firms would apply to become financial services information providers (FISPS) to be able to access customer data. These firms would also have to comply with the DORA requirements and put in place the required cyber-security standards.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

Providing a monitoring and evaluation mechanism is necessary to ensure that the regulatory actions undertaken are effective in achieving their respective objectives. The Commission will assess the impact of this Regulation and will be tasked with reviewing this Regulation (Article 29 of the proposal).

• Detailed explanation of the specific provisions of the proposal

This legislative proposal seeks to establish a framework regulating access to and use of customer data in finance (Financial Data Access 'FIDA'). Financial data access refers to the access to and processing of business-to-business and business-to-customer (including consumer) data upon customer request across a wide range of financial services. The proposed Regulation is divided into nine Titles.

Title I sets the subject matter, the scope and the definitions. Article 1 sets out that the Regulation establishes the rules in accordance with which certain categories of customer data in finance may be accessed, shared, and used. It also establishes the requirements for the access, sharing, and use of data in finance, the respective rights and obligations of data users and data holders and the respective rights and obligations of data intermediation service providers in relation to the provision of information services as a regular occupation or business activity. Article 2 sets the scope of the Regulation to certain exhaustively described sets of data, the list of entities to which this Regulation applies as well as data held by competent authorities and which was obtained pursuant to EU and national financial sector legislation. Article 3 sets the terms and definitions that are used for the purposes of this Regulation, including "data holder", "data user", "financial information service provider" and others.

Title II introduces a legal obligation on data holders and regulates the way this right should be exercised. Article 4 indicates that the data holder shall make available to customers the data within the scope of this Regulation on the basis of a simple request. Article 5 provides the customer with the right to request that the data holder shares this data with a data user. When personal data is concerned, the request must comply with the relevant provisions of the GDPR that allow for the processing of personal data. Article 6 imposes certain obligations on data users receiving data at the request of customers. There should only be access to the data made available pursuant to Article 5 of the proposal and this data should be used only for the purposes and the conditions agreed with the customer. The personalised security credentials of the customer should not be accessible to other parties and the data should not be stored for longer than what is necessary.

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Title III sets the requirements to ensure responsible data use and security. Article 7 provides guidance on how firms should use data for given use cases sets and ensures that there will not be any discrimination or restriction in the access to services as a result of the use of the data. In particular, it ensures that customers that refuse to grant permission to use sets of their data will not be refused access to financial products just because these customers refused to grant permission. Article 8 establishes the financial data access permission dashboards, in order to ensure that customers can monitor their data permissions by being able to access an overview of their data permissions, grant new ones and withdraw permissions if necessary and desirable.

Title IV sets the requirements for the creation and governance of financial data sharing schemes whose aim is to bring together data holders, data users and consumer organisations. Such schemes should develop data and interface standards, set the coordination mechanisms for the operation of financial data access permission dashboards as well as a joint standardised contractual framework governing access to specific datasets, the rules on governance of these schemes, transparency requirements, compensation rules, liability, and dispute resolution. Article 9 provides that the data in scope of this Regulation shall be made available only to members of a financial data sharing scheme, rendering the existence and membership to such schemes mandatory. Article 10 sets the governance modalities of such a scheme, such as the rules regarding the contractual liability of its members and the mechanism to resolve disputes. Article 10 also provides for the developments of common standards for the sharing of data and the creation of technical interfaces to be used for the sharing of data. Such data sharing schemes shall be notified to the competent authorities, they shall benefit from a passport for operations in the whole of the Union and or transparency purposes, the schemes shall be part of a register to be maintained by EBA. The minimum modalities of a financial data sharing scheme should also stipulate that data holders shall be entitled to compensation for making the data available to data users, according to the terms of the scheme they are both part of. Compensation in any case shall be reasonable, based on a clear and transparent methodology previously agreed by the scheme members and should aim at reflecting at least the costs incurred for making available a technical interface to share the data requested.

Title V sets out the provisions on authorisation and operating conditions of financial information service providers. These requirements highlight the required content of an application (Article 11), the scope of the authorisation, including the EU passport of financial information services (Article 12) and the right granted to competent authorities to withdraw an authorisation. Article 13 provides for the establishment of a register of financial information service providers and data sharing schemes to be held by EBA.

Title VI provides details on the powers of competent authorities. Article 14 imposes on Member States the obligation to designate the competent authorities for the purposes of this Regulation. Article 15 sets out detailed provisions on the powers of competent authorities, Article 16 provides for the power to reach settlement agreements and expedited enforcement procedures and Article 17 details the administrative penalties and other administrative measures that can be imposed by competent authorities. Article 20 covers professional secrecy as regards information exchanges between competent authorities. Title VI also includes rules on the right to appeal (Article 21), the publication of administrative sanctions and administrative measures imposed (Article 22), the reporting of breaches and protection of reporting persons (Article 23) and the rules regarding the exchange of information between authorities (Article 24).

Title VII provides for the notification procedure to competent authorities for entities exercising the right of establishment and freedom to provide services (Article 26).

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[Title VIII provides how data that competent authorities have obtained pursuant to EU and national financial sector legislation (supervisory data) may be shared and reused by competent authorities and market participants. Article 28 grants the right to competent authorities to share information they possess as a result of EU or national reporting obligations provided certain conditions are met to safeguard the protected nature of this data. Article 29 provides for the exchange of information between authorities.]

Title IX includes the obligation for the Commission to review certain aspects of the Regulation (Article 31). Title IX also includes the exercise of the delegation with a view to adopt Commission's delegated acts (Article 30), as the proposal itself contains an empowerment for the Commission to adopt a delegated act pursuant to Article 10(2). Articles 32 to 34 include necessary amendments to the ESAs Regulations to include in their scope this Regulation and financial information service providers. Article 36 indicates that this Regulation shall enter into application 24 months after its entry into force, except for Title IV (on schemes) that shall enter into application 18 months after the Regulation's entry into force.

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[4],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Data is an essential resource for growth and innovation in the financial sector. The data economy, which is driven by the production and use of data, is an integral part of the EU internal market that can bring benefits to both Union citizens and the economy. Digital technologies rely on data and are increasingly driving change in financial markets by producing new business models, products and ways for firms to engage with customers.

(2) Customers of financial institutions, both consumers and firms, should have effective control over their financial data and the opportunity to benefit from open, fair, and safe data-driven innovation in the financial sector. Customers should be empowered to decide how and by whom their financial data is used and entitled to grant firms access to their data for the purposes of obtaining financial and information services should they wish.

(3) The Union has a stated policy interest in enabling financial data access. The communication on a Digital Finance Strategy and the communication on a Capital Markets Union adopted in 2021 confirmed the Commission's intention to put in place a framework for financial data access to reap the benefits for customers of data sharing in the financial sector. Such benefits include the development and provision of data-driven financial products and financial services, made possible by the sharing of customer data.

(4) Within financial services, and as a result of the revised Directive (EU) 2015/2366[5], the sharing of payments account data in the EU based on customer permission has begun to transform the way consumers and businesses use banking services. Based on the

[4] OJ C […], […], p. […].

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

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experience from this Directive, a regulatory framework should be established for the sharing of customer data across the financial sector beyond payments. This should also be a building block for fully integrating the financial sector into the European Commission's Data Strategy which promotes data sharing across sectors.

(5) Ensuring customer control and trust is imperative to ensuring a well-functioning and effective data sharing framework in the financial sector. A lack of effective customers' control over data sharing limits innovation as well as consumer confidence and trust in data sharing. The absence of effective control also means that many customers do not trust that potential risks of sharing data are addressed and are often reluctant to share their data. Under the current Union framework, customers of financial institutions cannot make their data available to data users because data holders are not legally obliged to enable access beyond payment accounts. The data portability right of a data subject in accordance with the Regulation (EU) 2016/679 is limited to personal data, and in the absence of technical interfaces it does not cover all the needs of customers in the financial sector. Moreover, customer data and interfaces in the financial sector beyond payment accounts are not standardised, rendering data sharing more costly.

(6) The Union financial data economy remains fragmented, characterised by uneven data sharing, barriers, and high stakeholder reluctance to engage in data sharing beyond payments accounts. Customers do not benefit from individualised, data-driven products and services that may fit their specific needs. The absence of personalised financial products limits the possibility to innovate, by offering more choice and financial products and services for interested consumers who could otherwise benefit from data-driven tools that can support them to make informed choices, compare offerings in a user-friendly manner, and switch to more advantageous products that match their preferences based on their data. The existing barriers to business data sharing are preventing firms, in particular SMEs, to benefit from better, convenient and automated financial services.

(7) Making data available by way of high-quality application programming interfaces is essential to facilitate seamless access to data. Beyond the area of payment accounts, however, only a minority of financial institutions that are data holders indicate that they make data available through technical interfaces like application programming interfaces. Absent of incentives to develop such innovative services, market demand for data access remains limited.

(8) A dedicated and harmonised framework for access to financial data is therefore necessary at Union level to respond to the needs of the digital economy and to remove barriers to a well-functioning internal market for data. Specific rules are required to address these problems to promote better access to customer data and hence make it possible for consumers and firms to realise the gains stemming from better financial products and services. Data-driven finance would facilitate industry transition from the traditional supply of standardised products to tailored solutions that are better suited to the customers' specific needs, including improved customer facing interfaces that enhance competition, improve user experience and ensure financial services that are focused on the customer as the end user.

(9) The data included in the scope of this Regulation should demonstrate high value added for financial innovation and low financial exclusion risk for consumers. The scope should therefore exclude data access to which may be particularly relevant for the exercise of fundamental rights, in line with the principles of proportionality and necessity. This regulation should therefore not cover data on the sickness, health and

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medical insurance of a consumer as defined in Directive 2009/138/EC, data on the life insurance products of a consumer in accordance with Directive 2009/138/EC, other than life insurance contracts covered by Insurance-Based Investment Products and data related to the creditworthiness assessment of a consumer. The sharing of customer data in the scope of this Regulation should respect the protection of confidential business data and trade secrets.

(10) The sharing of the customer data in the scope of this Regulation should be based on the permission of the customer. The legal obligation on data holders to share customer data should be triggered once the customer has requested their data to be shared with a data user. Where the processing of personal data is involved, a data subject's relationship with a data user must be based on the agreement of the data subject on the use of personal data for the service provided. A customer has the right to withdraw the permission given to a data user. When data processing is necessary for the performance of a contract, a customer may withdraw permissions according to the contractual obligations to which the data subject is a party to. When personal data processing is based on consent, a data subject has the right to withdraw his or her consent at any time, in line with Regulation (EU) 2016/679.

(11) Enabling customers to share their data on their current investments can encourage innovation in the provision of retail investment services. Primary data collection to complete a suitability and appropriateness assessment of a retail investor is time-intensive for a customer and constitutes a significant cost factor for advisors and distributors of investment, pension, and insurance-based products. The sharing of customer data on holdings of savings and investments in financial instruments including Insurance-Based Investment Products and input data found in a suitability assessment can improve investment advice for consumers and has strong innovative potential, including in the development of personalised investment advice and investment management tools that can make retail investment advice more efficient. Such management tools are already being developed in the market today and can develop more effectively in the context where a customer can share their investment-related data.

(12) The customer data included in the scope of this Regulation should include sustainability-related information that should enable customers to more easily access financial services that are aligned with their sustainability preferences and sustainable finance needs, in line with the Commission's strategy for financing the transition to a sustainable economy[6]. Access to data relating to sustainability which may be contained in balance or transaction details related to a mortgage, credit, and savings account, as well as access to customer data relating to sustainability held by investment firms, can contribute to facilitating access to data needed to access sustainable finance or make investments into the green transition. Moreover, customer data in scope should include input data which forms part of an application for a creditworthiness assessment related to firms, including small and medium sized enterprises, which can provide greater insight on the sustainability objectives of small firms. The inclusion of creditworthiness assessment related to firms will improve access to financing and streamline the assessment application for loans. Such data should be limited to data on firms and should not infringe intellectual property rights.

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

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

(14) The sharing of data on occupational and personal pension savings has strong innovative potential for consumers. Pension savers often lack sufficient knowledge about their pension rights, which is related to the fact that data on such rights are often dispersed across different data holders. The sharing of data related to occupational and personal pension savings should contribute to develop pension tracking tools that provide savers with a comprehensive overview of their entitlements and retirement income both within specific Member States and cross-border in the Union. Data on pension rights concerns in particular accrued pension entitlements, projected levels of retirement benefits, risks and guarantees of members and beneficiaries of occupational pension schemes. Access to data related to occupational pensions is without prejudice to national social and labour law on the organisation of pension systems, including membership of schemes and the outcomes of collective bargaining agreements.

(15) Practices employed by data users to combine new and traditional customer data sources in scope of this Regulation must be proportionate to ensure that they do not lead to financial exclusion risks. Practices that lead to a more sophisticated or comprehensive analysis of certain vulnerable segments of consumers, such as persons with a low income, may increase the risk of unfair conditions or differential pricing practices like the charging of differential premiums. The potential for exclusion is highest in the provision of products and services identified as posing an increased risk, notably the creditworthiness of natural persons as well risk assessment and pricing in relation to natural persons in the case of life and health insurance. Given the nature of the risks, the use of data for these products and services should be subject to specific requirements to protect consumers and their fundamental rights.

(16) This data use perimeter established by this Regulation and the accompanying Guidelines developed by EBA and EIOPA should establish a proportionate framework on how personal data related to a consumer that are in scope of this Regulation can be used for assessing the creditworthiness of consumers as well as for assessing and pricing the risk of consumers in the case of life and health insurance. For this purpose, EBA and EIOPA should develop Guidelines that set out how customer data in scope of this Regulation should be used when providing these products and services in a

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manner that is aligned to the needs of the consumer and proportionate to the provision of these products and services. The data use perimeter should be consistent with the scope of this Regulation, which excludes the sharing of customer data on the creditworthiness of a consumer as well as on data related to the life and health insurance of a consumer.

(17) EBA and EIOPA should closely cooperate with the European Data Protection Board when drafting the Guidelines on the implementation of the data use perimeter. The Guidelines should build on existing recommendations on the use of consumer information in the area of consumer and mortgage credit, notably the European Banking Authority Guidelines on Loan Origination and Monitoring, as well guidelines provided by European Data Protection Board on the processing of personal data.

(18) Customers must have effective control over their data and confidence in managing permissions they have granted in accordance with this Regulation. Data holders are therefore required to provide customers with common and consistent financial data access permission dashboards. A permissions dashboard should empower the customer to manage their permissions in an informed and impartial manner and give customers a strong measure of control over how their personal and non-personal data is used. Dashboards should not be designed in a way that would encourage or unduly influence the customer to grant or withdraw permissions. Data holders could use an eIDAS-notified solution, such as a European Digital Identity Wallet issued by a Member States as introduced by the proposal amending Regulation (EU) No 910/2014. They may also rely on data intermediation services providers under Regulation (EU) 2022/868, to provide dashboards that fulfil the requirements of this Regulation.

(19) The dashboard should display the permissions given by a customer, including when personal data is based on consent or is necessary for the performance of a contract. The permission dashboard should warn a customer in a standard way of the risk of possible contractual consequences of withdrawal of permission, but the customer should remain responsible for managing such risk. A dashboard should be used to manage existing permissions. Data holders should inform data users in real-time of any withdrawal of a permission. Data users should inform data holders in real-time of new and re-established permissions granted by customers, including the duration of validity of the permission and a short summary of the purpose of the permission.

(20) To ensure proportionality, certain financial institutions are subject to exemptions for reasons associated with their size or the services they provide. These include institutions for occupational retirement provision which operate pension schemes which together do not have more than 15 members in total, as well as insurance intermediaries who are microenterprises or small or medium-sized enterprises. In addition, small or medium-sized enterprises acting as data holders that are in scope of this Regulation could establish an application programming interface jointly, reducing the costs for each of them. They can also avail themselves to external technology providers which run application programming interfaces in a pooled manner for financial institutions and may charge them only a low fixed usage fee and work largely on a pay-per-call basis.

(21) This Regulation introduces a new legal obligation on financial institutions acting as data holders to share defined categories of data at request of the customer. The obligation on data holders to share data at the request of the customer should be specified by making available generally recognised standards to also ensure that the data shared is of a sufficiently high quality. While the data holder is responsible for the

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interface to be available and for the interface to be of adequate quality, the interface may be provided by the data holder, another financial institution, an external IT provider, an industry association or a group of financial institutions, or by a public body in a member state. For Institutions for Occupational Retirement Provisions, the interface can be integrated into broader pension dashboards, as long as it complies with the requirements of this Regulation.

(22) In order to enable contractual and technical interaction necessary for implementing data access between multiple financial institutions, data holders and data users should be required to be part of Financial Data Sharing Schemes which should develop data and interface standards, as well as a joint standardised contractual frameworks governing access to specific datasets, and establish governance rules related to data sharing. In order to ensure their effective functioning, these schemes should be subject to a number of general principles, it is necessary to establish general principles for the governance of these schemes, including rules on inclusive governance and participation of data holders, data users and customers (to ensure balanced representation in schemes), transparency requirements, and a well-functioning appeal and review procedure (notably around the decision-making of schemes). Financial Data Sharing Schemes must comply with Union rules in the area of consumer protection and data protection and privacy. Schemes are also encouraged to draw up codes of conduct in accordance with Article 40 of Regulation (EU) 2016/679 to clarify the obligations of controllers and processers in accordance with Article 40 of Regulation (EU) 2016/679.

(23) A Financial Data Sharing Scheme shall consist of a collective contractual agreement between data holders and data users with the objective of promoting efficiency and technical innovation in financial data sharing to the benefit of customers. In line with competition law, a financial data sharing scheme should only impose on its members restrictions which are necessary and proportionate for the attainment of the objectives of the financial data sharing scheme. It should not afford its members the possibility of eliminating competition in respect of access to data. In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of specifying the modalities and characteristics of a financial data sharing scheme in case a scheme is not developed by the data holders and the data users.

(24) Already available market standards may be used by data holders and data users when developing common standards for the mandatory data sharing.

(25) To ensure that data holders have sufficient economic incentives to provide high quality interfaces for making data available to data users, data holders should be able to request reasonable compensation from data users for putting in place application programming interfaces. Facilitating data access against compensation would ensure a fair distribution of the related costs between data holders and data users in the data value chain. In cases where the data user is an SME, proportionality for smaller market participants should be ensured by limiting compensation strictly to the costs incurred for facilitating data access. The methodology for determining the level of compensation should be determined as part of the financial data sharing schemes as provided in this Regulation.

(26) Customers should know what their rights are in case of problems arise in the context of data sharing and who to approach to seek compensation. Financial data sharing scheme members, including data holders and data users, should therefore be required

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to agree on the contractual liability for data breaches as well as how to resolve potential disputes between data holders and data users regarding liability. These requirements would focus on establishing, as part of any contract, liability rules as well as clear obligations and rights to determine liability between the data holder and the data user. Liability issues related to the consumers as data subjects would be based on Regulation (EU) 2016/679, notably the right to compensation and liability under Article 82 of Regulation (EU) 2016/679.

(27) To promote consumer protection, enhance customer trust and ensure a level playing field, it is necessary to establish rules on who is eligible to access customers' data. Such eligibility rules would ensure that all data users are authorised and supervised by competent authorities. This would ensure that data can be accessed only by regulated financial institutions or by firms subject to a dedicated Financial Information Service Providers' (FISPs) authorisation which is subject to this Regulation. Eligibility rules on FISPs, including on establishment, are justified to safeguard financial stability, market integrity and consumer protection, as FISPs would provide financial products and services to customers in the Union and would access data held by financial institutions and the integrity of which is essential to preserve financial institutions' ability to continue providing financial services in a safe and sound manner. These rules are also required to guarantee the proper supervision of FISPs by competent authorities in line with their mandate to safeguard financial stability and integrity in the Union, which will allow FISPs to provide through the Union the services for which they are authorised. Eligibility rules on who can access customer data under the framework for financial data access should be at least equivalent to the requirements for Account Information Service Providers (AISPs) under the Payment Services Directive (EU) 2015/2366.

(28) Data users in scope of this Regulation will be subject to the requirements of Regulation (EU) 2022/2554 and therefore be obliged to have strong cyber resilience standards in place to carry out their activities. This includes having comprehensive capabilities to enable a strong and effective ICT risk management, as well as specific mechanisms and policies for handling all ICT-related incidents and for reporting major ICT-related incidents. New data users authorised and supervised as financial information service providers under this Regulation should follow the same approach and the same principle-based rules when addressing ICT risk taking into account their size and overall risk profile, and the nature, scale and complexity of their services, activities and operations. They should therefore be included in the scope of Regulation (EU) 2022/25. That should be done by amending Regulation (EU) 2022/2554.

(29) In order to enable effective supervision and to eliminate the possibility of evading or circumventing supervision, Financial information service providers must be legally incorporated in the Union. An effective supervision by the competent authorities is necessary for the enforcement of requirements under this Regulation intended to ensure integrity and stability of the financial system and to protect consumers. The requirement of legal incorporation of financial information service providers in the Union does not amount to data localisation since this Regulation does not entail any further requirement on data storage or processing to be undertaken in Union.

(30) To facilitate transparency regarding data access and information service providers, the EBA should establish a register of financial information service providers authorised under this Regulation, as well as financial data sharing schemes agreed between data holders and data users.

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(31) Competent authorities should be conferred with the powers necessary to supervise the way the obligation on data holders to provide access to customer data based on permission established by this Regulation is exercised by market participants, as well as to supervise financial information service providers. Competent authorities should cooperate with supervisory authorities established under Regulation (EU) 2016/679.

(32) Since financial institutions and financial information service providers can be established in different Member States and supervised by different competent authorities, the application of this Regulation should be facilitated by close cooperation among relevant competent authorities, through the mutual exchange of information and the provision of assistance in the context of relevant supervisory activities.

(33) To ensure a level playing field in the area of sanctioning powers, Member States should be required to provide for effective, proportionate and dissuasive administrative sanctions and administrative measures in relation to infringements of provisions from this Regulation. Those administrative sanctions, periodic penalty payments and administrative measures should meet certain minimum requirements, including the minimum powers that should be vested on competent authorities to be able to impose them, the criteria that competent authorities should take into account in their application, in their publication and in reporting about them. Member States should lay down specific rules and effective mechanisms regarding the application of periodic penalty payments.

(34) In addition to administrative sanctions and administrative measures, competent authorities should be empowered to impose periodic penalty payments on financial information services providers and on those members of their management body who are identified as responsible for an ongoing infringement or are required to comply with an order from the competent authority which is investigating. Since the purpose of the periodic penalty payments is to compel natural or legal persons to comply with an order from the competent authority to act, for example to accept to be interviewed or to provide information, or terminate an ongoing breach, the application of periodic penalty payments should not prevent competent authorities from imposing subsequent administrative sanctions for the same infringement. Unless otherwise provided for by Member States, periodic penalty payments should be calculated on a daily basis.

(35) An expedited enforcement procedure usually starts after an investigation has been concluded and the decision to start proceedings leading to imposing sanctions has been taken. An expedited enforcement procedure is characterised by being shorter than a formal one, due to simplified procedural steps. Under a settlement agreement usually the parties subject to the investigation by a competent authority agree to end that investigation early, in most cases by accepting liability for wrongdoing. Irrespective of their denomination under national law, forms of expedited enforcement procedure or settlement agreements can be found in many Member States and are used as an alternative to formal proceedings leading to imposing sanctions.

(36) While it does not appear appropriate to strive to harmonise at Union level such enforcement methods introduced by many Member States, due to the very varied legal approaches adopted at national level, it should be acknowledged that such methods allow competent authorities that can apply them, to handle infringement cases in a speedier, less costly and overall efficient way under certain circumstances, and should therefore be encouraged. However, Member States should not be under the obligation to introduce such enforcement methods in their legal framework nor to compel

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competent authorities to use them if they do not deem it appropriate. Where Member States opt for empowering their competent authorities to use such enforcement methods, they should notify the Commission of such decision and of the relevant measures regulating such powers.

(37) Competent authorities should be empowered by Member States to impose such administrative sanctions and administrative measures to financial information service providers and other natural or legal persons where relevant to remedy the situation in the case of infringement. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between financial information service providers, as regards their size, characteristics and the nature of the business.

(38) Publication of an administrative sanction or measure for infringement of provisions from this Regulation can have a strong dissuasive effect against repetition of such infringement. It also informs other entities of the risks associated with the sanctioned payment services provider before entering into a business relationship and assists competent authorities in other Member States in relation to the risks associated with a payment services provider when it operates in their Member States on a cross-border basis. For these reasons, the publications of decisions on final administrative sanctions and administrative measures should be required in principle. However, any such publication should be proportionate and, in taking a decision whether to publish an administrative sanction or administrative measure, competent authorities should take into account the gravity of the infringement and the dissuasive effect that the publication is likely to produce. Publication of personal data should occur in compliance with the rules on data protection in force.

(39) The exchange of information and the provision of assistance between competent authorities of the Member States is essential for the purposes of this Regulation. Consequently, cooperation between authorities should not be subject to unreasonable restrictive conditions.

(40) [Facilitating the sharing and reuse of non-personal information collected by national and EU authorities or bodies with competencies in the financial sector, while safeguarding data protection and professional secrecy, will reduce the burden on reporting entities as well as on authorities by avoiding duplicative requests, in line with the Strategy on supervisory data in EU financial services. Information sharing will also contribute to better coordination of activities and supervisory convergence.]

(41) To this end, an authority should be able to receive from another authority information that the former would have the power to collect from reporting entities, including where such entities are different from the ones reporting to the latter authority. This should also apply where the sharing authority obtained the information from a third authority and has performed quality checks or further processed the information.

(42) For the purpose of determining the arrangements for regular information sharing, authorities should enter into memoranda of understanding to specify the modalities and safeguards of the exchange of information, as well as modalities for sharing resource-intensive collection, validation and processing tasks.

(43) When the Commission develops policies, it needs to undertake thorough impact analysis that requires accurate and comprehensive data. The sharing of the data collected by authorities with the Commission, in aggregated and anonymised form, will help in providing an evidence-based foundation for the design and evaluation of

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EU policies. Such sharing of aggregate data should be without prejudice to the exchange of information between the authorities and the Commission for the purpose of other tasks incumbent on the Commission.

(44) Whistleblowers should be able to bring new information to the attention of competent authorities that helps them in detecting infringements of this Regulation and imposing penalties. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from retaliation. That should be done by amending Directive (EU) 2019/1937 of the European Parliament and of the Counciin order to make it applicable to infringements of this Regulation.

(45) The objectives of this Regulation, namely giving effective control of data to the customer and addressing the lack of data access rights for customer data held by data holders, cannot be sufficiently achieved by the Member States given their cross-border nature. By creating a framework on which a larger cross-border market with data access could develop, the objectives can be achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(46) This Regulation introduces sector-specific access rights that activates these key provisions under Chapter III of the Data Act proposal [Regulation (EU) XX] related to business-to-business relations. These Data Act provisions are activated by the introduction of a new legal obligation on financial institutions acting as data holders to share defined categories of customer data. This includes requirements on conditions under which data holders make data available to data recipients, compensation, dispute settlement, and technical protection measures and provisions on authorised use or disclosure of data.

(47) Regulation (EU) 2016/679 applies when personal data is processed. Regulation (EU) 2016/679 provides for rights of a data subject, including the right of access and right to port personal data. This Regulation is without prejudice to a data subject's rights contained in Regulation (EU) 2016/679, including the right to data portability. This Regulation creates a legal obligation to share customer personal and non-personal data upon customer's request and mandates the technical feasibility of access and sharing for all types of data within the scope of this Regulation. Personal data that are made available and shared with a data user should only be processed for services provided by a data user where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, when applicable, where the conditions of Article 9 of Regulation (EU) 2016/679 on the process of special categories of data are fulfilled.

(48) This Regulation builds upon and complements the 'open banking' provisions under PSD2 and is fully consistent with the proposal for a regulation on payment services amending Regulation 1093/2010 and the proposal for a Directive on payment services and electronic money services amending Directives 2013/36/EU and 98/26/EC and repealing Directives 2015/2355/EU and 2009/110/EC [Regulation (EU) XX / Directive (EU) XX]. The initiative complements the already existing 'open banking' provisions under PSD2 that regulate access to and processing of customer data held by account servicing payment service providers. It builds on the lessons learned on 'open

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banking' as identified in the review of PSD2.[7] This Regulation ensures coherence between financial data access and open banking where additional measures are necessary, including on permission dashboards, the legal obligations to grant direct access to customer data, and the requirement for data holders to put in place interfaces.

(49) This Regulation is without prejudice to provisions related to data access and data sharing in financial services legislation. This includes access to benchmarks and the access regime for exchange-traded derivatives between trading venues and Central Counterparties in Regulation (EU) No 600/2014; rules on database access for creditors under Directive (EU) 2014/17/EU; access to securitisation repositories under Regulation (EU) 2017/2402; the right to request from insurer a claims history statemen and access to central repositories on basic data necessary for the settlement of claims under Directive (EU) 2009/103/EC; the right to access and transfer all necessary personal data to a new European Personal Pension Product provider under Regulation 2019/1238; and the provisions under outsourcing and reliance under Directive (EU) 2018/843 amending Directive (EU) 2015/849. This Regulation is also without prejudice to EU competition rules as set out in Article 101 TFEU and the relevant EU acquis. This Regulation is also without prejudice to accessing, sharing and using data without making use of the data access obligations established by this Regulation on a purely contractual basis.

(50) Given the nature of their business, eventually Account Information Service Providers (AISPs) which are currently regulated under the Payment Services Directive, should be exclusively regulated by the framework for Financial Data Access. They would then become financial information service providers and would have the same obligations and rights as other entities operating under the financial data access framework. While it is essential to prevent the risk of having inconsistent rules governing AISPs and FISPs which have similar businesses, the risk of exposing AISPs which have been in operation for several years to business disruption should be mitigated. It is therefore deemed necessary that the transfer of AISPs to the framework for financial data access be done in a staged and non-automatic way. The Commission should have the chance to assess, by a certain date, whether the market conditions would be conducive to enable a smooth and non-disruptive transfer of AISPs into the scope of this Regulation. In particular, the Commission would examine whether a scheme has in the meantime been developed by the market, which would mean that, under the framework of such a scheme, AISPs would be able to pursue their activities under this new framework.

(51) It is deemed appropriate to set, in the financial data access proposal, a review clause for the Commission to examine and activate the transfer of AISPs into this Regulation once the conditions for a smooth and non-disruptive transfer are met. Eventually there would be no AISPs operating under the Payment Services Directive rules and access to payment account data will be regulated under this Regulation.

(52) Given that EBA, EIOPA and ESMA should be mandated to make use of their powers in relation to financial information service providers, it is necessary to ensure that EBA, EIOPA and ESMA are able to exercise all of their powers and tasks in order to fulfil their objectives of protecting the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the

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[7] Report from the Commission on the review of Directive 2015/2366/EU of the European Parliament and of the Council on payment services in the internal market

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Union economy, its citizens and businesses and to ensure that financial information service providers are covered by Regulations (EU) 1093/2010, (EU) 1094/2010 and (EU) 1095/2010. Those Regulations should therefore be amended accordingly.

(53) The date of application of this Regulation should be deferred by XX months in order to allow for the adoption of regulatory technical standards, implementing technical standards and delegated acts that are necessary to specify certain elements of this Regulation,

(54) The European Data Protection Supervisor was consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 and delivered an opinion on […….…]

HAVE ADOPTED THIS REGULATION:

TITLE I
SUBJECT MATTER, SCOPE, AND DEFINITIONS

Article 1
Subject Matter

1. This Regulation establishes rules in accordance with which certain categories of customer data in finance may be accessed, shared, and used.

2. This Regulation also establishes rules concerning:

   (a) The conditions and requirements for the access, sharing, and use of data in finance.

   (b) The way customers may exercise their right to grant and withdraw permissions.

   (c) The respective rights and obligations of data users and data holders.

   (d) The authorisation and operation of financial information service providers.

3. [This Regulation also establishes rules for the facilitation of the sharing and reuse of data collected by competent authorities and EU supervisors.]

Article 2
Scope

1. Titles II to VII of this Regulation shall apply to the following categories of customer data on:

   (a) The balance, conditions and transactions of a mortgage, credit and savings account.

   (b) Savings, investments in financial instruments, insurance-based investment products, crypto-assets, real estate and other related financial assets and the economic benefits derived from such assets; input data collected for the purposes of carrying out an assessment of suitability and appropriateness as defined in Article 25(2) and Article 25(3) of Directive 2014/65/EU.

   (c) Pension rights in occupational pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council or Directive 2009/138/EC;

   (d) Pension rights on the provision of European personal pension products, in accordance with Regulation (EU) 2019/1238 of the European Parliament and of the Council;

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(e) The provision of non-life insurance products in accordance with Directive 2009/138/EC, with the exception of sickness, health or medical insurance products.

(f) Input data which form part of an application by a firm for a creditworthiness assessment.

2. Titles II to VII of this Regulation shall apply to the following entities when acting as data holders or data users:

(a) credit institutions;

(b) payment institutions, including account information service providers and payment institutions exempted pursuant to Directive (EU) 2015/2366;

(c) electronic money institutions, including electronic money institutions exempted pursuant to Directive 2009/110/EC;

(d) investment firms;

(e) crypto-asset service providers;

(f) issuers of asset-referenced tokens;

(g) managers of alternative investment funds;

(h) UCITS management companies;

(i) insurance and reinsurance undertakings;

(j) insurance intermediaries and ancillary insurance intermediaries;

(k) institutions for occupational retirement provision;

(l) credit rating agencies;

(m) crowdfunding service providers;

(n) financial information service providers

For the purposes of this Regulation, entities referred to in points (a) to (m), shall collectively be referred to as 'financial institutions'.

3. [Title VIII of this Regulation shall apply to the European Supervisory Authorities, the members of the European System of Central Banks, the European Systemic Risk Board and competent authorities as defined in Article 4(2) of Regulation (EU) 1093/2010, Article 4(2) of Regulation (EU) 1094/2010 and Article 4(3) of Regulation (EU) 1095/2010, and the authorities defined in Article 2(1) of Directive *[insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.]

4. This Regulation shall not apply to entities referred to in Article 2(3)(a) to (e) of Regulation (EU) 2022/2554.

Article 3
Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'consumer' means a natural person who is acting for purposes other than his or her trade, business or profession;

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(2) ‘customer’ means a natural or a legal person who makes use of financial products and services;

(3) ‘customer data’ means personal and non-personal data that is collected, stored and processed by a financial institution as part of their normal course of business with customers which covers both data transmitted by a customer and data generated as a result of customer interaction with the financial institution;

(4) ‘competent authority’ means the authority designated by each Member State in accordance with Article 22 and for financial institutions it means any of the competent authorities listed in Article 46 of Regulation (EU) 2022/2554 of the European Parliament and of the Council.;

(5) ‘data holder’ means a legal person who, in accordance with this Regulation, has the obligation to grant access to and to share customer data listed in Article 2(1) of this Regulation that is collects, stores and processes;

(6) ‘data user’ means a legal person who, following the permission of a customer, has lawful access to customer data listed in Article 2(1) of this Regulation and is a licensed financial institution or a financial information service provider;

(7) ‘financial information service provider’ means a data user that is authorised under Article 12 of this Regulation to access customer data listed in Article 2(1) of this Regulation for the provision of financial information services;

(8) ‘financial institution’ means any of the entities listed in Article 2(2)(a) to (m) of this Regulation who are both data holders and data users for the purposes of this Regulation.

(9) ‘investment account’ means any register managed by an investment firm, credit institution or an insurance broker about the current holdings in financial instruments or IBIPS of their client, including past transactions and other data points relating to lifecycle events of that instrument

(10) ‘non-personal data’ means data other than personal data as defined in Article 4(1) of Regulation (EU) 2016/679;

(11) ‘personal data’ means personal data as defined in Article 4(1) of Regulation 2016/679. (GDPR)

(12) ‘credit institution’ means a credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council;

(13) ‘investment firm’ means an investment firm as defined in Article 4(1)(1), of Directive 2014/65/EU;

(14) ‘crypto asse service providers’ means a crypto asset service providers as referred to in Article 3(15) of Regulation (EU) [2023/…./EU]

(15) ‘issuer of asset referenced tokens’ means an issuer of asset referenced tokens authorized under Article 21 of Regulation (EU) [2023/…/EU];

(16) ‘payment institution’ means a payment institution as defined in Article 4(4), of Directive (EU) 2015/2366;

(17) ‘payment institution exempted pursuant to Directive (EU) 2015/2366’ means a payment institution exempted pursuant to Article 32(1) of Directive (EU) 2015/2366;

(18) ‘account information service provider’ means an account information service provider as referred to in Article 33(1) of Directive (EU) 2015/2366;

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(19) 'electronic money institution' means an electronic money institution as defined in Article 2(1), of Directive 2009/110/EC of the European Parliament and of the Council;

(20) 'electronic money institution exempted pursuant to Directive 2009/110/EC' means an electronic money institution benefitting from a waiver as referred to in Article 9(1) of Directive 2009/110/EC;

(21) 'manager of alternative investment funds' means a manager of alternative investment funds as defined in Article 4(1)(b), of Directive 2011/61/EU;

(22) 'UCITS management company' means a management company as defined in Article 2(1)(b), of Directive 2009/65/EC;

(23) 'insurance intermediary' means an insurance intermediary as defined in Article 2(1)(3), of Directive (EU) 2016/97 of the European Parliament and of the Council;

(24) 'ancillary insurance intermediary' means an ancillary insurance intermediary as defined in Article 2(1)(4), of Directive (EU) 2016/97;

(25) 'institution for occupational retirement provision' means an institution for occupational retirement provision as defined in Article 6(1), of Directive (EU) 2016/2341;

(26) 'credit rating agency' means a credit rating agency as defined in Article 3(1)(b), of Regulation (EC) No 1060/2009;

(27) 'crypto-asset service provider' means a crypto-asset service provider as defined in the relevant provision of the Regulation on markets in crypto-assets;

(28) 'issuer of asset-referenced tokens' means an issuer of asset-referenced tokens as defined in the relevant provision of the Regulation on markets in crypto-assets;

TITLE II
DATA ACCESS

Article 4
Obligation to make available data to the customer

The data holder shall make available to the customer the data listed in Article 2(1) of this Regulation without undue delay, free of charge, continuously and in real-time. This shall be done on the basis of a simple request through electronic means.

Article 5
Obligation to share customer data upon request

1. Upon request by a customer, a data holder shall make available to a data user customer data listed in Article 2(1) of this Regulation without undue delay, continuously and in real-time.

2. The customer data for which access is granted in accordance with paragraph 1 of this Article shall be made available by a data holder based on generally recognised standards in accordance with Article 10 of this Regulation.

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3. A data holder shall make customer data available to a data user in accordance with the provisions set out in Title IV of this Regulation.

Article 6

Obligations on a data user receiving customer data

1. A data user shall only be eligible to access data if it is subject to prior authorisation by a competent authority as a financial institution or is authorised under Article 12 as a financial information service provider.

2. A data user shall only access customer data made available pursuant to Article 5(1) of this Regulation for the purposes and under the conditions agreed with the customer. A consumer may withdraw the permission it has granted to make personal data available to a data user in line with Regulation (EU) 2016/679. When processing is necessary for the performance of a contract, a customer may withdraw permission it has granted to make customer data available to a data user according to the contractual obligations to which it is subject.

3. To ensure the effective management of customer data, a data user shall:

   (a) only access personal data in accordance with Article 5(1) of this Regulation when there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, where relevant, the conditions of Article 9 of Regulation (EU) 2016/679 are fulfilled.

   (b) not store any customer data for purposes other than for performing the service explicitly requested by the data subject, in accordance with Regulation (EU) 2016/679. A data user shall delete personal data when it is no longer necessary for the agreed purpose.

   (c) not process customer data for advertising purposes, except for direct marketing in accordance with Union and national law.

   (d) where the data user is part of a group of companies, customer data listed in Article 2(1) of this Regulation shall only be accessed and processed by the entity of the group that acts as a data user.

TITLE III

RESPONSIBLE DATA USE AND PERMISSION DASHBOARDS

Article 7

Data use perimeter

1. The processing of personal data referred to in Article 2(1) of this Regulation shall be limited to what is necessary in relation to the purposes for which they are processed in accordance with Article 5(4) of Regulation (EU) 2016/679.

2. In accordance with Article 16 of Regulation (EU) 1093/2010 and 1094/2010, EIOPA and EBA shall develop guidelines on the implementation of paragraph 1 for:

   (a) Products and services related to the evaluation of the creditworthiness of a consumer and their credit score.

   (b) Products and services related to risk assessment and pricing of the consumer in the case of life and health insurance.

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3. When preparing the Guidelines referred to in paragraph 2 of this Article, EIOPA and EBA shall closely cooperate with the European Data Protection Board established by Regulation (EU) 2016/679.

Article 8

Financial Data Access permission dashboards

1. Data holders shall provide the customer with a permission dashboard to monitor and manage the permissions it has provided to data users.

2. A permission dashboard shall:

   (a) provide the customer with an overview of each ongoing permission given to data users, including:

      (i) the name of the data user to which access has been granted

      (ii) the customer account being accessed;

      (iii) the purpose of the permission; and

      (iv) a description of the categories of data being shared; and

      (v) the period of validity of the permission.

   (b) allow the customer to withdraw a permission given to a data user;

   (c) allow the customer to re-establish any permission withdrawn;

   (d) include a record of permissions that have been withdrawn or have expired.

3. The data holder shall ensure that the permission dashboard is easy to find in its user interface and that information displayed on the dashboard is clear, accurate and easily understandable for the customer.

4. The data holder and the data user for which permission has been granted by a customer shall cooperate to make information available to the customer via the dashboard in real-time. To fulfil the obligations in paragraph 2(a) – (c) of this Article:

   (a) The data holder shall inform the data user promptly of changes made to a permission concerning that provider made by a customer via the dashboard.

   (b) A data user shall inform the data holder promptly of a new permission granted by a customer regarding customer data held by that data holder, including:

      (i) the purpose of the permission granted by the customer;

      (ii) the period of validity of the permission.

TITLE IV
FINANCIAL DATA SHARING SCHEMES

Article 9

Financial data sharing scheme membership

1. Without prejudice to the obligation to make data available to customers in accordance with Article 4, where a data holder is obliged to make customer data available to a data user under Article 5, it shall be obliged to be a member of one or

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more financial data sharing schemes and shall make the data available in accordance with the scheme's rules and modalities.

2. In case a data holder is not part of a financial data sharing scheme or does not make data available in accordance with the rules and modalities of a scheme, no amount of compensation may be claimed from data users for making data available as required by Article 5.

3. Where a data user requests to access customer data held by a data holder under Article 5, it shall do so in accordance with the rules and modalities of one or more financial data sharing scheme, of which it shall be a member.

Article 10

Financial data sharing scheme governance and content

1. A financial data sharing scheme shall have the following minimum governance modalities and characteristics:

   (a) The members of a financial data sharing scheme shall include:

      (i) data holders and data users representing a significant proportion of the market of the product or service concerned, with each side having equal representation in the internal decision-making processes of the scheme as well as equal weight in any voting procedures; where a member is both a data holder and data user, its membership shall be counted equally towards both sides;

      (ii) customer organizations and consumer associations.

   (b) The rules applicable to the financial data sharing scheme members shall apply equally to all the members and there shall be no unjustified favourable or differentiated treatment between members.

   (c) The rules applicable to the financial data sharing scheme members shall ensure that the scheme is open to participation by all stakeholders and that all members shall be treated in a fair and equal manner.

   (d) A financial data sharing scheme shall not impose any controls or additional conditions for the sharing of data other than those provided in this Regulation or other applicable Union law.

   (e) A financial data sharing scheme shall include a mechanism through which its terms can be amended, following an impact analysis and the agreement of the majority of its members.

   (f) A financial data sharing scheme shall include rules on transparency and reporting, where necessary, to its members.

   (g) A financial data sharing scheme shall include the common standards for the data and the technical interfaces to allow consumers to request data sharing under Article 5(1) of this Regulation. The common standards for the data and technical interfaces that scheme members agree to use may be developed by scheme members or by other parties or bodies.

   (h) A financial data sharing scheme shall establish a methodology to determine the compensation that a data holder is entitled to charge for making data available through an appropriate technical interface for data sharing with data users in

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line with the common standards developed under paragraph (g). The methodology shall be based on the following principles:

(i) It should be limited to reasonable compensation directly related to making the data available to the data user and which is attributable to the request, in line with Article 9(1) of the proposal for a Data Act [Regulation (EU) XX],

(ii) it should be based on objective, transparent and non-discriminatory methodology agreed by the scheme members,

(iii) it should be clearly segregating the elements to be considered,

(iv) it should be calculated in a way to achieve the most efficient outcome for all scheme members,

(v) it should be periodically reviewed and monitored to take account of technological progress,

(vi) it should be devised to gear remuneration towards the lowest levels prevalent on the market, and

(vii) it should be limited to the requests for data falling under Article 2(1) of this Regulation or proportionate to the related datasets in scope in case of combined data requests.

Where the data user is a micro, small or medium enterprise, as defined in Article 2 of the Annex to Recommendation 2003/361/EC, any compensation agreed shall not exceed the costs directly related to making the data available to the data recipient and which are attributable to the request. Article 9(2) of the proposal for a Data Act [Regulation (EU) XX] shall apply accordingly.

(i) A financial data sharing scheme shall determine the contractual liability of its members, including in case the data is inaccurate, or of inadequate quality, or data security is compromised or the data are misused. In case of personal data, the liability provisions of the financial data sharing scheme shall be in accordance with the provisions in the Regulation (EU) 2016/679.

(j) A financial data sharing scheme shall provide for an independent, impartial, transparent, effective, fast and fair dispute resolution system to resolve disputes among scheme members and membership issues, in accordance with Directive 2013/11/EU.

2. Data holders shall become members of a financial data sharing scheme which complies with paragraph 1 governing access to the customer data subject to data sharing obligations under Article 5, within 18 months from the entry into force of this Regulation. In case a financial data sharing scheme is not developed for one or more categories of data listed in Article 2(1), and there is no realistic prospect of such a scheme being set up within a reasonable amount of time, the Commission may adopt a delegated act in accordance with Article 28 to supplement this Regulation and specify the modalities and characteristics of a financial data sharing scheme for that category of data, as provided in paragraph 1.

3. Membership in financial data sharing schemes shall remain open to new members on the same terms and conditions as those for existing members at any time.

4. A data holder shall communicate to its home competent authority the financial data sharing schemes it is part of, within a month from joining a scheme.

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5. A data sharing scheme set up in accordance with this Article shall be notified to the home competent authority of the three most significant data holders which are members to that scheme. Where the three most significant data holders are established in different Member States, or where there are more than one competent authorities in the home member state of the three most significant data holders, the scheme members, by simple majority, shall decide which competent authority to notify their scheme.

6. The notification in accordance with paragraph 5 shall take place within one month of setting up the financial data sharing scheme and shall include its governance modalities and characteristics in accordance with paragraph 1.

7. Within one month of receipt of the notification pursuant to paragraph 5, the competent authority shall assess whether the financial data sharing scheme's governance modalities and characteristics are in compliance with paragraph 1. When assessing the compliance of the financial data sharing scheme with paragraph 1, the competent authority may consult other competent authorities.

   Upon completion of its assessment, the competent authority shall inform the EBA of a notified financial data sharing scheme that satisfies the provisions of paragraph 1. A scheme notified to EBA in accordance with this paragraph shall be valid in all the Member States for the purpose of accessing data pursuant to Article 5(1).

TITLE V
ELIGIBILITY FOR DATA ACCESS

Article 11
Authorisation of Financial Information Service Providers

1. For authorisation to access data in accordance with Article 5, an application shall be submitted to the competent authority of the home Member State, together with the following:

   (a) a programme of operations setting out in particular the type of access to data envisaged;

   (b) a business plan including a forecast budget calculation for the first 3 financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;

   (c) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that those governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;

   (d) a description of the procedure in place to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism which takes account of the notification obligations of;

   (e) a description of business continuity arrangements including a clear identification of the critical operations, effective contingency plans and a procedure to regularly test and review the adequacy and efficiency of such plans;

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(f) a security policy document, including a detailed risk assessment in relation to its operations and a description of security control and mitigation measures taken to adequately protect its customers against the risks identified, including fraud and illegal use of sensitive and personal data;

(g) a description of the applicant's structural organization, as well as a description of outsourcing arrangements;

(h) the identity of directors and persons responsible for the management of the applicant and, where relevant, persons responsible for the management of the data access activities of the applicant, as well as evidence that they are of good repute and possess appropriate knowledge and experience to access data as determined in this Regulation;

(i) the applicant's legal status and articles of association;

(j) the address of the applicant's head office.

For the purposes of paragraphs (c), (d) and (g) of the first subparagraph, the applicant shall provide a description of its audit arrangements and the organizational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its customers and to ensure continuity and reliability in the performance of its activities.

The security control and mitigation measures referred to in point (f) of the first subparagraph shall indicate how the applicant will ensure a high level of digital operational resilience in accordance with Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations.

2. Financial information service providers shall hold a professional indemnity insurance covering the territories in which they offer services, or some other comparable guarantee, and that they ensure the following:

(a) that they can cover their liability resulting from non-authorised or fraudulent access to or non-authorised or fraudulent use of data;

(b) that they can cover the value of any excess, threshold or deductible from the insurance or comparable guarantee;

(c) that they monitor the coverage of the insurance or comparable guarantee on an ongoing basis.

Alternatively to holding a professional indemnity insurance as required in the previous sub-paragraph, a financial information service provider shall hold initial capital of EUR 50 000, which can be replaced by a professional indemnity insurance after it commences its activity as financial information service provider, without undue delay.

3. The EBA in cooperation with ESMA shall, after consulting all relevant stakeholders, develop draft implementing technical standards to establish standard forms, templates and procedures concerning:

(a) The information to be provided to the competent authority in the application for the authorization of financial information service providers, including the requirements laid down in points (a) to (j) of paragraph 1 of this Article.

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(b) The criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in paragraph 2.

The EBA, shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [XX months after entry into force of this Regulation].

Power is conferred to the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation 1093/2015.

Article 12
Granting and withdrawal of authorisation

1. A competent authority shall grant an authorisation if the information and evidence accompanying the application complies with all of the requirements laid down in Article 11, paragraphs (1), (2) and (3) and if the competent authorities' overall assessment, having scrutinised the application, is favourable. Before granting an authorisation, the competent authority may, where relevant, consult other relevant public authorities.

2. The competent authority shall grant an authorisation only to a legal person established in a Member State.

3. The competent authority shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of a financial information service provider, the financial information service provider has robust governance arrangements for its information service business, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures; those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the information services provided by the financial information service provider.

4. The competent authority shall grant an authorisation only if the laws, regulations or administrative provisions governing one or more natural or legal persons with which the financial information service provider has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, do not prevent the effective exercise of its supervisory functions.

5. The competent authority shall grant an authorisation only if it is satisfied that any outsourcing arrangements will not render the financial information service provider a letterbox entity or that they are not undertaken as a means to circumvent the provisions of this Regulation.

6. An authorisation shall be valid in all Member States and shall allow the financial information service provider concerned to have access to the data provided in Article 2, pursuant to the freedom to provide services or the freedom of establishment.

7. Within 3 months of receipt of an application or, if the application is incomplete, of all of the information required for the decision, the competent authority shall inform

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the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorization.

8. The competent authority may withdraw an authorisation issued to a financial information service provider only if the provider:

(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has ceased to engage in business for more than 6 months;

(b) has obtained the authorisation through false statements or any other irregular means;

(c) no longer meets the conditions for granting the authorisation or fails to inform the competent authority on major developments in this respect;

(d) would constitute risk to consumer protection and the security of data.

The competent authority shall give reasons for any withdrawal of an authorisation and shall inform those concerned accordingly. The competent authority shall make public the withdrawal of an authorisation.

Article 13
Register

1. The EBA shall develop, operate and maintain an electronic central register which will contain the following information:

(a) the financial information service providers that have notified their intention to access data in a Member State other than their home Member State.

(b) the authorised financial information service providers.

(c) The financial data sharing schemes agreed between data holders and data users.

2. The register shall be publicly available on its website and shall allow for easy access to and easy search for the information listed.

3. The EBA shall enter in the public register any withdrawal of authorisation of financial information service providers or termination of a financial data sharing scheme.

4. The competent authorities of member states shall communicate without delay to the EBA the necessary information to fulfil its tasks pursuant to paragraphs 1 and 3. Competent authorities shall be responsible for the accuracy of the information specified in paragraphs 1 and 3 and for keeping that information up to date. They shall, where technically possible, transmit this information to the EBA in an automated way.

TITLE VI
COMPETENT AUTHORITIES AND SUPERVISION FRAMEWORK

Article 14
Competent authorities

1. Member States shall designate the competent authorities responsible for carrying out the functions and duties provided for in this Regulation. Member States shall notify those competent authorities to the Commission.

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2. Member States shall ensure that the competent authorities designated under paragraph 1 possess all the powers necessary for the performance of their duties.

3. Member States who have appointed more than one competent authority for matters covered by this Regulation shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.

4. For financial institutions, compliance with this Regulation shall be ensured by the competent authorities specified in Article 46 of Regulation 2022/2554 with the powers granted by the respective legal acts in Article 46 of that Regulation and this Regulation.

Article 15
Powers of competent authorities

1. Competent authorities shall have all the investigatory powers that are necessary for the exercise of their functions. Without prejudice to other relevant provisions laid down in this Regulation, those powers shall include:

   (a) the power to require any natural or legal persons to provide all information that is necessary in order to carry out the tasks of the competent authorities, including information to be provided at recurrent intervals and in specified formats for supervisory and related statistical purposes;

   (b) the power to conduct all necessary investigations of any person referred to under point (a) established or located in the Member State concerned where necessary to carry out the tasks of the competent authorities, including the power to:

      (i) require the submission of documents;

      (ii) examine the data in any form, including the books and records of the persons referred to in point (a) and take copies or extracts from such documents;

      (iii) obtain written or oral explanations from any person referred to in point (a) or their representatives or staff, and, if necessary, to summon and question any such person with a view to obtaining information;

      (iv) interview any other natural person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;

      (v) subject to other conditions set out in Union law or in national law, the power to conduct necessary inspections at the premises of the legal persons and at sites other than the private residence of natural persons referred to in point (a), as well as of any other legal person included in consolidated supervision where a competent authority is the consolidating supervisor, subject to prior notification of the competent authorities concerned.

      (vi) to enter the premises of natural and legal persons in order to seize documents and data in any form where a reasonable suspicion exists that documents or data relating to the subject matter of the inspection or investigation may be relevant to prove a case of breach of provisions of this Regulation;

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(vii) to require existing recordings of telephone conversations, electronic communications or data traffic records held by investment firms, credit institutions or financial institutions regulated by this Regulation;

(viii) to require, insofar as permitted by national law, existing data traffic records held by a telecommunications operator, where there is a reasonable suspicion of a breach and where such records may be relevant to the investigation of a breach;

(ix) to request the freezing or sequestration of assets, or both; and

(x) to refer matters for criminal investigation;

(c) In the absence of other available means able to bring about the cessation or the prevention of any breach of this Regulation and in order to avoid the risk of serious harm to the interests of consumers, competent authorities shall be entitled to take any of the following measures, including by requesting a third party or other public authority to implement them:

(i) to remove content or to restrict access to an online interface or to order that a warning is explicitly displayed to customers when they access an online interface;

(ii) to order a hosting service provider to remove, disable or restrict access to an online interface;

(iii) to order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to record such deletion.

2. Competent authorities shall exercise their powers to investigate potential breaches of his Regulation, and impose administrative sanctions and other administrative measures provided for in this Regulation, in any of the following ways:

(a) directly;

(b) in collaboration with other authorities;

(c) by delegating powers to other authorities or bodies;

(d) by having recourse to the competent judicial authorities.

Where competent authorities exercise their powers by delegating other authorities or bodies according to paragraph 2, letter (c), the delegation of power shall specify the delegated tasks, the conditions under which they are to be carried out, and the conditions under which the delegated powers may be revoked. The authorities or bodies to which the powers are delegated shall be organised in such a manner that conflicts of interest are avoided. Competent authorities shall oversee the activity of the authorities or bodies to which the powers are delegated.

3. In the exercise of their investigatory and sanctioning powers, including in cross border cases, competent authorities shall cooperate effectively with each other and with the authorities from any sector concerned as applicable to each case and in accordance with national and EU law, to ensure the exchange of information and the mutual assistance necessary for the effective enforcement of administrative sanctions and administrative measures.

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Article 16

Settlement agreements and expedited enforcement procedures

1. Without prejudice to Article 17, Member States may lay down rules enabling their competent authorities to close an investigation concerning an alleged breach of this Regulation, following a settlement agreement or an expedited enforcement procedure, in order to put an end to the alleged breach and its consequences before formal sanctioning proceedings are started, or in order to achieve a swifter adoption of a decision aiming at imposing an administrative sanction or administrative measure.

2. Member States shall notify the Commission of the relevant laws, regulations and administrative provisions regulating the exercise of powers referred to in paragraph 1 and shall notify it of any subsequent amendments affecting them.

Article 17

Administrative penalties and other administrative measures

1. Without prejudice to the supervisory and investigative powers of competent authorities listed in Article 15, Member States shall, in accordance with national law, provide for competent authorities to have the power to take appropriate administrative penalties and other administrative measures in relation to at least the following infringements:

   (a) Infringements of Articles 4, 5, 6.

   (b) Infringements of Articles 7 and 8.

   (c) Infringements of Article 9 and 10.

   (d) Infringements of Article 11.

   (e) Infringements of Article 26.

2. Member States shall, in accordance with their national law, ensure that competent authorities have the power to impose at least the following administrative penalties and other administrative measures in relation to the infringements referred to in of paragraph 1, first subparagraph**,** points (a) to (e):

   (a) a public statement indicating the natural or legal person responsible and the nature of the infringement;

   (b) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;

   (c) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;

   (d) temporary suspension of the authorisation of a financial information service provider;

   ~~(e)~~ maximum administrative fines of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined, even if it exceeds the maximum amounts set out in this paragraph, point (f), as regards natural persons, or in paragraph 3 as regards legal persons;

   (f) in the case of a natural person, maximum administrative fines of up to 25 000 EUR per infringement and up to a total of 250 000 EUR per year, or, in the

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Member States whose official currency is not the euro, the corresponding value in the official currency on ... [the date of entry into force of this Regulation].

(g) a temporary ban of any member of the management body of the financial information service provider**,** or any other natural person who is held responsible for the infringement, from exercising management functions in financial information service providers;

(h) in the event of a repeated infringement of the Articles referred to in paragraph 1, a ban of at least 10 years for any member of the management body of a financial information service provider**,** or any other natural person who is held responsible for the infringement, from exercising management functions in a financial information service provider;

3. Member States shall, in accordance with their national law, ensure that competent authorities have the power to impose, in relation to infringements committed by legal persons, maximum administrative fines of:

(a) Up to 50 000 EUR per infringement and up to a total of 500 000 EUR per year, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency on ... [the date of entry into force of this Regulation];

(b) 2% of the total annual turnover of the legal person according to the last available financial statements approved by the management body;

Where the legal person referred to in the first subparagraph is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Article 22 of Directive 2013/34/EU, the relevant total annual turnover shall be the net turnover or the revenue to be determined in accordance with the relevant accounting standards, according to the consolidated financial statements of the ultimate parent undertaking available for the latest balance sheet date, for which the members of the administrative, management and supervisory body of the ultimate undertaking have responsibility.

4. Member States may empower competent authorities to impose other types of administrative sanctions and administrative measures in addition to those referred to in paragraph 2 and may provide for higher amounts of administrative pecuniary fines than those laid down in that paragraph.

Member States shall notify to the Commission the level of such higher penalties, and any subsequent amendments thereto.

Article 18
Periodic penalty payments

1. Competent authorities are entitled to impose periodic penalty payments on legal or natural persons for failure to comply with any decision, order, interim measure, request, obligation or other measure adopted in accordance with this Regulation.

Periodic penalty payment referred to in the first subparagraph shall be effective and proportionate and shall consist of a daily amount to be paid until compliance is restored. They shall be imposed for a period not exceeding six months from the date indicated in the decision imposing the periodic penalty payments.

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Competent authorities shall be entitled to impose maximum periodic penalty payments of at least:

(a) 3% to be adjusted depending on the seriousness of the breach and the needs of the sector] of the average daily turnover in the case of a legal person;

(b) 30 000 EUR to be adjusted depending on the seriousness of the breach and the needs of the sector] in the case of a natural person.

2. The average daily turnover referred to in paragraph 1, shall be the total annual turnover, divided by 365.

3. Member States may provide for higher amounts of pecuniary penalty payments than those laid down in paragraph 1.

Article 19

Circumstances to be considered when applying administrative penalties and administrative measures

1. Competent authorities shall take into account all relevant circumstances when determining the type and level of administrative sanctions or administrative measures, in order to ensure their proportionality. Those circumstances shall include, where appropriate:

(a) the gravity and the duration of the breach;

(b) the degree of responsibility of the legal or natural person responsible for the breach;

(c) the financial strength of the legal or natural person responsible for the breach, as indicated, among others, by the total annual turnover of the legal person, or the annual income of the natural person responsible for the breach;

(d) the magnitude of profits gained or losses avoided by the legal or natural person responsible for the breach, if they can be determined;

(e) the losses for third parties caused by the breach, if they can be determined;

(f) the disadvantage resulting to the legal or natural person responsible for the breach from the duplication of criminal and administrative proceedings and penalties for the same conduct;

(g) the impact of the breach on the interests of consumers.

(h) any actual or potential systemic negative consequences of the breach;

(i) the complicity or organised participation of more than one legal or natural person in the breach;

(j) previous breaches committed by the legal or natural person responsible for the breach;

(k) the level of cooperation of the legal or natural person, responsible for the breach, with the competent authority;

(l) any remedial action or measure undertaken by the legal or natural person responsible for the breach to prevent its repetition.

2. Competent authorities that use settlement agreements or expedited enforcement procedures in accordance with Article 16 shall adapt the relevant administrative

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sanctions and administrative measures laid down in Article 17 to the case concerned to ensure the proportionality thereof, in particular by considering the circumstances listed in paragraph 1.

Article 20
Professional Secrecy

1. All information exchanged between the competent authorities under this Regulation that concerns business or operational conditions and other economic or personal affairs shall be considered confidential and shall be subject to the requirements of professional secrecy, except where the competent authority states at the time of communication that such information may be disclosed or such disclosure is necessary for legal proceedings or cases covered by national taxation or criminal law**.**

2. The obligation of professional secrecy shall apply to all natural and legal persons who work or have worked for the competent authorities. Information covered by professional secrecy may not be disclosed to any other natural or legal person or authority except by virtue of Union or national legislative acts.

Article 21
Right of appeal

Decisions taken by the competent authorities pursuant to this Regulation, are properly reasoned and subject o appeal before a judicial authority.

Article 22
Publication of administrative sanctions and administrative measures

1. Competent authorities publish on their website all decisions imposing an administrative penalty or administrative measure for breach of this Regulation, and where applicable, all settlement agreements. The information published pursuant to this paragraph shall specify at least a short description of the breach, the administrative penalty or administrative measure imposed, and the identity of the person subject to the decision or, where applicable, the settlement agreement.

   Competent authorities shall publish the decision and the statement referred to in paragraphs 1 immediately after the legal or natural person subject to the decision has been notified of that decision or the agreement has been signed.

2. Where the competent authority, following a case-by-case assessment of the proportionality, considers that the publication of the identity of the legal persons, or the publication of the personal data of the natural persons, which are subject to the decisions or the settlement agreements referred to in paragraph 1, is disproportionate or jeopardises an ongoing investigation or the stability of financial markets, the competent authority shall do any of the following:

   (a) defer the publication of the decision imposing an administrative penalty or administrative measure or of the statement about a settlement agreement until the reasons for that deferral cease to exist;

   (b) publish the decision imposing an administrative sanction or administrative measure or the statement about a settlement agreement on an anonymous basis in accordance with national law, where such publication ensures the effective protection of the personal data concerned, and, where appropriate, postpone the

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publication of the relevant data for a reasonable period of time if it is expected that, within that period, the reasons for anonymous publication will cease to exist;

(c) refrain from publishing the decision imposing an administrative sanction or administrative measure or the statement about a settlement agreement, where neither the option under point (a) nor the option under point (b) is sufficient to preserve an ongoing investigation or the stability of financial markets.

3. Where the decision imposing an administrative penalty or administrative measure is subject to appeal before the relevant judicial or other authority, competent authorities shall also publish on their official website, without delay, information on the appeal and any subsequent information on the outcome of such an appeal.

4. Competent authorities shall ensure that any publication made in accordance with paragraphs 1 to 3 remains on their official website for a period of at least five years. Personal data contained in the publication shall be kept on the official website of the competent authority only for the period that is necessary in accordance with the applicable data protection rules and in any event no longer than five years.

Article 23

Reporting of breaches and protection of reporting persons

Directive (EU) 2019/1937 shall apply to the reporting of breaches of this Regulation, and to the protection of persons reporting such breaches.

Article 24

Exchange of information

1. The competent authorities of the different Member States shall cooperate with each other and other relevant competent authorities designated under Union or national law applicable to financial institutions.

2. The exchange of information between competent authorities and the competent authorities of other Member States responsible for the authorization and supervision of financial information service providers shall be allowed.

3. Where necessary, competent authorities shall cooperate with the supervisory authorities established pursuant to Regulation (EU) 2016/679.

Article 25

Settlement of disagreements between competent authorities

1. Where a competent authority of a Member State considers that, in a particular matter, cross-border cooperation with competent authorities of another Member State referred to in Article 19, 26, 27 or 28 of this Regulation does not comply with the relevant conditions set out in those provisions, it may refer the matter to the EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

2. Where EBA has been requested to assist pursuant to paragraph 1 of this Article, it shall take a decision under Article 19(3) of Regulation (EU) No 1093/2010 without undue delay. The EBA may also assist the competent authorities in reaching an agreement on its own initiative in accordance with the second subparagraph of

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Article 19(1) of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution under Article 19 of that Regulation.

TITLE VII
CROSS BORDER ACCESS TO DATA

Article 26
Application to exercise the right of establishment and freedom to provide services

1. A financial information service provider wishing to have access to data listed in Article 2(1) of this Regulation for the first time in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicate the following information to the competent authorities in its home Member State:

   (a) the name, the address and, where applicable, the authorisation number of the financial information service provider;

   (b) the Member State(s) in which it intends to have access to data listed in Article 2(1);

   (c) the type of data it wishes to have access to;

   (d) the financial data sharing schemes it is a member.

   Where the financial information service provider intends to outsource operational functions of data access to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly.

2. Within 1 month of receipt of all of the information referred to in paragraph 1 the competent authorities of the home Member State shall send it to the competent authorities of the host Member State.

   Within 1 month of receipt of the information from the competent authorities of the home Member State, the competent authorities of the host Member State shall assess that information and provide the competent authorities of the home Member State with relevant information in connection with the intended access to data by the financial information service provider in the exercise of the freedom of establishment or the freedom to provide services.

3. Upon entry in the register referred to in Article 13, the financial information service provider may commence its activities in the relevant host Member State.

4. The financial information service provider shall communicate to the competent authorities of the home Member State without undue delay any relevant change regarding the information communicated in accordance with paragraph 1, including additional entities to which activities are outsourced in the host Member States in which it operates. The procedure provided for under paragraphs 2 and 3 shall apply.

Article 27
Reasons and communication

Any measure taken by the competent authorities pursuant to Article 15 or 26 involving penalties or restrictions on the exercise of the freedom to provide services or the freedom of establishment shall be properly justified and communicated to the financial information service provider concerned.

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[TITLE VIII]
[Supervisory Data sharing]

[Article 28]
[Sharing of supervisory data]

1. [Authorities referred to in Article 2(3) may upon request or on their own initiative, share information they obtained in carrying out their duties with market participants.

2. The Authorities referred to in Article 2(3) shall, in accordance with Union and national law, safeguard the protected nature of data, by sharing information they obtained in carrying out their duties only once they have ensured that the information has been:

   (a) anonymised in the case of personal data, and;

   (b) modified, aggregated or treated by any other method of disclosure control to protect commercially confidential information, including trade secrets or content covered by intellectual property rights.

3. Information received from the competent authority of another Member State shall only be shared with the express agreement of the authority that shared the information.

4. The Commission shall establish a single European information point offering a searchable electronic register of relevant information available from individual competent authorities. This single access point will be hosted on the EU Digital Finance Platform and consist of links to the respective information hosted on the individual competent authorities' websites to the extent that it is published there.]

[Article 29]
[Information exchange between authorities]

1. [Authorities referred to in Article 2(3) shall share, on a case-by-case or regular basis, information they obtained in carrying out their duties with any of the other aforementioned authorities which request it and have the power to obtain such information from reporting entities pursuant to Union law. The request for exchange of information shall duly indicate the legal basis under Union law allowing the requesting authority to obtain the information from reporting entities. The information received shall be subject to the obligation of professional secrecy and data protection provisions under Union law applicable to both the sharing and recipient authority.

2. The obligation set out in paragraph 1 shall apply also in relation to processed information where the sharing authority has received the information from another authority referred to in paragraph 1 and has subsequently performed quality checks or otherwise processed it.

3. For the purposes of regular information sharing in accordance with paragraphs 1 and 2, authorities may enter into memoranda of understanding to specify the modalities of the exchange of information. They may also specify arrangements for the sharing of resources for the collection and processing of such shared data.

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4. Without prejudice to other obligations laid down in Union law for sharing information with the Commission, the authorities and institutions referred to in paragraph 1 shall upon request share information with the Commission, on a case-by-case basis, that they have obtained pursuant to national or Union law and that is needed for the purposes of the Commission to carry out impact assessments of legislative or non-legislative initiatives, or of implementing or delegated acts, or evaluations of existing legislation. The information shall be transmitted to the Commission in aggregate form or with other arrangements that do not allow the identification of individual entities.

5. The provisions in this Article shall not prevent or restrict the exchange of information between the authorities referred to in paragraph 1 in accordance with provisions in other Union legislation. Where the provisions in this Article conflict with provisions in other Union legislation that frame the exchange of information between the authorities referred to in paragraph 1, the provisions in such other Union legislation shall prevail.]

TITLE IX

FINAL PROVISIONS

Article 30
Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt a delegated act referred to in Article 10(2), shall be conferred on the Commission for a period of XX months from … [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the XX-month period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in Article 10(2), may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 10(2), shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That

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period shall be extended by three months on the initiative of the European Parliament or of the Council.

Article 31
Review clause

1. By four years after the date of entry into application of this Regulation, the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council as well as to the European Economic and Social Committee. That evaluation shall assess, in particular:

    (a) other categories or sets of data to be made accessible;

    (b) the exclusion from the scope of certain categories of data and entities;

    (c) changes in contractual practices of data holders and data users, the operation of financial data sharing schemes and whether this results in sufficient compliance with Title IV;

    (d) the inclusion of other types of entities to those entities granted the right of access to data.

    (e) the impact of compensation on the ability of SMEs to participate in financial data sharing schemes and access data from data holders.

2. By four years after the date of entry into force of this Regulation, the Commission shall submit a report to the European Parliament and the Council assessing the conditions for access to financial data applicable to account information service providers under this Regulation and under Directive (EU) 2015/2366(EU). The report shall be accompanied, if deemed appropriate, by a legislative proposal.

Article 32
Amendment to Regulation (EU) 1093/2010

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

* Directive 2008/48/EC Of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

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

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*** Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

**** Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

***** Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

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

*******Regulation (EU) 2023/... of the European Parliament and of the Council of ... on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L ..., ..., p.).

******** Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1095/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).

********* Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).'

Article 33

Amendment to Regulation (EU) 1094/2010

In Article 1(2) of Regulation (EU) 1094/2010, the first subparagraph is replaced by the following:

'The Authority shall act within the powers conferred by this Regulation and within the scope of Regulation (EU) 2024/…/EU (1), Directive 2009/138/EC with the exception of Title IV thereof, of Directive 2002/87/EC, Directive (EU) 2016/97 (2) and Directive (EU) 2016/2341 (3) of the European Parliament and of the Council, and, to the extent that those acts apply to financial information services providers, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision and insurance intermediaries, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.'

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1. Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010, (EU) 1094/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).
2. Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).
3. Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

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Article 34
Amendment to Regulation (EU) 1095/2010

In Article 1(2) of Regulation (EU) 1095/2010, the first subparagraph is replaced by the following:

'The Authority shall act within the powers conferred by this Regulation and within the scope of Directives 97/9/EC, 98/26/EC, 2001/34/EC, 2002/47/EC, 2004/109/EC, 2009/65/EC, Directive 2011/61/EU of the European Parliament and of the Council*, Regulation (EC) No 1060/2009 and Directive 2014/65/EU of the European Parliament and of the Council**, Regulation (EU) 2017/1129 of the European Parliament and of the Council***, Regulation (EU) 2023/…of the European Parliament and of the Council**** Regulation (EU) 2024/… of the European Parliament and of the Council***** and to the extent that those acts apply to firms providing investment services or to collective investment undertakings marketing their units or shares, issuers or offerors of crypto-assets, persons seeking admission to trading or crypto-asset service providers, financial information service providers and the competent authorities that supervise them, within the relevant parts of, Directives 2002/87/EC and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.

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

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

*** Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

**** Regulation (EU) .../... of the European Parliament and of the Council of ... on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L ..., ..., p.).'

***** Regulation (EU) 2024/… of the European Parliament and of the Council of … on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010 and (EU) 2022/2554 and Directive (EU) 2019/1937 (OJ L ..., ..., p.).

Article 35
Amendment to Regulation (EU) 2022/2554

In Article 2(1) of Regulation (EU) 2022/2554, the punctuation mark "." in point (u) is replaced by ";" and the following point (v) is added:

"(v) financial information service providers."

Article 36
Amendment to Directive (EU) 2019/1937 and transposition

In Part I, point B of the Annex to Directive (EU) 2019/1937, the following point is added:

'(xxiii) [Regulation (EU) XXX of the European Parliament and of the Council [Financial Data Access].'

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Member States shall adopt and publish, by … [18 months after the date of entry into force of this Regulation], the laws, regulations and administrative provisions necessary to comply with paragraph 1.

Article 37
Entry into force and application

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

It shall apply from [24 months after the date of entry into force of this Regulation]. Title IV shall apply from [18 months after the date of entry into force of this Regulation].

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

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