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From:	General Secretariat of the Council
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554 - *Mandate for negotiations with the European Parliament*

2023/0205 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) A responsible data economy, which is driven by the generation and use of data, is an integral part of the Union internal market that can bring benefits to both Union citizens and the economy. Digital technologies relying on data are increasingly driving change in financial markets by producing new business models, products and ways for firms to engage with customers.

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

(3) The Union has a stated policy interest in enabling access of customers of financial institutions to their financial data. The Commission confirmed in its communication on a digital finance strategy and Communication on a capital markets union adopted in 2021 an intention to put in place a framework for financial data access to reap the benefits for customers of data sharing in the financial sector. Such benefits include the development and provision of data-driven financial products and financial services, made possible by the sharing of customer data.

(4) Within financial services, and as a result of the revised Directive (EU) 2015/2366 of the European Parliament and of the Council[5], the sharing of payments account data in the Union based on customer permission has begun to transform the way consumers and businesses use banking services. In order to build upon the measures in that Directive, a regulatory framework should be established for the sharing of customer data across the financial sector beyond payment account data. This should also be a building block for fully integrating the financial sector into the Commission's strategy for data[6] which promotes data sharing across sectors.

(5) Ensuring customer control and trust is imperative to build a well-functioning and effective data sharing framework in the financial sector. Ensuring effective customers' control over data sharing contributes to innovation as well as customer confidence and trust in data sharing. As a result, effective control helps overcome customer reluctance to share their data. Under the current Union framework, the data portability right of a data subject in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council[8] is limited to personal data and can be relied upon only where it is technically feasible to port the data. Customer data and technical interfaces in the financial sector beyond payment accounts are not standardised, rendering data sharing more costly. Further, the financial institutions are only legally obliged to make the payment data of their customers available.

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

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

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

(9) **The personal and non-personal customer** data included in the scope of this Regulation **only refers to** ~~should be considered as~~ **raw data that occurs as a result of normal course of business between data holders and customers. It should not include confidential business data or trade secrets, nor data enriched internally by the data holder. It** should demonstrate high value added for financial innovation as well as low financial exclusion risk for consumers. This Regulation should therefore not cover data related to the sickness and health insurance of a consumer in accordance with Directive 2009/138/EC of the European Parliament and of the Council[10] as well as data on life insurance products of a consumer in accordance with Directive 2009/138/EC other than life insurance contracts covered by insurance-based investment products. This Regulation should also not cover data collected as part of a creditworthiness assessment of a consumer. ~~The sharing of customer data in the scope of this Regulation should respect the protection of confidential business data and trade secrets.~~

-The sharing, access to and use of customer data in the scope of this Regulation should respect the protection of confidential business data and trade secrets within the meaning of Directive (EU) 2016/943 of the European Parliament and of the Council. The handling of customer data covered by this Regulation ~~shall~~ should at all times be consistent with the purpose of this Regulation and ~~shall~~ should not result in the collection, aggregation or processing of raw data by data users in a manner, including but not limited to the use of mathematical and methodological approaches, which could be used for reverse engineering purposes of the business, pricing or risk management processes, methods or techniques of the data holder or to obtain unlawfully its business data and confidential trade secrets.

(9a) The availability of data collected over a very long period of time may raise specific issues. Providing data that can be up to several decades old may lead to very significant costs for data holders as this will require specific technological developments that will either not be covered by the compensation negotiated by financial data sharing schemes, or lead to compensation so high that the sharing of data will become economically disadvantageous ~~for consumers~~. In order to ensure that such a limitation remains related to actual market demand and implementation costs, this regulation should set a minimum period of time the data should cover and allow flexibility for a financial data sharing scheme to extend the period of time covered by the data shared. This limitation should not apply to data related to the terms and conditions of the underlying contract related to the financial products and services that are in scope, such as pricing or coverage, but should cover for instance transactions or claims data for a given product or service. Sharing of data should not concern fulfilled or terminated contracts related to financial products and services of a customer, which should refer to a contract where contractual obligations have legally ended and the parties involved have satisfactorily completed or been released from their respective obligations as stipulated in contract.

(10) The sharing of the customer data in the scope of this Regulation should be based on the permission of the customer. **Where more than one customer is a contractual party of a provider of a ~~customer data category~~ financial service or product covered by this Regulation, notably a joint account, joint credit agreement, or a joint financial instrument, the data user ~~sharing of the relevant customer data~~ should require the permission of all the customers concerned. ~~This should not concern financial products or services in scope which are the product of compulsory membership or collective bargaining agreements, such as data related to occupational pension rights~~. Personal data on uninvolved third parties who are ~~natural persons~~ data subjects other than the customer should be excluded from data sharing under this Regulation. The~~is~~ permission granted by the customer should comply with certain requirements to ensure that the customers are aware of the extent of the data sharing they are allowing. For this purpose, the permission should be freely given, specific, limited in time, separated from possible other declaration or text and it ~~shall~~ should clearly state the purposes for which the data will be accessed and by which data users. ~~The time limit should be determined in financial data sharing schemes.~~** The legal obligation on data holders to share customer data should be triggered once the customer has requested their data to be shared with a data user.

This request can be submitted by a data user acting on behalf of the customer. In this case, the data users will have to demonstrate they have obtained the permission from the customer to access customer data. ~~This Regulation sets out rules on gatekeepers designated pursuant to Article 3 of Regulation (EU) 2022/1925. These rules apply to data holders and data users that are gatekeepers, or are owned or controlled by gatekeepers to ensure that gatekeepers do not circumvent these rules. A data holder and data user that is a gatekeeper or that is owned or controlled by a gatekeeper should be subject to a special assessment by the national competent authority of its registered office, after a consultation of the ESAs and the European Commission, to ensure its eligibility under this Regulation. Gatekeepers should not engage in behaviour that would undermine the effectiveness of the prohibitions and obligations laid down in this Regulation.~~

Where the processing of personal data is involved, a data user should have a valid lawful basis for processing under Regulation (EU) 2016/679. The customers data can be processed for the agreed purposes in the context of the service provided. The processing of personal data must respect the principles of personal data protection, including lawfulness, fairness and transparency, purpose limitation and data minimisation. A customer has the right to withdraw the permission given to a data user **at any time. The act of withdrawal ~~shall~~ should be free of charge, with the exception of ~~but~~ indirect costs that could be incurred due to the termination of contractual agreements. Contractual agreements should not be drafted in a way that would encourage or unduly influence the customer to retain or to withdraw its permission.** When data processing is necessary for the performance of a contract, a customer should be able to withdraw permissions according to the contractual obligations to which the data subject is party. When personal data processing is based on consent, a data subject has the right to withdraw his or her consent at any time, as provided for in Regulation (EU) 2016/679.

(10a) This Regulation ~~sets out~~ contains rules on gatekeepers designated pursuant to Article 3 of Regulation (EU) 2022/1925. These rules apply to data holders and data users, including entities that apply for authorisation in accordance with Article 12, that are gatekeepers, or are owned or controlled by gatekeepers to ensure that gatekeepers do not circumvent these rules. A data holder and data user, including entities that apply for authorisation in accordance with Article 12, that is a gatekeeper or that is owned or controlled by a gatekeeper should be subject to a special assessment by the national competent authority of its registered office, after a consultation of the ESAs and the European Commission, to ensure its eligibility under this Regulation. Gatekeepers should not engage in behaviour that would undermine the effectiveness of the prohibitions and obligations laid down in this Regulation.

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

(12) Customer data on balance, conditions or transaction details related to mortgages, loans and savings can enable customers to gain a better overview of their deposits and better meet their savings needs based on credit data. This Regulation should cover customer data beyond payment accounts defined in Directive (EU) 2015/2366. Credit accounts covered by a credit line which cannot be used for the execution of payment transactions to third parties should be within the scope of this Regulation. It should therefore be understood that this Regulation covers the access to the balance, conditions or transaction details related to mortgage credit agreements, loans, and savings accounts as well as the types of accounts not falling withing the scope of the Directive (EU) 2015/2366[12].

(12a) To ensure the right of investment firms, insurance undertakings, insurance intermediaries, crowdfunding service providers and crypto-asset service providers to protect undisclosed know-how and business information when distributing investment products, the scope of the obligation to share customer data under this Regulation should be limited to data that has been collected from the customer by the financial institution in order to comply with the regulatory obligation to perform a suitability and appropriateness assessment in accordance with Article 25 of Directive 2014/65/EU, Article 30 of Directive (EU) 2016/97 and Article 81(1) of Regulation (EU) 2023/1114, or an entry knowledge test in accordance with Regulation (EU) 2020/1503. This is limited to data collected from the customer by the financial institution for the purposes of assessing the customer's knowledge and experience, financial situation, and investment objectives, as provided for in those provisions. This does not include the result of the suitability or appropriateness assessment itself made by the financial institution on the basis of the data collected from the customer, the suitability report given to a customer, or any analysis or preparatory work for the purposes of such report. These should be excluded from the scope of this regulation.

(13) The customer data included in the scope of this Regulation **may include information which could be shared to enable a customer to have more efficient access to products and services aligned with environmentally sustainable activities, in line with the Commission's strategy for financing the transition to a sustainable economy. This includes the sharing of available data needed to access sustainable finance and data related to a customer's sustainability preferences. Sustainability preferences refer to a customer's choice to invest in environmentally sustainable financial products. This should include sustainability preferences of a customer collected by insurance intermediaries and insurance undertakings distributing insurance-based investment products as defined in Article 2(4) of Commission Delegated Regulation (EU) 2021/1257, and sustainability 5 preferences collected by investment firms as defined in Article 2(7) of Delegated Regulation (EU) 2017/565.** ~~should include sustainability-related information that should enable customers to more easily access financial services that are aligned with their sustainability preferences and sustainable finance needs, in line with the Commission's strategy for financing the transition to a sustainable economy[13]. Access to data relating to sustainability which may be contained in balance or transaction details related to a mortgage, credit, loan and savings account, as well as access to customer data relating to sustainability held by investment firms, can contribute to facilitating access to data needed to access sustainable finance or make investments into the green transition.~~ Moreover, customer data in the scope of this Regulation should include data which forms part of a creditworthiness assessment related to firms, including small and medium sized enterprises, and which can provide greater insight into the sustainability objectives of small firms. The inclusion of data used for the creditworthiness assessment related to firms should improve access to financing and streamline the application for loans. Such data should be limited to data on firms **that is collected by data holders from the firms to perform the creditworthiness assessment and should not include the output of the creditworthiness assessment itself,** and should not infringe intellectual property rights.

(14) **For the purposes of this Regulation, a 'customer~~consumer~~' in the context of insurance means an insured person or policyholder, excluding a third-party ~~beneficiary.~~** Customer data related to the provision of non-life insurance are essential to enable insurance products and services important to the needs of customer like the protection of homes, vehicles, and other property. At the same time, the collection of such data is often burdensome and costly and can act as a deterrent against seeking optimal insurance coverage by customers. To address this problem, it is therefore necessary to include such financial services within the scope of this Regulation. Customer data on insurance products within scope of this Regulation should include both insurance product information such as detail on an insurance coverage and data specific to the ~~consumers'~~ **customers'** insured assets which are collected for the purposes of a demands and needs test. **Customer data within scope should include data on losses and claims associated with the non-life insurance products of a customer. This regulation is without prejudice to national obligations related to data sharing for public interest purposes, including on fraud prevention. Data that directly relate to personal injury of a natural person as an injured party, such as insurance compensation paid out in respect to injury as part of a non-life insurance product, should ~~however~~ be excluded from the scope of this Regulation.** -

The sharing of ~~such~~ **customer** data **related to the provision of non-life insurance** should allow for the development of personalised tools for customers, such as insurance dashboards that could help ~~consumers~~ **customers** better manage their risks. It could also help customers to obtain products that are better targeted to their demands and needs, including through more valuable advice. This can contribute to more optimal insurance coverage for customers and increased financial inclusion of otherwise underserved consumers, by offering new or increased coverage. Moreover, the sharing of insurance data can be beneficial for more efficient supply of insurance including, in particular, at the stages of product design, underwriting, contract execution, including claims management, and risk mitigation.

(15) The sharing of data on personal pension savings has strong innovative potential for consumers. More efficient access to data on personal pensions savings can also help to better link long-term savers with retirement-related investments and enhance the integration of the internal market for personal pensions. Personal pension savers often lack sufficient knowledge about their overall personal pension entitlements, which is related to the fact that data on such savings are often dispersed across different data holders. Access to data on personal pensions savings can help to better understand an individuals' financial situation and needs. This allows for better investment decisions and improved asset allocation to be made by individuals. ~~**To avoid duplicative data management costs, data holders that contribute to existing national pension tracking schemes should be permitted to use existing technical interfaces and common standards that have already been developed as part of these schemes in order to fulfil the obligations under this Regulation.**~~

(15a) Pension rights held by officially recognised occupational pension schemes form an important part of a consumer's financial profile. Access to data on pension rights could provide a more holistic overview of an individual's saving situation and enable licensed financial firms to provide better investment advice to their clients, without interfering with their membership in occupational pension schemes. **A Member State may, where it deems this to be appropriate, apply this Regulation to consumer data on pension rights in officially recognised occupational pension schemes in accordance with Directive 2009/138/EC and Directive (EU) 2016/2341 of the European Parliament and of the Council.** 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. **Where a Member State adopts a decision, that decision should apply to both institutions for occupational retirement provision and to insurance undertakings which are authorised in their territories to operate occupational retirement provision business. This Regulation should then apply to these institutions when acting as data holders or data users. To ensure effective information and communication technology ~~ICT~~ risk management, a Member State should only apply such a decision to entities that are subject to the requirements of Regulation (EU) 2022/2554 of the European Parliament and of the Council. For reasons of transparency, that decision on the application of this Regulation to consumer data on pension rights in officially recognised occupational pension schemes should be notified to the European Commission and made available in an electronic central register.** The inclusion of data on pension rights held by occupational pension schemes 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.

(15b) For the purposes of this Regulation, a 'consumer' in the context of occupational and personal pensions should be understood as an existing member or beneficiary ~~of an occupational pension scheme~~. A prospective member should not be considered a 'consumer'. To avoid duplicative data management costs, data holders that contribute to existing national pension tracking schemes should be permitted to use existing technical interfaces and common standards that have already been developed as part of these schemes in order to fulfil the obligations under this Regulation.

(16) Data which forms part of a creditworthiness assessment of a firm in the scope of this Regulation should consist of information which a firm provides to institutions and creditors as part of the loan application process or a request for a credit rating. This includes loan applications of micro, small, medium and large enterprises. It may include data collected by institutions and creditors as set out in Annex II of the European Banking Authority Guidelines on loan origination and monitoring[15]. Such data may include financial statements and projections, information on financial liabilities and arrears in payment, evidence of ownership of the collateral, evidence of insurance of the collateral and information on guarantees. Additional data may be relevant if the purpose of the loan application relates to the purchase of commercial real estate or real estate development.

(17) As this Regulation is meant to oblige financial institutions to provide access to defined categories of data at the request of the customer when **financial institutions act** ~~acting~~ as data holders, and allow the sharing of data based on customer permission when financial institutions act as data users, it should provide a list of the financial institutions that may act as either a data holder, a data user or both. Financial institutions should therefore be understood to mean those entities that provide financial products and financial services or offer relevant information services to customers in the financial sector. **A financial institution that intends to act as a data user, should notify its home competent authority of its intention, with a short description of its programme of operations.**

(18) Practices employed by data users to combine new and traditional customer data sources in the scope of this Regulation must be **in the best interest of the customer and** proportionate to ensure that they do not lead to financial exclusion risks for consumers. Practices that lead to a more sophisticated or comprehensive analysis of certain vulnerable segments of consumers, such as persons with a low income, may increase the risk of unfair conditions or differential pricing practices like the charging of differential premiums. The potential for exclusion is increased in the provision of products and services that are priced according to the profile of a consumer, notably in credit scoring and the assessment of creditworthiness of natural persons as well for products and services related to the risk assessment and pricing of natural persons in the case of life and health insurance. Given the risks, the use of data for these products and services should be subject to specific requirements to protect consumers and their fundamental rights ~~.~~ **and freedoms and has to be in line with the Regulation 2016/679 (GDPR)** ~~**legislation on the protection of personal data.**~~

(19) The data use perimeter thus established in this Regulation and in the accompanying guidelines ('the guidelines') to be developed by the European Banking Authority (EBA), and the European Insurance and Occupational Pensions Authority (EIOPA), **and, where appropriate** ~~**potentially,**~~ **the European Securities Market Authority (ESMA)** should provide a proportionate framework on how personal data related to a consumer that falls within the scope of this Regulation should be used **in order to avoid consumer harm**. The data use perimeter ensures consistency between the scope of this Regulation, which excludes data **collected as part of** ~~that forms part of~~ a creditworthiness assessment of a consumer as well as data related to life, health and sickness insurance of a consumer, and the scope of the guidelines, which set recommendations on how types of data originating from other areas of the financial sector that are in scope of this Regulation can be used to provide these products and services. The guidelines developed by the EBA should set out how other types of data that are in scope of this Regulation can be used to assess the credit score of a consumer. The guidelines developed by EIOPA should set out how data in scope of this Regulation can be used in products and services related to risk assessment and pricing in the case of **life and non-life** ~~**, health and sickness**~~ insurance products. **The guidelines shall include provisions on how data may be used to avoid excessive granularity that would undermine the "risk sharing" principle of insurance.** ~~**The guidelines developed by EBA, EIOPA, and potentially ESMA should may set out how types of data that are in scope of this Regulation can be used for other products and services other than those mentioned above where it concludes this to be necessary for the protection of customers.**~~ The guidelines should be developed in a manner that is aligned to the needs of the consumer and proportionate to the provision of such products and services**.**

These guidelines should take into account the information requirements for financial services and products established in relevant Union law, including the requirements under Directive 2023/2225. Member States should be able to maintain national provisions related to information requirements which are in conformity with Union law. This includes additional criteria and methods to assess a consumer's creditworthiness introduced by Member States, in accordance with Directive 2023/2225. ~~**The guidelines developed by EBA, EIOPA, and potentially ESMA should**~~ **The ESAs may** ~~**set out**~~ **develop guidelines on how- types of data that are in scope of this Regulation can be used for other products and services other than those mentioned above where it concludes this to be necessary for the protection of customers.**

(19a) This Regulation is without prejudice to national obligations related to natural disaster insurance that aims to ensure widespread and effective cover for property loss or damage caused by natural disasters. The EIOPA and EBA guidelines should also assess how data in scope of this Regulation that are related to natural disaster and climate risks, such as data related to damages caused on material goods by climate hazards, can be used in products and services related to a risk assessment and pricing of products.

(20) ~~EBA, **ESMA** and EIOPA~~**The ESAs** should closely cooperate with the European Data Protection Board when drafting the guidelines. **The guidelines**~~, which~~ should **be developed in accordance with** ~~build on~~ existing **obligations** ~~recommendations~~ on the use of consumer information in the area of consumer and mortgage credit, notably the rules on use of creditworthiness assessment under Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, the European Banking Authority's Guidelines on loan origination and monitoring, and the European Banking Authority guidelines on creditworthiness assessment developed under Directive 2014/17/EU, as well guidelines provided by European Data Protection Board on the processing of personal data.

(21) Customers must have effective control over their data and confidence in managing permissions they have granted in accordance with this Regulation. Data holders should therefore be required to provide customers with common and consistent financial data access permission dashboards. **Where the customer data to be shared concerns several customers, which are party of a joint account, joint credit agreement, or a joint financial instrument, the data holders should put in place the necessary mechanisms to allow separate permission dashboards for individual customers, where relevant. The design of the relevant interface, should enable each customer to have access to ~~the~~ their data. Permission dashboards should allow each customers to delete their data related to them and could allow each customer to withdraw data access, use or sharing.** The permission dashboard should empower the customer to manage their permissions in an informed and impartial manner and give customers a strong measure of control over how their personal and non-personal data is used. It should not be designed in a way that would encourage or unduly influence the customer to grant or withdraw permissions. The permission dashboard should take into account, where appropriate, the accessibility requirements under Directive (EU) 2019/882 of the European Parliament and of the Council[19]. When providing a permission dashboard, data holders could use a notified electronic identification and trust service, such as a European Digital Identity Wallet issued by a Member State as introduced by the proposal amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity[20]. Data holders may also rely on data intermediation service providers under Regulation (EU) 2022/868 of the European Parliament and of the Council[21], to provide permission dashboards that fulfil the requirements of this Regulation. **Different data holders may collectively provide a permission dashboard to a single customer, provided that such a collective permission dashboard fulfils all the requirements set out in this Regulation.**

(22) The permission dashboard should display the permissions given by a customer, including when personal data are shared based on consent or are necessary for the performance of a contract. The permission dashboard should warn a customer in a standard way of the risk of possible contractual consequences of the withdrawal of a permission, but the customer should remain responsible for managing such risk. The permission dashboard should be used to manage existing permissions. **Provided the customer requests it, a single permission dashboard should be used to manage data permissions pursuant to this Regulation and Regulation (EU) .../.... [PSR~~D3~~].** Data holders should inform data users in real-time of any withdrawal of a permission. The permission dashboard should include a record of permissions that have been withdrawn or have expired for a period of up to two years to allow the customer to keep track of their permissions in an informed and impartial manner. Data users should inform data holders in real-time of new and re-established permissions granted by customers, including the duration of validity of the permission and a short summary of the purpose of the permission. The information provided on the permission dashboard is without prejudice to the ~~information~~ requirements under Regulation (EU) 2016/679~~.~~**, in particular the information requirements. Financial data sharing schemes should agree on common requirements to demonstrate that a data user has obtained the permission of the customer access their data. Such requirements will avoid excessive complexity or burden for data users while also giving data holders assurances that permission of a customer has been securely obtained.**

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

(24) This Regulation introduces a new legal obligation on financial institutions acting as data holders to share defined categories of data at request of the customer **or a data user acting on behalf of a customer**. **Sharing of the data within the scope of the regulation is not exclusive to the framework created in this regulation. Data holders are therefore not prevented to share data through other means than the framework in this regulation.** The obligation on data holders to share data at the request of the customer should be specified by ~~**making available generally recognised**~~ **common** standards to also ensure that the data shared is of a sufficiently high quality. The data holder should make customer data available continuously for the purposes and under the conditions for which the customer has granted permission to a data user. It could consist of multiple requests to make customer data available to fulfil the service agreed with the customer. It could also consist of a one-off access to customer data.

The obligation of a data holder to make customer data available in real-time concerns the rate of access at which data should be transmitted to a customer or a data user. Customer data should be made available in the state that it is held by the data holder at the time access is requested by a data user. Real-time access should not oblige a data holder to instantly update an account, policy or contract of a customer. The obligation to make the information available without undue delay aims at preventing interruptions of data flows from the data holder. The appropriate level of security in the processing and transmission of customer data that the data holder and the data user haves to ensure refers to the obligations provided by Regulation (EU) 2022/2554 ~~for in DORA~~. Data sharing under ~~FIDA~~ this Regulation should only be possible between data holders and data users, if they comply with the requirements set out in Regulation (EU) 2022/2554.

Data holders and data users should also set up security control and mitigation measures to adequately protect their customers against fraud. While the data holder is responsible for the interface to be available and for the interface to be of adequate quality, the interface may be provided not only by the data holder but also by another financial institution, an external IT provider, an industry association or a group of financial institutions, or by a public body in a member state. For institutions for occupational retirement provisions, the interface can be integrated into pension dashboards that cover a broader range of information, as long as it complies with the requirements of this Regulation. **The obligation of a data user to delete customer data when it is no longer necessary for the purposes for which permission has been given is without prejudice to existing legal obligations in the Union law, such as those in Regulation (EU) 2024/1624.**

(25) In order to enable the contractual and technical interaction necessary ~~**for implementing**~~ **to ensure high quality** data access between multiple financial institutions, data holders and data users should be required to be part of financial data sharing schemes. These schemes should develop data and interface standards, joint standardised contractual frameworks governing access to specific datasets, and governance rules related to data sharing. **A financial data sharing scheme should include common standards for the data and the technical interfaces to make data sharing more efficient. Considering the costs involved in implementing common standards and their impact on the level of compensation, members of a financial data sharing scheme are free to agree on the appropriate level of standardisation, including the granularity of standardisation of data points in each data category in scope covered by the scheme. Scheme members are allowed to use existing market standard to comply with the legal obligations to share data.** In order to ensure that schemes function effectively, it is necessary to establish general principles for the governance of these schemes, including rules on inclusive governance and participation of data holders, data users and customers (to ensure balanced representation in schemes), transparency requirements, and a well-functioning appeal and review procedure (notably around the decision-making of schemes). Financial data sharing schemes must comply with Union rules in the area of consumer protection and data protection, privacy, and competition. The participants in such schemes are also encouraged to draw up codes of conduct similar to those prepared by controllers and processors under Article 40 of Regulation (EU) 2016/679. While such schemes may build upon existing market initiatives, the requirements set out in this Regulation should be specific to financial data sharing schemes or parts thereof which market participants use to fulfil their obligations under this Regulation after the data of application of these obligations. **Once an agreement on the appropriate level of standardisation have been reached, it applies to all members of the scheme.**

(25a) Consumer associations and customer organisations in financial data sharing schemes should represent the interests of customers who make use of financial products and services. For the purposes of this regulation, a consumer association should mean an entity which is independent of industry, commerce or business that operates in favour of the interests of retail or non-professional consumers. A consumer association should have no conflicting interests and should represent through its members the interests of retail or non-professional consumers in the area of financial services. A customer association should mean an entity that represents the interests of professional customers that are legal persons who make use of financial products and services. The competent authority that is designated to assess whether a financial data sharing scheme is in compliance with the obligations under this regulation should take into consideration the participation of relevant consumer associations and customer organisations, since these organisations ~~to~~ ensure that the interests of all customers are represented in a financial data sharing scheme.

(26) A financial data sharing scheme should consist of a collective contractual agreement between data holders and data users with the objective of promoting efficiency and technical innovation in financial data sharing to the benefit of customers. **While several schemes may arise for a given product or service in a given geographical market, it is expected for the sake of efficiency that the number of those schemes will be limited; . The ESAs should adopt guidelines to provide ~~a~~ criteria~~on~~ based on which members ~~on which the members~~ of the financial data sharing scheme and the national competent authorities can assess whether data holders and data users represent a significant proportion of the market. This should take into account the number of customers served for a given product or service in a given geographic market and ~~data holders of a given scheme~~ should aim to ~~together~~ represent at least 25% of the customers served for the given product or service in the given geographical market. The number of customers served must also be a key metric to determine the three most significant data holders of a scheme.** In line with Union rules on competition, a financial data sharing scheme should only impose on its members restrictions which are necessary to achieve its objectives and which are proportionate to those objectives. It should not afford its members the possibility of preventing, restricting or distorting competition in respect of a substantial part of the relevant market.

(27) In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the modalities and characteristics of a financial data sharing scheme in case a scheme is not developed by the data holders and the data users. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[23]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(28) **Common standards are a set of specifications that apply to both customer data and technical interfaces to enable access to data in scope by electronic means.** Data holders and data users should be allowed to use existing market**-driven** standards when developing common standards for mandatory data sharing. **Such standards should be agreed in the context of the financial data sharing schemes. In the absence of a financial data sharing schemes, the Commission is empowered to adopt a delegated act.**

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

(30) Customers should know what their rights are in case problems arise when data is shared and who to approach to seek compensation. Financial data sharing scheme members, including data holders and data users, should therefore be required to agree on the contractual liability for data breaches as well as how to resolve potential disputes between data holders and data users regarding liability. Those requirements should focus on establishing, as part of any contract, liability rules as well as clear obligations and rights to determine liability between the data holder and the data user. Liability issues related to the consumers as data subjects should be based on Regulation (EU) 2016/679, notably the right to compensation and liability under Article 82 of that Regulation.

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

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

(33) In order to enable effective supervision and to eliminate the possibility of evading or circumventing supervision, financial information service providers must **only be ~~provided by~~ legal persons and other undertakings that are established ~~have registered office~~ in a Member State~~s~~ in which they intend to carry out or do carry out ~~substantive~~ at least part of their business activities in order to ensure that the entity is not created to circumvent the requirements of this Regulation.~~.~~ ~~be either legally incorporated in the Union or in case they are incorporated in a third country appoint a legal representative in the Union~~**. An effective supervision by the competent authorities is necessary for the enforcement of requirements under this Regulation to ensure integrity and stability of the financial system and to protect consumers. The requirement of legal incorporation of financial information service providers in the Union ~~**or the appointment of a legal representative in the Union**~~ does not amount to data localisation since this Regulation does not entail any further requirement on data processing including storage to be undertaken in Union.

(34) A financial information service provider should be authorised in the jurisdiction of the Member State where its main establishment is located, that is, where the financial information service provider intends **to carry out ~~substantive~~ at least part of its business activities and where it** has its head office or registered office within which the principal functions and operational control are exercised **in order to ensure that the entity is not created to circumvent the requirements of this Regulation.**. ~~**In respect of financial information service providers that do not have an establishment in the Union but require access to data in the Union and therefore fall within the scope of this Regulation, the Member State where those financial information service providers have appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation.**~~]

(34a) The establishment of a genuine, efficient, and functioning framework for financial data sharing in the EU requires the introduction of specific rules and obligations. ~~governing the access the EU market.~~ Access to c~~C~~ustomer data held by financial institutions, ~~to be shared among Financial Data Sharing Scheme members concerns highly sensitive financial information,,~~ which includes data directly linked to financial services and products of customers ~~and the customer base of EU financial entities~~ should be effectively supervised in order to safeguard the integrity of financial markets. Effective supervision is an essential element to~~. The data is important from the perspective of~~ protection of depositors, investors and policyholders~~, and could entail specific~~ from financial or prudential risks that may otherwise impair the confidence of customers to whom a fiduciary duty is owed. The need for the competent authority to ensure compliance in accordance with the obligations set out in this Regulation should not be jeopardised by difficulties ~~r~~caused by ~~Furthermore, maintaining a robust ICT-risk management framework for the data users is a precondition to access to customer data and provide financial information services. This is a vital element of the effective supervision of the financial data sharing framework. T~~the ~~scale and, complexity and business model~~ of the entities established in third countries. ~~can create certain prudential risks that undermine the ability of the competent authority to complete their supervisory oversight objectives in accordance with this Regulation.~~

Furthermore, maintaining a robust ICT-risk management framework for the data users is a precondition to access to customer data and provide financial information services. This is a vital element of the effective supervision of the financial data sharing framework. Due to the nature of the supervision under this Regulation, and ~~I~~in order to ~~ensure the integrity of the EU market for data sharing, avoid the disruption of the functioning of the EU financial market and~~ guarantee the effective supervision and the swift enforcement of the requirements of this Regulation, ~~financial information service providers from third countries~~ third-country entities that want to become financial information service providers should be required to have an established presence in an EU Member State.

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

(36) Competent authorities should be conferred with the powers necessary to supervise the way the compliance of the obligation on data holders to provide access to customer data established by this Regulation is exercised by market participants, as well as to supervise financial information service providers. Access relevant data traffic records held by a telecommunications operator as well as the ability to seize relevant documents on premises are important and necessary powers to detect and prove the existence of breaches under this Regulation. Competent authorities should therefore have the power to require such records where they are relevant to an investigation, insofar as permitted under national law. Competent authorities should also cooperate with the supervisory authorities established under Regulation (EU) 2016/679 in the performance of their tasks and the exercise of their powers in accordance with that Regulation.

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

(38) To ensure a level playing field in the area of sanctioning powers, Member States should be required to provide for effective, proportionate and dissuasive administrative sanctions, ~~including~~ periodic penalty payments~~,~~ and administrative measures for the infringement of provisions of this Regulation. Those administrative sanctions, periodic penalty payments and administrative measures should meet certain minimum requirements, including the minimum powers that should be vested on competent authorities to be able to impose them, the criteria that competent authorities should consider when imposing them, and the obligation to publish and report. Member States should lay down specific rules and effective mechanisms regarding the application of periodic penalty payments.

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

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

(41) While it does not appear appropriate to strive to harmonise at Union level such expedited enforcement procedures, which were introduced by many Member States, due to the varied legal approaches adopted at national level, it should be acknowledged that such methods allow competent authorities that can apply them, to handle infringement cases in a speedier, less costly and overall efficient way under certain circumstances, and should therefore be encouraged. However, Member States should not be obliged to introduce such enforcement methods in their legal framework nor should competent authorities be compelled to use them if they do not deem it appropriate. Where Member States choose to empower their competent authorities to use such enforcement methods, they should notify the Commission of such decision and of the relevant measures regulating such powers.

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

(43) The publication of an administrative penalty or measure for infringement of provisions of this Regulation can have a strong dissuasive effect against repetition of such infringement. Publication also informs other entities of the risks associated with the sanctioned financial information service provider before entering into a business relationship and assists competent authorities in other Member States in relation to the risks associated with a financial information service provider when it operates in their Member States on a cross-border basis. For those reasons, the publication of decisions on administrative penalties and administrative measures should, be allowed as long as it concerns legal persons. In taking a decision whether to publish an administrative penalty or administrative measure, competent authorities should take into account the gravity of the infringement and the dissuasive effect that the publication is likely to produce. However, any such publication referred to natural persons may impinge on their rights stemming from the Charter of Fundamental Rights and the applicable Union data protection legislation in a disproportionate manner. Publication should occur in an anonymised way unless the competent authority deems it necessary to publish decisions containing personal data for the effective enforcement of this Regulation, including in the case of public statements or temporary bans. In such cases the competent authority should justify its decision.

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

(45) The cross-border access to data by information service providers should be allowed pursuant to the freedom to provide services or the freedom of establishment. A financial information service provider wishing to have access to data held by a data holder in another Member State, should notify its intention to its competent authority, providing information on the type of data it wishes to access, the financial data sharing scheme of which it is a member and the Member States in which it intends to access the data.

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

(47) The proposal for a Data Act [Regulation (EU) XX] establishes a horizontal framework for access to and use of data across the Union. This Regulation complements and specifies the rules laid down in the proposal for a Data Act [Regulation (EU) XX] Therefore those rules also apply to the sharing of data governed by this Regulation. This includes provisions on the conditions under which data holders make data available to data recipients, on compensation, dispute settlement bodies to facilitate agreements between data sharing parties, technical protection measures, international access and transfer of data and on authorised use or disclosure of data.

(48) Regulation (EU) 2016/679 applies when personal data are processed. It provides for the rights of a data subject, including the right of access and right to port personal data. This Regulation is without prejudice to the rights of a data subject provided under Regulation (EU) 2016/679, including the right of access and right to data portability. This Regulation creates a legal obligation to share customer personal and non-personal data upon customer's request and mandates the technical feasibility of access and sharing for all types of data within the scope of this Regulation. The granting of permission by a customer **based on this Regulation** is without prejudice to the ~~**obligations of data users**~~ **requirements related to the lawful grounds for processing provided** under Article 6 of Regulation (EU) 2016/679. Personal data that are made available and shared with a data user should only be processed for services provided by a data user where there is a valid legal basis under Article 6(1) of Regulation (EU) 2016/679 and, when applicable, where the requirements of Article 9 of that Regulation on the processing of special categories of data are met.

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

(50) This Regulation does not affect the provisions related to data access and data sharing in Union financial services legislation, namely the following: (i) the provisions on access to benchmarks and the access regime for exchange-traded derivatives between trading venues and Central Counterparties laid down in Regulation (EU) No 600/2014 of the European Parliament and of the Council[38]; (ii) the rules on access of creditors to the database under Directive 2014/17/EU of the European Parliament and of the Council[39]; (iii) the rules on access to securitisation repositories under Regulation (EU) 2017/2402 of the European Parliament and of the Council[40]; (iv) the rules on the right to request from the insurer a claims history statement and on the access to central repositories to basic data necessary for the settlement of claims under Directive 2009/103/EC of the European Parliament and of the Council[41]; (v) the right to access and transfer all necessary personal data to a new pan-European Personal Pension Product provider under Regulation (EU) 2019/1238 of the European Parliament and of the Council[42]; and (vi) the provisions on outsourcing and reliance under Directive (EU) 2018/843 of the European Parliament and of the Council[43]; **(vii) the data shared with credit institutions on the basis of Article 11(1) of Regulation (EU) 2016/867 of the European Central Bank (ECB/2016/13).** Furthermore, this Regulation does not affect the application of EU or national rules of competition of the Treaty on the Functioning of the European Union and any secondary Union acts. This Regulation is also without prejudice to accessing, sharing and using data without making use of the data access obligations established by this Regulation on a purely contractual basis.

(51) As the sharing of data related to payment accounts is regulated under a different regime set out in Directive (EU) 2015/2366, it is deemed appropriate to set, in this Regulation, a review clause for the Commission to examine whether the introduction of the rules under this Regulation impacts the way AISPs access data and whether it would be appropriate to streamline the rules governing the sharing of data applicable to AISPs.

(51a NEW) An account information service provider as defined in Directive 2015/2366/EU should only be eligible to access customer data under this Regulation if it is authorised as a financial information service provider. For the purposes of assessing an application of an account information service provider for authorisation as a financial information service provider, the national competent authority may decide to use information previously transmitted by the account information service provider for the purposes of registration according to the Directive 2015/20~~0~~366 where such information remains valid and up to date. When submitting the information listed in article 12 paragraph 2 of this Regulation, the AISP should expressly confirm that any information previously submitted to the NCA for the purposes of registration according to the Directive 2015/2036 remains valid and up to date. An account information service provider that has been authorised by a national competent authority as a financial information service provider should be considered a data user for the purposes of this Regulation.

(52) Given that **the ESAs** ~~EBA, EIOPA and ESMA~~ should be mandated to make use of their powers in relation to financial information service providers, it is necessary to ensure that they are able to exercise all of their powers and tasks in order to fulfil their objectives of protecting the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses and to ensure that financial information service providers are covered by Regulations (EU) No 1093/2010[47], (EU) No 1094/2010[48] and (EU) No 1095/2010[49] of the European Parliament and of the Council. Those Regulations should therefore be amended accordingly.

(53) The date of application of this Regulation ~~is~~ **should be based on a phased-in in approach that consists of three stages., This phase-in should take into account** ~~following the categorisation of the customer data, which is based~~ **the availability and the level of standardisation of** ~~the~~**customer data to ensure the effective implementation of the obligations under this Regulation.**~~in a standardised and machine-readable format and the development necessary to engage in the data sharing under this Regulation.~~

Therefore, regarding ~~in case of~~ customer data on consumer credit agreements, accounts, savings, and motor insurance, the entry into application of the Regulation should be deferred by **24**~~XX~~ months in order to allow for the adoption of regulatory technical standards and delegated acts that are necessary to specify certain elements of this Regulation. **For customer data on credit agreements for consumers relating to residential immovable property, investment in financial instruments, crypto assets and persional pension products, including PEPP, the entry into application of this Regulation should be deferred by 36 months, for the rest ~~other categories~~ of the customer data ~~under the~~ in scope ~~of this Regulation~~, the entry into application of this Regulation should be deferred by 48 months after the entry into force of this Regulation.**

(54) The European Data Protection Supervisor was consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council51 and delivered an opinion on […….]

HAVE ADOPTED THIS REGULATION:

TITLE I

Subject Matter, Scope, and Definitions

Article 1

Subject matter

This Regulation establishes rules on the access, sharing and use of **the** ~~certain~~ categories of customer data **as listed in Article 2(1)** ~~in financial services~~**.**

This Regulation also establishes rules concerning the authorisation and operation of financial information service providers.

Article 2

Scope

1. This Regulation applies to the following categories of customer data on:

(a) ~~mortgage credit agreements,~~ ~~loans~~ **credit agreements ~~as defined in Article 3 (4) of Directive (EU) 2021/2167~~** and accounts, except payment accounts as defined in **Article 2 (13) of** ~~the Payment Services~~ Directive (EU) 2015/2366, including data on balance, ~~conditions~~ **the terms of the credit agreement between the data holder and the customer** and transactions; **This also includes data which is collected for the purposes of carrying out ~~forms part of~~ a creditworthiness assessment of a firm and which is collected as part of a credit agreement application process or a request for a credit rating as defined in Article 3(1)(a) of Regulation 1060/2009;** ~~**Data collected as part of a creditworthiness assessment of consumers shall be excluded;**~~

(b) savings **comprising of fixed term deposits, structured deposits, and savings accounts**, investments in financial instruments, insurance-based investment products ~~**as defined in Article 2(1)(17) of Directive (EU)2016/97**~~**, insurance-based individual pension products,** crypto-assets ~~**falling within the scope of Regulation (EU) 2023/1114 of the European Parliament and of the Council**~~, ~~immovable property~~ ~~real estate and other related financial assets~~ as well as the economic benefits derived from such assets; including **data related to customers' sustainability preferences and ~~other~~** data collected for the purposes of carrying out**:**

i. an assessment of suitability and appropriateness in accordance with Article 25 of Directive 2014/65/EU of the European Parliament and of the Council[53];

ii. an assessment of suitability and appropriateness in accordance with Article 30 of Directive (EU) 2016/97 of the European Parliament and of the Council;

iii. a suitability assessment in accordance with Article 81(1) of Regulation (EU) 2023/1114;

iv. an entry knowledge test in accordance with Article 21 of Regulation (EU) 2020/1503

~~(c) pension rights in~~ **officially recognised** ~~occupational pension schemes, in accordance with Directive 2009/138/EC and Directive (EU) 2016/2341 of the European Parliament and of the Council[55]~~ **insofar as they are accessible for all interested consumers, with the exception of data related to sickness and health cover of a member or beneficiary**~~;~~

(d) ~~**data related to a**~~ **personal pension products** ~~**as defined in Art 2(1) of Regulation (EU) 2019/1238,**~~ **including information held on Pan European Pension Product accounts and Pan European Pension Product contracts** ~~pension rights on the provision of pan-European personal pension products, in accordance with Regulation (EU) 2019/1238~~;

(e) non-life insurance products in accordance with Directive 2009/138/EC, with the exception of sickness and health insurance products **and data on personal injuries contained in non-life insurance products**; including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/97 ~~of the European Parliament and Council, and data collected for the purpose of an appropriateness and suitability assessment in accordance with Article 30 of Directive (EU) 2016/97~~.

~~(f) data which forms part of a creditworthiness assessment of a firm which is collected as part of a loan **credit agreement** application process or a request for a credit rating.~~

1a. A Member State may decide to apply this Regulation to customer data on pension rights in occupational pension schemes, in accordance with Directive 2009/138/EC and Directive (EU) 2016/2341 of the European Parliament and of the Council.

Where a Member State adopts a decision in accordance with this paragraph ~~1a of this Article~~, such a decision shall apply to:

(a) institutions for occupational retirement provision that are registered or authorised in their territories in accordance with Directive (EU) 2016/2341; and

(b) insurance undertakings which have received authorisation in their territories in accordance with Article 14 of Directive 2009/138/EC to operate occupational retirement provision business.

A Member State decision shall apply to all financial institutions listed in points (a) and (b) of this paragraph ~~Article~~ when acting as data holders or data users, with exception of entities referred to in Article 2(3), points (b) and (c) of Regulation (EU) 2022/2554.

Where a Member State decides to exercise the option foreseen ~~adopts a decision~~ in ~~accordance with~~ the first subparagraph of this paragraph ~~1a~~, the Member State shall notify the Commission, the EBA and EIOPA of its decision and provide relevant information concerning its decision, including the date from which Member State decision applies.

Where a Member State decides to exercise the option foreseen ~~adopts a decision~~ in ~~accordance with~~ the first subparagraph of this paragraph ~~1a~~, the competent authorities specified in Article 17(4) shall be responsible for carrying out the functions and duties provided for in this Regulation as regards customer data on pension rights in occupational pension schemes.

The EBA shall make the decision adopted in accordance with paragraph 1a publicly available in the electronic central register in accordance with Article 15.

1b. A financial data sharing scheme may decide to limit ~~the period of time that~~ the customer data made available to ~~covers, which corresponds to~~ data that has been collected 10 years prior to the data request set out in Article 5(1), if the customer data is not readily available in digital form or it is not part of the contractual conditions of the financial product or service.

On basis of the same conditions as provided in the first subparagraph, the financial data sharing scheme may decide to apply a period longer than 10 years, it if deems necessary given the specificities of the given data category.

2. This Regulation applies 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 of the European Parliament and of the Council~~;

(d) investment firms;

(e) crypto-asset service providers;

(f) issuers of asset-referenced tokens;

(g) managers of alternative investment funds;

(h) management companies of undertakings for collective investment in transferable securities;

(i) insurance ~~and reinsurance~~ undertakings;

(j) insurance intermediaries and ancillary insurance intermediaries;

(k) institutions for occupational retirement provision **(IORP), insofar as they manage personal pension products;**

~~, excluding small IORP as referred to in Article 5 of Directive (EU) 2016/2341~~;

(l) credit rating agencies;

(m) crowdfunding service providers**, which are not microenterprises or small or medium-sized enterprises according to Recommendation 2003/361/EC**;

(n) PEPP providers;

(o) financial information service providers

3. This Regulation shall not apply**:**

i. to the entities referred to in Article 2(3), points (a) to (e), of Regulation (EU) 2022/2554**;**

~~ii. where applicable, entities referred to in Article 2(4) of Regulation (EU) 2022/2554;~~

ii. where applicable, to the entities referred to in Article 2(5), points (4) to (23), of Directive 2013/36/EU that are located within their respective territories;

iii. to the ~~sensitive~~ entities referred to in Article 32 of Directive (EU) 2015/2366;

iv~~ii~~. to the sensitive data referred to in Articles 9, unless the requirements referred to in Article 9(2) of that Regulation are met,~~-~~and Article 10 of Regulation (EU) 2016/679 of the European Parliament and of the Council~~.~~, ~~unless the requirements referred to in Article 9(2) of that Regulation are met.~~

~~i~~v. to data collected as part of a creditworthiness assessment of consumers;

v. to existing national pension tracking systems;

vi. to customer data associated with fulfilled or terminated contracts for data categories referred to in Article 2(1);

vii. to sickness and health insurance products; and of data on personal injuries contained in non-life insurance products in accordance with paragraph (~~2~~1) ~~point (2)~~ point (e) of this Article~~.~~;

viii. to insurance forming part of a statutory system of social security;

ix. where applicable, to small IORPs referred to in Article 5 of Directive 2016/2341.

~~3a. By way of derogation from paragraph 3, Member States may decide to apply this Regulation to the entities referred to in Article 2(3)(e) of Regulation (EU) 2022/2554.~~

4. This Regulation does not affect the application of other Union legal acts regarding access to and sharing of customer data referred to in paragraph 1, unless specifically provided for in this Regulation. **It furthermore ~~This~~ Regulation ~~is without prejudice to~~ does not preclude the sharing of the data that falls under the scope by different means than those established in the Regulation, for example on ~~due to~~ a contractual basis ~~between the data holder and its clients or by application of~~ or with reference to national law. ~~, than those established in the Regulation.~~**

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;

(2) ‘customer’ means a natural or a legal person who makes use of financial products and services, **and in the case of insurance, it means insured persons or policyholders, excluding third-party beneficiaries**;

(3) ‘customer data’ means personal and non-personal data **in digital form** that is collected, stored and ~~otherwise processed~~ **managed** by a financial institution as part of their normal course of business with customers which covers both data provided by a customer and ~~data generated as a result of customer interaction with the financial institution~~ **transaction data** related to the use ~~a~~ **that results from the of the financial product or service by a**-customer ~~**interaction with** held by a **that financial institution**~~**, as well as data on the contractual conditions of the product or service held by a customer, excluding any confidential business data or trade secrets**;

(3a) 'home Member State' means the Member State where the data user has its head office or registered office;

(3b) 'host Member State' means the Member State other than the home Member State in which a data user ~~or the branch of a financial institution acting as a data user~~ provides financial information services;

(4) 'competent authority' means the authority designated by each Member State in accordance with Article 17**(1)** and for financial institutions it means **the authority designated in accordance with Article 17(4)** ~~any of the competent authorities listed in Article 46 of Regulation (EU) 2022/2554~~;

(4a) 'credit agreement' means ~~credit agreement as defined in Article 3 point (4) of Directive 2021/2167~~ an agreement whereby a ~~creditor~~ contracting party grants a credit in the form of a deferred payment, a loan or other similar financial accommodation;

(4b) 'credit agreement for consumer' means a credit agreement as defined in Article 3(3) of Directive (EU) 2023/2225;

(4c) 'creditworthiness assessment' means the evaluation of the prospect for the debt obligation resulting from the credit agreement to be met.

(5) 'data holder' means a financial institution ~~other than an account information service provider~~ that collects, stores and otherwise processes the data listed in Article 2(1) ;

(6) 'data user' means any of the entities listed in Article 2(2) who, following the permission of a customer, has lawful access to customer data listed in Article 2(1) ;

(6a) 'financial information service' means an online service provided by an entity ~~data user~~ who has access to customer data made available by one or several data holders upon permission of the customer with the purpose of ~~view to~~ providing a service of collecting, processing ~~as defined in Article 4(2) of Regulation 2016/679~~ and consolidating ~~and enabling the comparison of~~ customer data ~~held by one or several data holders~~ and does not include any provision of regulated and reserved activities and services under Union law;

(6c) 'financial data sharing scheme' means a collective contractual agreement between data holders and data users that governs how customer data can be shared between them in accordance ~~to~~ with Article 10 of this regulation;

(7) ‘financial information service provider’ means a**n entity** ~~data user~~ that is authorised under Article 14 **as a data user** to access the customer data listed in Article 2(1) for the provision of financial information services;

(8) ‘financial institution’ means the entities listed in Article 2(2) points (a) to (n), who are either data holders, data users or both for the purposes of this Regulation.

(8a) ‘financial instrument’ means a financial instrument as defined in Article 4(1)(15) of Directive (EU) 2014/65 and excluding derivative transactions used for risk management purposes;

(8b) ‘insurance-based investment product’ means an insurance product as defined in Article 2(1) point (17) of Directive (EU) 2016/97. ~~**which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations, and does not include:**~~

~~**(a) non-life insurance products as listed in Annex I to Directive 2009/138/EC (Classes of non-life insurance);**~~

~~(b) life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or disability;~~

~~(c) officially recognised occupational pension schemes falling under the scope of Directive 2016/2341 or Directive 2009/138/EC;~~

~~(d) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider;~~

(8c) 'insurance-based individual pension product' means ~~an individual~~ **a pension product, which under national law, is recognised as having the primary purpose of providing the investor with an income in retirement, and which entitle the investor to certain benefits.**

(8ed) 'crypto-asset' means a crypto-asset as defined in Article 3(1)(5) of Regulation (EU) 2023/1114, excluding those crypto assets as referred to in Article 2(3) and Article (2)(4) of Regulation (EU) 2023/1114;

(8~~d~~e) 'motor insurance' means an insurance against civil liability in respect of the use of motor vehicles in accordance with Directive 2009/103/EC;

(8ef) 'personal pension product' means a ~~pensional~~ personal pension product as defined in Article 2(1) of Regulation (EU) 2019/1238;

~~(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 insurance-based investment products 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;

(11a) 'sensitive data' means the special categories of data as defined in Article 9 and 10 of Regulation 2016/679

(12) 'credit institution' means a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council[58];

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

(14) 'crypto asset service provider' means a crypto asset service providers as referred to in Article 3(1), point (15) of Regulation (EU) 2023/1114 of the European Parliament and of the Council[60];

(15) 'issuer of asset referenced tokens' means an issuer of asset referenced tokens authorised under Article 21 of Regulation (EU) 2023/1114;

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

(16a) 'account' means an arrangement, irrespective of its legal form, by which a financial institution accepts a customer's financial assets on behalf of the customer in accordance with the agreed terms;

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

(17a) 'crowdfunding service providers' means a crowdfunding service provider as defined in Article 2(1), point (e), of Regulation (EU) 2020/1503 of the European Parliament and of the Council

(18) 'electronic money institution' means an electronic money institution as defined in Article 2(1), of Directive 2009/110/EC;

~~(19) 'electronic money institution exempted pursuant to Directive 2009/110/EC' means an electronic money institution benefitting from a waiver as referred to in Article 9(1) of Directive 2009/110/EC;~~

(20) ‘manager of alternative investment funds’ means a manager of alternative investment funds as defined in Article 4(1), point (b), of Directive 2011/61/EU of the European Parliament and of the Council[62];

(21) ‘management company of undertakings for collective investment in transferable securities’ means a management company as defined in Article 2(1), point (b), of Directive 2009/65/EC of the European Parliament and of the Council[64];

(21a) ‘credit agreements for consumers relating to residential immovable property’ ~~mortgage credit agreement’~~ means a credit agreement as referred to in Article 3 point (1) of Directive 2014/17/EU;

(22) ‘insurance undertaking’ means an insurance undertaking as defined in Article 13(1) of Directive 2009/138/EC;

~~(23) ‘reinsurance undertaking’ means a reinsurance undertaking as defined in Article 13(4) of Directive 2009/138/EC;~~

(24) ‘insurance intermediary’ means an insurance intermediary as defined in Article 2(1), point (3), of Directive (EU) 2016/97 of the European Parliament and of the Council[66];

(25) ‘ancillary insurance intermediary’ means an ancillary insurance intermediary as defined in Article 2(1), point (4), of Directive (EU) 2016/97, **other than those referred to in Article 1(3) of that Directive**;

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

(27) ‘credit rating agency’ means a credit rating agency as defined in Article 3(1), point (b), of Regulation (EC) No 1060/2009 of the European Parliament and of the Council[68];

(28) “PEPP provider” means a PEPP provider as defined in Article 2, point (15) of Regulation (EU) 2019/1238 of the European Parliament and of the Council;

~~(29) 'legal representative' means a natural person domiciled in the Union or a legal person with its registered office in the Union, and which, expressly designated by a financial information service provider established in a third country, acts on behalf of such financial information service provider vis-à-vis the authorities, clients, bodies and counterparties to the financial information service provider in the Union with regard to the financial information service provider's obligations under this Regulation;~~

(29a) 'trade secret' means trade secret as defined in Article 2(1) of Directive (EU) 2016/943.

(30) 'Joint Committee' means the committee referred to in Article 54 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010;

(31) 'gatekeeper' means an undertaking providing core platform services, designated pursuant to Article 3 of Regulation (EU) 2022/1925;

(32) 'Legal Entity Identifier' or 'LEI' means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity

(33) 'periodic penalty payments' means periodic pecuniary enforcement measures, aimed at ending ongoing breaches of this Regulation, or any decisions issued by a competent authority based on those provisions and compelling a legal or natural person to stop the infringement or comply with a decision.

TITLE II

Data Access

Article 4

Obligation to make available data to the customer

The data holder shall, upon request from a customer submitted by electronic means, make the data listed in Article 2(1) available to the customer without undue delay, free of charge, continuously and in real-time.

Article 5

Obligations on a data holder to make customer data available to a data user

1. The data holder shall, upon request **submitted by electronic means** from a customer **or a data user acting on behalf of the customer** ~~**submitted by electronic means**~~, make available to a data user the customer data listed in Article 2(1) **only** for the purposes **and under the conditions** ~~**relating to the specific service**~~ for which the customer has granted permission to the data user. The customer data shall be made available to the data user without undue delay, continuously and in real-time.

2. A data holder may claim compensation from a data user for making customer data available pursuant to paragraph 1 only if the customer data is made available to a data user in accordance with the rules and modalities of a financial data sharing scheme, as provided in Articles 9 and 10, or if it is made available pursuant to Article 11.

~~**2a. When the data user and the data holder are not members of the same notified financial data sharing scheme, a data user shall join the notified financial data sharing scheme of which the data holder is a member in accordance with Article 10(1)(d) on the condition that such a scheme covers the category of customer data for which access is requested.**~~

3. When making data available pursuant to paragraph 1, the data holder shall:

(a) make customer data available to the data user in a format based on **common** ~~generally recognised~~ standards and at least in the same quality available to the data holder;

(b) communicate securely with the data user by ensuring an appropriate level of security for the processing and transmission of customer data;

(c) request data users to demonstrate that they have obtained the permission of the customer to access the customer data held by the data holder **including by allowing the data holder to prompt the customer to confirm their permission via their permission dashboard when a data user first request access to data**. **The technical process of the demonstration of the authorised customer permission shall be left to the Financial Data Sharing Scheme in accordance with Article 10 paragraph (1) point (l) (iv).**

(d) provide the customer with a permission dashboard to monitor and manage permissions in accordance with Article 8.

(e) ~~respect~~ **protect** the confidentiality of trade secrets and intellectual property rights ~~when customer data is accessed in accordance with Article 5(1~~)

Article 6

Obligations on a data user receiving customer data

1. A data user shall only be eligible to access customer data pursuant to Article 5(1) if that data user is subject to prior authorisation by a competent authority as a financial institution or is a financial information service provider pursuant to Article 14**, and only if the customer data is made available to that data user in accordance with the rules and modalities of a financial data sharing scheme, as provided in Articles 9 and 10, or if it is made available pursuant to Article 11.**

Before starting to operate as data user, financial institutions as listed in Article 2(2) points (a) to (n) shall notify the competent authority of ~~its~~ **their intention to operate as a data user. The notification shall include a short description of the programme of activities of the financial institution as a data user.**

2. A data user shall only access customer data made available under Article 5(1) for the purposes and under the conditions for which the customer has granted its permission. **The permission shall be freely given, specific, limited in time, separated from possible other declaration or text and it shall clearly state the purposes for which** ~~the~~ **customer data will be accessed and by which data users.**

a) The request for permission shall be clear, objective, accurate and easily understandable for the customer and include:

(i) the name of the data user to which access will be granted;

(ii) the ~~customer account,~~ financial product or financial service to which access will or is intended to ~~has been~~ be granted;

(iii) the purpose of the permission;

(iv) the categories of data being shared;

(v) the period of validity of the permission;

(vi) information that the customer can view and withdraw the permission on the dashboard.

b) A data user shall delete customer data**, including all the backups, without undue delay,** when it is no longer necessary for the purposes for which the permission has been granted by a customer **~~and~~ or when the permission has been withdrawn and not re-established by the customer within 48 hours.**

A data user shall ensure that a~~ny~~ data access request to a customer is not designed in a way that would encourage or unduly influence the customer to grant access, in a way that is not in the best interest of the customer, or in a way that materially distorts or impair the ability of the customer to make free and informed decisions.

2a. When the data user and the data holder are not members of the same notified financial data sharing scheme, a data user shall join the notified financial data sharing scheme of which the data holder is a member in accordance with Article 10(1)(d) on the condition that such a scheme covers the category of customer data for which access is requested.

3. A customer may withdraw the permission it has granted to a data user **at any time and free of charge**. When processing is necessary for the performance of a contract, a customer may withdraw the permission it has granted to make customer data available to a data user ~~only~~ according to the **applicable** contractual obligations to which it is subject. **The right to withdraw consent in accordance with Article 7 paragraph 3 of Regulation (EU) ~~679/2016~~ 2016/679 remains unaffected.**

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

(a) not process any customer data for purposes other than for performing the service explicitly requested by the customer ~~in the best interest of the customer.~~ **The data user must act professionally in accordance with the best interests of its customers and** ~~The data user~~ **must be able to demonstrate that the use of data is in the best interest of the customer.**

(b) ~~respect~~ **protect** the confidentiality of trade secrets and intellectual property rights **of customers that are firms and of data holders, including by not combining and analysing the accumulated customer data with respect to a given data holder for the purposes of reverse-engineering in compliance with the data minimization principle in Article 6 and 7.** - ~~when customer data is accessed in accordance with Article 5(1);~~

(**ba) put in place adequate technical, legal and organisational measures in order to protect** ~~respect~~ **the data protection rights of consumers and the level of protection guaranteed by Regulation (EU) 2016/679.**

(c) put in place adequate technical, legal and organisational measures in order to prevent the transfer of or access to ~~non-personal~~ customer data that is unlawful under Union law or the national law of a Member State;

(d) take necessary measures to ensure an appropriate level of security for the storage, processing and transmission of ~~non-personal~~ customer data;

(e) not process customer data for advertising purposes, except for direct marketing in accordance with Union and national law **with prior consent of the** ~~customer~~ **consumer**;

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

(g) for each communication session identify itself towards the data holder of the customer, and securely communicate with the data holder and the customer using secure electronic identification and authentication methods. The technical process shall be left to the Financial Data Sharing Scheme in accordance with Article 10 paragraph (1) point (k);

(h) not transfer customer data to any third party ~~that is not a data user, including an outsourcing scheme~~;

4b. Data users that are designated as a gatekeeper or that are owned or controlled by an undertaking that has been designated as a gatekeeper shall be prohibited from combining customer data referred to in Article 2(1) of this Regulation with other data relating to the customer that the designated gatekeeper may already collect, store, or otherwise possess for purposes outside this Regulation.

TITLE III

Responsible Data Use and permission dashboards

Article 7

Data use perimeter

1. The processing of customer data referred to in Article 2(1) of this Regulation that constitutes personal data shall be limited to what is necessary in relation to the purposes for which they are processed. **Customers that refuse to grant permission to share sets of their data shall not be refused access to financial services or products for this reason.**

2. In accordance with Article 16 of Regulation (EU) No 1093/2010, the European Banking Authority (EBA) shall develop guidelines on the implementation of paragraph 1 of this Article for products and services related to **the creditworthiness assessment** ~~credit score~~ of the consumer. **These guidelines shall be elaborated within the framework set by Directive ~~2008/48/EC~~ 2023/2225 of the European Parliament and of the Council , ~~and~~ Directive 2014/17/EU of the European Parliament and of the Council and further legal texts developed regarding this matter. EBA may develop guidelines on the implementation of paragraph 1 of this Article for products and services other than those related to creditworthiness assessment of the consumer, where it concludes this to be necessary for the protection of customers.**

3. In accordance with Article 16 of Regulation (EU) No 1094/2010, the European Insurance and Occupational Pensions Authority (EIOPA) shall develop guidelines on the implementation of paragraph 1 of this Article for products and services related to risk assessment and pricing of a consumer in the case of life **insurance products and non-life ~~, health and sickness~~** insurance products. **These guidelines shall be elaborated within the framework set by Directive (EU) 2016/97 of the European Parliament and of the Council, Directive 2009/138/EC of the European Parliament and of the Council or Directive 2014/65/EU of the European Parliament and of the Council.** ~~**EIOPA may develop guidelines on the implementation of paragraph 1 of this Article for products and services other than those related to risk assessment and pricing of a consumer in the case of life, health and sickness insurance products, where it concludes this to be necessary for the protection of customers.**~~ **To avoid certain consumers becoming unable to access insurance due to overly granular risk assessments, these guidelines shall include provisions on how data may be used to avoid excessive granularity that undermines the "risk sharing" principle of insurance. EIOPA shall, within two years following the entry into force of this ~~legislation~~ Regulation, prepare a report to assess the impact of certain climate risk and natural disaster-related data on the insurance sector. Considering the findings of this assessment, EIOPA may amend the guidelines in this paragraph or specify them.**

3a. In accordance with Article 16 of Regulation (EU) No 1095/2010, the European Securities and Markets Authority (ESMA) may develop guidelines on the implementation of paragraph 1 of this Article for products and services, where it concludes this to be necessary for the protection of customers.

4. When preparing the guidelines referred to in paragraphs 2 and 3 **and 3a** of this Article, EIOPA**,** ~~and~~ EBA **and ESMA** shall closely cooperate with **each other and shall formally consult** the European Data Protection Board established by Regulation (EU) 2016/679.

Article 8

Financial Data Access permission dashboards

1. A data holder shall provide the customer with a permission dashboard to monitor and manage the permissions **the**~~a~~ customer has provided to data users.

2. **The** permission dashboard **as referred to in paragraph 1** shall:

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

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

(ii) the ~~customer account~~, financial product or financial service to which access has been granted;

(iii) the purpose of the permission;

(iv) the categories of data being shared;

(v) the period of validity of the permission**, including the date on which the customer has given ~~their~~ permission ~~access to his or her their its data~~, and the dates on which customer data was accessed;**

~~(vi) the dates on which the data was accessed~~.

(b) allow the customer to withdraw a permission given to a data user **at any time and free of charge**;

(c) **within 48 hours from withdrawal of a permission,** allow the customer to re-establish any permission withdrawn ~~**up to 48 hours after withdrawal of this permission;**~~

(d) include a record of permissions that have been withdrawn or **that** have expired for a duration of two years.

(e) be consistent with the Regulation (EU) [..../....] of the European Parliament and of the Council [Payment Services Regulation] dashboards and allow data holders to manage data permissions pursuant to this Regulation and the Payment Services Regulation through a single dashboard upon the request of the ~~**user**~~ **customer.**

~~**(f) allow the customer to monitor the specific accesses to data by each data user.**~~

2a Where, pursuant to paragraph 2, point (b), a customer decides to withdraw data access, the data user concerned shall:

(a) cease accessing and using the data;

~~**(b) withdraw the data; and**~~

(c) without undue delay, erase all data received as a result of the data access permission granted by the customer

3. The data holder shall ensure that the permission dashboard is easy to find in its user interface and that information displayed on the dashboard is clear, ~~**objective,**~~ **neutral**, accurate and easily understandable for the customer. **The data holder shall not prompt the customer to withdraw a permission given to a data user. Data holders are prohibited from designing, organizing, or operating their permission dashboard interfaces in a manner that deceives, manipulates, or directs customer behaviour towards permissions that are not in the best interest of the customer, or that materially distorts or impairs the ability of customers to make free and informed decisions.**

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

(a) The data holder shall ~~**inform**~~ **notify** the data user~~-~~ **without undue delay** of **any** changes made **by the customer via the dashboard** to a permission, **including the withdrawal of a permission~~, concerning that data user made by a customer via the dashboard~~.**

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

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

(ii) the period of validity of the permission

(iii) the categories of data concerned.

5. In accordance with Article 16 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, the ESAs, through the Joint Committee, shall by 12~~8~~ months after entering into force of this Regulation, ~~XXXX [entry into application date]~~ develop common guidelines on the application of this Article.

TITLE IV

Financial Data Sharing Schemes

Article 9

Financial data sharing scheme membership

1. ~~Within 18 months from the entry into force of this Regulation, d~~**D**ata holders and data users shall become members of a financial data sharing scheme governing access to the customer data in compliance with Article 10.

2. Data holders and data users may become members of more than one financial data sharing scheme~~s~~.

Any sharing of data shall be made in accordance with the rules and modalities of a financial data sharing scheme of which both the data user and the data holder are members.

Article 10

Financial data sharing scheme governance and content

1. A financial data sharing scheme shall include the following elements:

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

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

(ii) customer organisations and consumer associations**, which will play an advisory role in particular for matters that are related to ~~customer consumer~~ the protection of customers**.

The ESAs shall adopt guidelines on the calculation of the significant proportion of the market within 3 months of entry into force of this regulation.

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

(c) the membership rules of a financial data sharing scheme shall ensure that the scheme is open to participation by any data holder and data user based on objective criteria and that all members shall be treated in a fair and equal manner;

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

(e) a financial data sharing scheme shall include a mechanism through which its rules can be amended, following an impact analysis and the agreement of the majority of each community of data holders and data users respectively;

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

(g) a financial data sharing scheme shall include the common standards for the data and the technical interfaces to **make data access** ~~**allow customers to request data sharing**~~ in accordance with Article 5(1) **more efficient. A financial data sharing scheme shall agree on the level of standardisation of data points at a level that is accepted and implemented by all members.** The common standards for the data and technical interfaces that scheme members agree to use may be developed by scheme members or by other parties or bodies;

(h) a financial data sharing scheme shall establish a model to determine the maximum compensation that a data holder is entitled to charge **data users** for making data available ~~through an appropriate technical interface for data sharing with data users~~ in line with the common standards developed under point (g). The model shall be based on the following principles:

(i) it should be limited to reasonable compensation directly related to making the data available to the data user and which is attributable to the request; **such a reasonable compensation may include a margin;**

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

(iii) it should be based on comprehensive market data collected from data users and data holders on each of the cost elements to be considered, clearly identified in line with the model;

(iv) it should be periodically reviewed and monitored to take account of technological progress;

(v) it should be devised to gear compensation towards the lowest levels prevalent on the market; and

(vi) it should be limited to the requests for customer data under Article 2(1) or proportionate to the related datasets in the scope of that Article in the case of combined data requests.

Where the data user is a micro, small or medium enterprise, as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003[70], **and that data user does not have partner enterprises or is not part of linked enterprises that do not qualitfy as ~~SMEs~~ micro, small and medium size enterprises,** any compensation agreed shall not exceed the costs directly related to making the data available to the data ~~recipient~~ **user** and which are attributable to the request.

The guidelines adopted by the Commission on the calculation of reasonable compensation in accordance with Article 9(5) of Regulation (EU) 2023/2854 ~~shall also apply~~ should also be taken into account ~~to~~ in this Regulation.

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

(j) a financial data sharing scheme shall provide for an independent, impartial, transparent and effective dispute resolution system to resolve disputes among scheme members and membership issues, in accordance with the quality requirements laid down by Directive 2013/11/EU of the European Parliament and of the Council[72];

(k) a financial data sharing scheme shall include common ~~the minimum~~ technical and organizational measures that financial data sharing scheme members shall implement to communicate securely in order to ensure an appropriate level of security for ~~exchanged~~ the processing and transmission of customer data~~, including security measures to prevent and mitigate the risk of fraud~~;

(l) A financial data sharing scheme shall provide for:

(i) ~~an~~ adequate service levels for the technical interfaces~~APIs~~, in terms of availability and performance;

(ii) the possibility to agree on a limit in accordance with Article 2(1)(1b) of this Regulation, where appropriate;

~~(ii) the possibility for the data user to easily access comprehensive technical documentation;~~

~~(iii) maintenance windows where relevant;~~

(iv) requirements to demonstrate that a data user has obtained the permission of the customer to access customer data ~~about the checks of the permission given by the customer to the data users~~;

~~**(v) procedures for resolving complaints from the data users.**~~

(m) a financial data sharing scheme shall provide for a mechanism ~~for~~ data holders or data users to provide ~~of~~ financial compensation to customers for any loss of data, damage or fraud suffered by these customers as a result of actions or omissions of data holders or data users. When the customer is a data subject, the mechanism shall be in accordance with the provisions in Regulation (EU) 2016/679;

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

3. A data holder shall communicate to the competent authority of the Member State of its establishment the **notified** financial data sharing schemes it is part of, within one month of joining a scheme.

4. A financial data sharing scheme set up in accordance with this Article shall be notified to the competent authority of establishment of the three most significant data holders which are members of that scheme at the time of establishment of the scheme. **The notification will include information regarding the scope of products or services covered by the scheme, as well as the geographic scope, and the calculation to prove that the scheme represents a significant proportion of the market. ~~so as to~~This allows the competent authority to ~~determine~~ verify whether the scheme represents a significant proportion of the market.** Where the three most significant data holders are established in different Member States, or where there is more than one competent authority in the Member State of establishment of the three most significant data holders, the scheme shall be notified to all of these authorities which shall agree among themselves which authority shall carry out the assessment referred to in paragraph 6. **In case of disagreements between the competent authorities, the settlement of these ~~disagreements~~ shall happen in accordance with Article 27(1).**

5. The notification in accordance with paragraph 4 shall take place within 1 month of setting up the financial data sharing scheme and shall include its governance modalities and characteristics in accordance with paragraph 1.

6. Within ~~1~~ **3** month**s** of receipt of the notification pursuant to paragraph 4, the competent authority shall assess whether the financial data sharing scheme's governance modalities and characteristics are in compliance with paragraph 1. When assessing the compliance of the financial data sharing scheme with paragraph 1, the competent authority may consult other competent authorities.

Upon completion of its assessment, the competent authority shall inform EBA of a notified financial data sharing scheme that satisfies the provisions of paragraph 1. **The notification shall include the main characteristics of the scheme and the list of the members of the scheme concerned.** -A scheme notified to EBA in accordance with this paragraph shall be recognised in all the Member States for the purpose of accessing data pursuant to Article 5(1) and shall not require further notification in any other Member State.

Any significant amendment to the functioning of an existing financial data sharing scheme, notably with regards to its governance modalities and characteristics, the products or services covered by the scheme, its geographic scope or its three most significant members, shall be notified to the relevant competent authority without undue delay, which will assess whether the provisions of paragraph 1 are still satisfied. The competent authority shall inform EBA, if the scheme no longer satisfies the provisions of paragraph 1.

Article 11

Empowerment for Delegated Act in the event of absence of a financial data sharing scheme

In the event that, **6 months after the respective dates of applicability in accordance with Article 36(2),** a financial data sharing scheme ~~is not developed~~ **has not been notified to the EBA in accordance with Article 10(6) for one or more categories of customer data listed in Article 2(1) and there is no realistic prospect of such a scheme being set up within a reasonable amount of time**, the Commission is empowered to adopt a delegated act in accordance with Article 30 to supplement this Regulation by specifying the following modalities under which a data holder shall make available customer data pursuant to Article 5(1) for that category of data:

(a) common standards for the data and, where appropriate, the technical interfaces to allow customers to request data sharing under Article 5(1);

(b) a model to determine the maximum compensation that a data holder is entitled to charge for making data available;

(c) the liability of the entities involved in making the customer data available.

TITLE V

Eligibility for Data Access and Organisation

Article 12

Application for authorisation ~~of~~ **as** financial information service providers

1. "A ~~financial information service provider~~ **legal person or other undertaking** shall be eligible to access customer data under Article 5(1) **as a financial information service provider** if it is authorised by the competent authority of a Member State **of establishment** ~~**of its registered office.**~~ **This competent authority shall also be competent to supervise compliance by this financial information service provider of the provisions of this Regulation applying to them.**

2. A **legal person or other undertaking that intends to provide** financial information service**s** ~~**provider**~~ shall submit an application for authorisation to the competent authority of the Member State of establishment of its registered office, ~~**or, in the case of a legal person or other undertaking established in a third country, in the Member State where those legal persons have appointed their legal representative**~~, together with the following:

(a) a programme of operations setting out in particular the type of access to data ~~**envisaged**~~ **and the financial information services 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, **and a description of the applicant's** ~~**as well as**~~ arrangements for the use of ICT services **as referred to** ~~**in accordance with**~~ **in Articles 6 and 7** ~~**Chapter II**~~ of Regulation (EU) 2022/2554 ~~of the European Parliament and of the Council~~, which demonstrates that those governance arrangements, **internal** control mechanisms and **arrangements for the use of ICT services** ~~procedures~~ are proportionate, appropriate, sound and adequate;

(c1) a description of the organisational requirements of Article 16 of this Regulation

~~(d) a description of business continuity arrangements including a clear identification of the critical operations, effective ICT business continuity policy and plans and ICT response and recovery plans, and a procedure to regularly test and review the adequacy and efficiency of such plans in accordance with Chapter III of Regulation (EU) 2022/2554;~~

(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 the financial information service provider laid down in Chapter III of Regulation (EU) 2022/2554;

(e) a description of business continuity arrangements including a clear identification of the critical operations, **a description of the** ~~effective~~ ICT business continuity ~~policy and~~ plans and ICT response and recovery plans, and a **description of the** procedure to regularly test and review the adequacy and efficiency of such **ICT business continuity and ICT response and recovery** plans **as required by** ~~in accordance with Chapter II of~~ **Art. 11(6) of** ~~with~~ Regulation (EU) 2022/2554;

(f) a security policy document **in accordance with Article 9(4a) of Regulation (EU) 2022/2554**, including a detailed risk assessment in relation to its operations and a description of security control and mitigation measures taken to adequately protect its customers against the risks identified, including fraud **and the illegal use of sensitive and personal data**;

(g) a description of the applicant's structural organisation, as well as a description of outsourcing 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 **and, where available, the Legal Entity Identifier (LEI);**

~~**(k) where applicable, the written agreement between the financial information service provider and the legal representative evidencing the appointment, the extent of liability and the tasks to be carried out by the legal representative in accordance with Article 13**~~.

(l) information, if available at the time the authorisation is applied for, on the notified financial data sharing scheme(s) of which the provider intends to become a member

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

For the purposes of paragraphs 1 and 2, other undertakings that are not legal persons shall only provide financial information services if their legal form ensures a level of protection for third parties' interests equivalent to that afforded by legal persons and if they are subject to equivalent prudential supervision appropriate to their legal form.

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

3. Financial information service providers shall hold a professional indemnity insurance covering the territories in which they **provide financial information services** ~~**access, collect and/or consolidate data,**~~ or some other comparable guarantee, and shall ensure the following:

(a) an ability to cover their liability resulting from **professional negligence**, non-authorised or fraudulent access to or non-authorised or fraudulent use of data;

(b) an ability to cover the value of any excess, threshold or deductible from the insurance or comparable guarantee;

(c) monitoring of the coverage of the insurance or comparable guarantee on an ongoing basis.

~~As an alternative to holding a professional indemnity insurance or other comparable guarantee as required in the first sub-paragraph, the undertaking as referred in the previous subparagraph shall hold initial capital of EUR 50 000, which can~~ **shall be replaced by a professional indemnity insurance or other comparable guarantee after it commences its activity as financial information service provider, within XX 1 months after authorisation without undue delay.**

Financial information service providers authorised in accordance with Article 14 shall at all times meet the conditions for their authorisation and inform their competent authority of any change in the information and evidence provided in accordance with this Article which may affect the accuracy of that information or evidence.~~.~~

4. **The European Supervisory Authorities (ESAs), through the Joint Committee**~~**, EBA in cooperation with ESMA and EIOPA**~~ **shall**, after consulting all relevant stakeholders, develop draft regulatory technical standards specifying:

(a) the information to be provided to the competent authority in the application for the authorisation of financial information service providers, including the requirements laid down in paragraph ~~1~~, ~~points (a) to (l)~~ **2, points (a) to** ~~**(k)**~~ **(j)**;

(b) a common assessment methodology for granting authorisation as a financial information service provider, under this Regulation;

(c) what is a comparable guarantee, as referred in paragraph ~~2~~3, which should be interchangeable with a professional indemnity insurance;

(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee referred to in paragraph ~~2~~3.

For the purposes of point (c), own funds or initial capital shall not be excluded from what a comparable guarantee is.

In developing these regulatory technical standards, **the ESAs** ~~EBA~~ shall take account of the following:

(a) the risk profile of the undertaking;

(b) whether the undertaking provides other types of services or is engaged in other business;

(c) the size of the **financial information services** activity;

(d) the specific characteristics of comparable guarantees and the criteria for their implementation**.**

The ESAs ~~**EBA,**~~ shall submit those draft regulatory technical standards referred to in the first subparagraph to the Commission by [OP please insert the date = 9 months after entry into force of this Regulation].

Power is conferred to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation **(EU)** 1093/201~~5~~**0, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010.**

In accordance with Article 10 of Regulation (EU**)** 1093/2010, **Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010, the ESAs** shall review and if appropriate, update these regulatory technical standards.

An ~~registered~~ account information service provider as defined in Directive 2015/2366/EU may ~~only~~ access the categories of customer data referred to in Article 2(1), provided ~~other than the data for which they are already authorised under the directive 2015/2366/EU, under Article 5(1) if~~ it has been authorised as a financial information service provider.

4a. When the legal person or other undertaking that intends to provide financial information services is a gatekeeper or owned or controlled by an undertaking that has been designated as a gatekeeper, the additional specific assessment, as described in Article 18b of this Regulation, shall be performed in order to ~~get a licence~~ be authorised as a Financial Information Service Provider. In this case, the above mentioned assessment shall be sent to the EBA which will provide the opinion in accordance to Article 18b(4).

~~[Article 13: Legal representatives]~~

~~1. Financial information service providers that do not have an establishment in the Union but that require access to financial customer data in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States from where the financial information service provider intends to access financial data~~

~~2. Financial information service providers shall mandate their legal representatives to be addressed in addition to or instead of the financial information service provider by the competent authorities on all issues necessary for the receipt of, compliance with and enforcement of this Regulation. Financial information service providers shall provide their legal representative with the necessary powers and resources to enable them to cooperate with the competent authorities and ensure compliance with their decisions.~~

~~3. The designated legal representative may be held liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the financial information service provider.~~

~~4. Financial information service providers shall notify the name, address, the electronic mail address and telephone number of their legal representative to the competent authority in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date.~~

~~5. The designation of a legal representative within the Union pursuant to paragraph 1 shall not constitute an establishment in the Union.~~

Article 14

Granting and withdrawal of authorisation of financial information service providers

1. The competent authority shall grant an authorisation if the information and evidence accompanying the application complies with **all** of the requirements laid down in Article **12**~~11(1), and (2),~~ **and (3), (4) and (5).** Before granting an authorisation, the competent authority may, where relevant, consult other relevant public authorities, **in particular the supervisory authorities under Regulation (EU) 2016/679**.

[2. The competent authority shall authorise a third country financial information service provider provided that all the following conditions are met:

(a) the third country financial information service provider has complied with all conditions laid down in Article 12 and 16;

(b) the third country financial information service provider has designated a legal representative pursuant to Article 13;

(c) where the third country financial information service provider is subject to supervision, the competent authority shall seek to put in place an appropriate cooperation arrangement with the relevant competent authority of the third country where the financial information service provider is established, to ensure an efficient exchange of information;

~~**(d) the third country where the financial information service provider is established is not listed as a non-cooperative jurisdiction for tax purposes under the relevant Union policy or as a high-risk third-country jurisdiction that presents deficiencies in accordance with Commission Delegated Regulation (EU) 2016/1675.]**~~

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

4. **The competent authority shall grant an authorisation only if:**

~~**a.** The competent authority shall grant an authorisation only if~~

(i) 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

(ii) difficulties involved in the enforcement of those laws, regulations or administrative provisions,

do not prevent the effective exercise of its supervisory functions.

b. The competent authority shall grant an authorisation only if it is satisfied that the governance arrangements of the financial information service provider demonstrate that it intends to carry out ~~substantive business~~ at least part of its business activities in the Member State where it has its registered office.

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 unable to meet its obligations under this Regulation** ~~an letterbox entity with no independent operations, significant assets, ongoing business activities, employees or~~ **and** that they are not undertaken as a means to circumvent the provisions of this Regulation.

6. Within 3 months of receipt of a~~n~~ **complete** application ~~**or, if the application is incomplete, of all of the information required for the decision**~~, the competent authority shall inform the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorisation. **If the competent authority conducts the specific assessment in accordance with Article 18b of this Regulation, it shall inform the applicant within 6 month of receipt of a complete application whether the authorisation is granted or refused.**

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

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

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

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

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

(e) has seriously and systematically infringed this Regulation

~~**8. The ESAs or tThe competent authority of any host Member State may at any time request the competent authority of the home Member State to examine whether the financial information service provider still complies with the conditions under which the authorisation was granted, when there are grounds to suspect that this may no longer be the case.**~~

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

8. ~~The ESAs or~~ The competent authority of any host Member State may at any time request the competent authority of the home Member State to examine whether the financial information service provider still complies with the conditions under which the authorisation was granted, when there are grounds to suspect that this may no longer be the case.

Article 15

Register

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

(a) the authorised financial information service providers, **including the name, the address and, where applicable, the authorisation number, and a description of the financial information services offered, and which schemes they are a member of~~.~~**

~~(aa) any withdrawal of authorisation a of financial information service provider.~~

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

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

~~**2. The register referred to in paragraph 1 shall only contain anonymised data.**~~

3. The register shall be publicly available on EBA's website, **shall be machine readable**, and shall allow for easy searching and accessing the information listed**, free of charge.**

4. EBA shall enter in the register referred to in paragraph 1 any withdrawal of authorisation of financial information service providers or termination of a financial data sharing scheme.

5. The competent authority~~ies~~ of **the** Member State~~s~~ **where financial information service providers ~~is~~are authorised** shall communicate without delay**~~, and where possible in an automated way,~~** to EBA the information necessary to fulfil its tasks pursuant to paragraphs 1 and ~~3~~**4**. Competent authorities shall be responsible for the accuracy of the information specified in paragraphs 1 and 3 and for keeping that information up to date. They shall, where technically possible, transmit this information to EBA in an automated way.

Article 16

Organisational requirements for financial information service providers

A financial information service provider shall **at all times** comply with the following organisational requirements:

(a) it shall establish policies and procedures sufficient to ensure its compliance, including its managers and employees with its obligations under this Regulation;

(b) it shall take reasonable steps to ensure continuity and regularity in the performance of its activities. To that end the financial information service provider shall employ appropriate and proportionate systems, **human and technical** resources and procedures to ensure the continuity of its critical operations, have in place contingency plans and a procedure to test and review regularly the adequacy and efficiency of such plans;

(c) when relying on a third party for the performance of functions which are critical for the provision of continuous and satisfactory service to customers and the performance of activities on a continuous and satisfactory basis, ~~**that**~~ it **shall** take~~**s**~~ reasonable steps to avoid undue additional operational risk. Outsourcing of important operational functions may not be undertaken in such a way as to impair materially the quality of its internal control and the ability of the ~~**supervisor**~~ **competent authority** to monitor the financial information service provider's compliance with all obligations. **The financial information service provider shall, in a timely manner, notify the competent authorities prior to the outsourcing of important operational functions as well as of any subsequent material developments with respect to those functions**;

(d) it shall have sound governance, administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment and management, and effective control and safeguard arrangements for information processing systems;

(e) its directors and persons responsible for its management as well as the persons responsible for the management of the ~~**data access**~~ **financial information service** activities of the financial information service provider are of good repute and possess appropriate knowledge, skills and experience, both individually and collectively, to perform their duties.

(f) it shall establish and maintain effective and transparent procedures **to ensure the confidentiality, availability and integrity of data in the event of an ICT-related** ~~**security**~~ **incident and** for the prompt, fair and consistent monitoring, handling and follow up of a security incident and security related customer complaints, including a reporting mechanism which takes account of the notification obligations laid **down in Chapter III of Regulation (EU) 2022/2554**.

(g) it shall ~~**respect**~~ **fulfil the requirements provided in Article 12 (2) and (3) of this Regulation.**

TITLE VI

Competent authorities and Supervision Framework

Article 17

Competent authorities

1. Member States shall**, in accordance with Articles 18a and 18b,** designate the competent authorities responsible for carrying out the functions and duties provided for in this Regulation. Member States shall notify those competent authorities to the Commission.

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

Member States shall ensure that those competent authorities have the necessary resources, notably in terms of dedicated staff, in order to comply with their tasks as per the obligations under this Regulation.

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

~~Member States shall ensure that the competent authorities designated under paragraph 1 ensure compliance of financial information service providers with this Regulation.~~

4. For financial institutions, compliance with this Regulation shall be ensured by the competent authorities ~~specified in Article 46 of Regulation (EU) 2022/2554 in accordance with the powers granted by the respective legal acts listed in that Article, and by this Regulation~~ **designated by the Member States**.

Article 18**a**

Powers of competent authorities

1. Competent authorities shall have all the **supervisory and** investigatory powers necessary for the exercise of their functions. **In addition to ~~those~~ powers that ~~may~~ exist in national law**, ~~T~~**t**hose 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 in point (a) established or located in the Member State concerned where necessary to carry out the tasks of the competent authorities, including the power to:

(i) require the submission of documents;

(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 agrees to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;

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

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

(vi a) to require financial information service provider to remove members of their management body when they fail to comply with the requirements set out in Article 12(2), point (h);

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

(viii) to request, **insofar as permitted by national law**, the freezing or sequestration of assets, or both;

(ix) to refer matters for criminal investigation;

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

(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) **where appropriate,** to order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned **to register it.** ~~to record such deletion.~~

The implementation of this paragraph and the exercise of powers set out therein shall be proportionate and comply with Union and national law, including with applicable procedural safeguards and with the principles of the Charter of Fundamental Rights of the European Union. The investigation and enforcement measures adopted pursuant to this Regulation shall be appropriate to the nature and the overall actual or potential harm of the infringement.

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

(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 of a Member State.

Where competent authorities exercise their powers by delegating to other authorities or bodies in accordance with point (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 **supervisory,** investigatory and sanctioning powers, including in cross border cases, competent authorities shall cooperate effectively with each other**, with the supervisory authorities under Regulation (EU) 2016/679,** and with the authorities from any sector concerned as applicable to each case and in accordance with national and Union law, to ensure the exchange of information and the mutual assistance necessary for the effective enforcement of administrative sanctions and administrative measures.

Article 18b

Powers of competent authorities in relation to data user that is a gatekeeper or that is an entity owned or controlled by a gatekeeper

1. Within 6 months after the entry into force of this regulation ~~date of application of this Regulation, and when a legal person or other undertaking intends to submit an application for authorisation in accordance with Article 12,~~ **a data user listed in Article 2(2) that is a gatekeeper or is an entity** ~~that is~~ **owned or controlled by a gatekeeper shall be subject to a specific** ~~prior~~ **assessment by the competent authority of its establishment** ~~its registered office~~ **or authorisation, in** ~~close~~ **cooperation with the ESAs and, where appropriate, the European Commission.** ~~The competent authority shall complete the assessment within 60 working days.~~

The specific assessment referred to in the first paragraph shall also be conducted when:

i) a legal person or other undertaking that is a gatekeeper or is owned or controlled by a gatekeeper ~~intends to~~ **submits an application for authorisation in accordance with Article 12.**

ii) an existing data user becomes a designated gatekeeper or becomes an entity that is owned or controlled by a gatekeeper.

~~if a gatekeeper or an entity owned or controlled by a gatekeeper acquires an authorised financial information service provider.~~

The specific assessment referred to in point (i) of this paragraph shall be conducted within 6 months of receipt of a complete application, in-line with the application process is conducted in accordance with Article 12.

The specific assessment referred to in point (ii) of this paragraph shall be conducted within 6 months of the existing data user becoming a designated gatekeeper or becoming an entity that is owned or controlled by a gatekeeper.

The entity referred to in paragraph 1 that is subject of an assessment shall notify the competent authority its intent to act as a data user or apply for authorisation, including all relevant information as specified in paragraph 2.

Until the national competent authority complete their assessment and adopts a final decision, the ~~assessed~~ **entity referred to in paragraph 1** ~~**gatekeeper or any entity owned or controlled by the gatekeeper**~~ **that is the subject of an asssessment is prohibited from providing services as a data user under this Regulation or from being granted authorisation as a financial information service provider.**

2. The specific assessment referred to in paragraph 1 shall ~~consist~~ **be based on** ~~of~~ **an analysis of the following information:**

(a) a programme of operations submitted by ~~the gatekeeper or an entity owned or controlled by a gatekeeper~~ **the entity referred to in paragraph 1 that is subject of an assessment, which sets out the functioning, services and activities performed as a data user; including the type of access to customer data and the size of the activity in terms of the number of customers reached;**

(b) an assessment of the network effects and data driven advantages of ~~the gatekeeper or entity owned or controlled by a gatekeeper~~ **the entity referred to in paragraph 1 that is subject of an assessment, in particular in relation to that undertaking's access to, and collection of, customer data or analytics capabilities;**

(c) evidence that the entity referred to in paragraph 1 that is subject of an assessment ~~gatekeeper or entity owned or controlled by a gatekeeper~~ **has in place sufficient safeguards to demonstrate compliance with the requirements in Articles 5 to 8;** ~~**, including Article 6(4)(f)**~~

(d) evidence that the entity referred to in paragraph 1 that is subject of an assessment ~~gatekeeper or entity owned or controlled by a gatekeeper~~ **has in place sufficient IT, governance and organizational safeguards to demonstrate compliance with Article 6(4)(f), and that the segregation of data is ensured at all times and permanently in accordance with Article 6(4b);**

The competent authority may request the ~~assessed~~ **entity referred to in paragraph 1 that is subject of an assessment to submit information in order to complete the assessment on points (a) to (d) of this paragraph. The competent authority may request further information** ~~under paragraph (2) from the assessed entity~~**, if it deems that the information provided in the notification is incomplete or outdated for the purposes of the assessment, or that further information is needed.**

The competent authority shall conduct the assessment in accordance with paragraph 1 within 60 working days ~~after~~ **of receiving the complete information, as deemed necessary by the competent authority,** ~~which is necessary~~ **to conduct the assessment.**

During the assessment period, the competent authority may consult the European Commission in its capacity as designator of a gatekeeper under Regulation (EU 2022/1925.)

3. As soon as possible, but not later than 10 working days after the competent authority concludes the specific assessment referred to in paragraph 1 and considers the assessment to be complete, it shall send a copy of that assessment and the related documents to either EBA, ESMA or EIOPA depending on whether the gatekeeper or an ~~the~~ entity owned or controlled by a gatekeeper referred to in paragraph 1 of this Article is authorised pursuant to one of the Union acts referred to in Article 2(1) of Regulation No 1093/2010, Article 2(1) Regulation (EU) No 1094/2010 or Article 2(1) of Regulation (EU) No 1095/2010.

4. The ESA referred to in paragraph 3 of this Article shall provide the competent authority with an opinion on the assessment conducted within 60~~30~~ ~~calendar~~ **working days of receiving the copy of that assessment. Before issuing the above mentioned opinion, the** ~~European Supervisory Authority~~ **ESA shall consult the European Commission and the European Data Protection Board. The ESA should give a detailed explanation, if its opinion differs from the assessment of the competent authority.**

~~Although not legally binding, the competent authority should give a proper explanation in its assessment if it differs from the opinion of the ESA.~~

5. After taking into account the opinion given under paragraph 4, the competent authority shall ~~conclude~~ **complete** ~~its~~ **any further assessment in 30 working days.** ~~after once the requirements laid down in paragraphs 2 and 4 of this Article are met.~~ **The competent authority shall inform the gatekeeper or entity owned or controlled by a gatekeeper referred to in paragraph 1 of the conclusions of its assessment without undue delay**~~in a timely manner~~**.**

If the assessment conducted by the competent authority concludes that the assessed entity referred to in paragraph 1 ~~gatekeeper or the entity owned or controlled by a gatekeeper referred to in paragraph 1~~ **fulfils the requirements in paragraph 2 of this Article, the assessment shall be declared complete by the competent authority and establish:**

i) the eligibility of the ~~assessed~~ **entity referred to in paragraph 1 that is subject of an assessment** ~~the gatekeeper or the entity owned or controlled by a gatekeeper referred to in paragraph 1~~ **to provide services as a data user under this Regulation, where the entity is an entity referred to in article 2, paragraph 2, letters a) to n); or**

ii) the eligibility of ~~assessed~~ **the entity referred to in paragraph 1 that is subject of an assessment** ~~the gatekeeper or the entity owned or controlled by a gatekeeper referred to in paragraph 1~~ **to** ~~apply for~~ **be authorised** ~~an authorisation~~ **as a financial information service provider in accordance with the procedure outlined in Article 12, where the entity is not referred to in article 2, paragraph 2, letters a) to n).**~~the gatekeeper or the entity owned or controlled by a gatekeeper referred to in paragraph 1 shall be confirmed as an eligible entity under Article 2(2) of this Regulation.~~

~~The gatekeeper or the entity owned or controlled by the gatekeeper shall provide the competent authority with a description of the measures it has taken to ensure compliance with the decision pursuant to paragraph 1 upon their implementation.~~

If the assessment conducted by the competent authority concludes that there are significant deficiencies, the competent authority shall request that ~~assessed~~ **the entity referred to in paragraph 1 that is subject of an assessment** ~~**the gatekeeper or the entity owned or controlled by a gatekeeper**~~ **implement measures to address those deficiencies within maximum 30 working days**~~ese~~**. The entity referred to in paragraph 1 that is subject of an assessment** ~~gatekeeper or the entity owned or controlled by the gatekeeper~~ **shall provide the competent authority with a description of the measures it has taken to ensure compliance with the assessment upon their implementation.**

The competent authority shall consider the measures taken by the entity referred to in paragraph 1 that is subject of an assessment within 30 days and consider whether or not they address its concerns.

If measures are not taken within the set deadline ~~in 30 calendar days~~, or are deemed insufficient by the competent authority to fulfil the requirements under paragraph 2, the competent authority shall~~may~~, within 30 working days, issue a corresponding decision~~ide~~ to prohibit the assessed entity as referred to in paragraph 1 from providing services as a data user under this regulation or from being granted an authorisation as a financial information service provider. ~~suspend access of the gatekeeper or the entity owned or controlled by a gatekeeper to the customer data under Article 5(1) of this Regulation and where appropriate, inform the relevant Financial Data Sharing Schemes,. exclude the entity from this Regulation.~~

6. The competent authority may decide to conduct a new assessment o~~if~~ the entity referred to in paragraph 1 that is subject of an assessment ~~gatekeeper or an entity owned or controlled by a gatekeeper referred to in paragraph 1~~ **to examine if it continues to comply with the requirements under paragraph 2, including if** it ~~no longer meets the conditions of the assessment or~~ **fails to inform the competent authority on ~~major~~ material** ~~developments~~ **changes in this respect. The new assessment shall be conducted in accordance with paragraphs 1 to 5 of this Article.**

Article 19

Settlement agreements and expedited enforcement procedures

1. Without prejudice to Article 20, Member States may lay down rules enabling their competent authorities to close an investigation **or formal sanctioning proceedings** concerning an alleged breach of this Regulation, following a settlement agreement in order to put an end to the alleged breach and its consequences before formal sanctioning proceedings are started **or to close formal sanctioning proceedings by a way of settlement.**

2. Member States may lay down rules enabling their competent authorities to close an investigation concerning an established breach through an expedited enforcement procedure in order to achieve a swift adoption of a decision aiming at imposing an administrative sanction or administrative measure.

The empowerment of competent authorities to settle or open expedite enforcement procedures does not affect the obligations upon Member States under Article 20.

3. Where Member States lay down the rules referred to in paragraph 1, they shall notify the Commission of the relevant laws, regulations and administrative provisions regulating the exercise of powers referred to in that paragraph and shall notify it of any subsequent amendments affecting those rules.

Article 20

Administrative penalties and other administrative measures

1. Without prejudice to the supervisory and investigative powers of competent authorities listed in Article**s** 18**a and 18b**, Member States shall, in accordance with national law, provide for competent authorities to have the power to take appropriate administrative penalties and to take other administrative measures in relation to the following infringements:

(a) infringements of Articles 4, 5 and 6;

(b) infringements of Articles 7 and 8;

(c) infringements of Article 9 and 10;

(d) infringements of Articles **12, ~~13~~** and 16;

(e) infringements of Article 28.

2. Member States may decide not to lay down rules on administrative sanctions and administrative measures applicable to breaches of this Regulation which are subject to sanctions under national criminal law. In such a case, Member States shall notify the Commission of the relevant criminal law provisions and any subsequent amendments thereto.

3. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose the following administrative penalties and other administrative measures in relation to the infringements referred to in paragraph 1:

(a) a public statement indicating the natural or legal 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) a temporary suspension of the authorisation of a financial information service provider;

(e) a maximum administrative fine of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined, even if such fine exceeds the maximum amounts set out in this paragraph, point (f), as regards natural persons, or in paragraph 4 as regards legal persons***;***

(f) **in the case of a natural person, administrative pecuniary penalties of up to EUR 5 million** ~~**in the case of a natural person, maximum administrative fines of up to EUR 25 000 per infringement and up to a total of EUR 250 000 per year,**~~ or, in the Member States whose official currency is not the euro, the corresponding value in the official currency of that Member State on ... [OP please insert the date of entry into force of this Regulation].

(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~~ **a temporary ban preventing a member of the management body of the legal person, or any other natural person who is held responsible for the breach, from exercising managing functions** ~~in a financial information service provider.~~

4. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose, in relation to the infringements referred to in paragraph 1 committed by legal persons, maximum administrative fines of:

(a) **administrative pecuniary penalties of up to EUR 5 million** ~~up to EUR 50 000 per infringement and up to a total of EUR 500 000 per year~~, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency of that Member State on ... [OP please insert the date of entry into force of this Regulation];

(b) ~~2~~**10**% of the total annual turnover of the legal person according to the last available **annual** financial statements **for the latest balance sheet date** approved by the management body;

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

5. Member States may empower competent authorities to impose other types of administrative penalties and other administrative measures in addition to those referred to in paragraphs 3 and 4 and may provide for higher amounts of administrative pecuniary fines than those laid down in those paragraphs.

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

Article 21

Periodic penalty payments

1. Competent authorities shall be entitled to impose periodic penalty payments on legal or natural persons for ~~an~~ ongoing **breaches of this Regulation, or of any decisions issued by a competent authority,** ~~failure to comply with any decision, order, interim measure, request, obligation or other administrative measure adopted~~ in accordance with this Regulation.

A periodic penalty payment referred to in the first subparagraph shall be effective ~~and~~ proportionate **and dissuasive** and shall consist of a daily amount to be paid until compliance is restored. They shall be imposed for a period not exceeding 6 months from the date indicated in the decision imposing the periodic penalty payments.

Competent authorities shall be entitled to impose **maximum** ~~the following~~ periodic penalty payments ~~which may be adjusted depending on the seriousness of the breach and the needs of the sector~~ **of at least**:

(a) 3% of the average daily turnover in the case of a legal person;

(b) EUR 30 000 in the case of a natural person.

2. The average daily turnover referred to in paragraph 1, third subparagraph, point (a), shall be the total annual turnover, divided by 365.

3. Member States may provide for higher amounts of periodic penalty payments than those laid down in paragraph 1, third subparagraph.

Article 22

Circumstances to be considered when determining administrative penalties and other administrative measures

1. Competent authorities, when determining the type and level of administrative penalties or other administrative measure, shall take into account all relevant circumstances in order to ensure that such sanctions or measures are effective and proportionate. 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 other things, by the total annual turnover of the legal person, or the annual income of the natural person responsible for the breach;

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

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

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

(g) the impact of the breach on the interests of customers;.

(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 pursuant to Article 19 shall adapt the relevant administrative penalties and other administrative measures provided for in Article 20 to the case concerned to ensure the proportionality thereof, in particular by considering the circumstances listed in paragraph 1.

Article 23

Professional secrecy

1. All persons who work or who have worked for the competent authorities, as well as experts acting on behalf of the competent authorities, are bound by the obligation of professional secrecy **in accordance with national laws.**

2. The information exchanged in accordance with Article 26 shall be subject to the obligation of professional secrecy **in accordance with national laws** by both the sharing and recipient authority to ensure the protection of individual and business rights.

Article 24

Right of appeal

1. Decisions taken by the competent authorities pursuant to this Regulation, may be contested before the courts **or other relevant bodies as may be appropriate under national law.**

2. Paragraph 1 shall apply also in respect of a failure to act.

Article 25

Publication of decisions of competent authorities

1. **Subject to Article 25(2),** ~~C~~**c**ompetent authorities shall publish on their website all decisions imposing an administrative penalty or administrative measure on legal and natural persons, for breaches of this Regulation, and where applicable, all settlement agreements. The publication shall include, a short description of the breach, the administrative penalty or other administrative measure imposed, or, where applicable, a statement about the settlement agreement. The identity of the natural person subject to the decision imposing an administrative penalty or administrative measure shall not be published.

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

2. By derogation from paragraph 1, where the publication of the identity or other personal data of the natural person is deemed necessary by the national competent authority to protect the stability of the financial markets or, to ensure the effective enforcement of this Regulation, including in the case of public statements referred to in Article 20(3) point (a), or temporary bans referred to in Article 20(3) point (g), the national competent authority may publish also the identity of the persons or personal data, provided that it justifies such a decision and that the publication is limited to the personal data that is strictly necessary to protect the stability of the financial markets or to ensure the effective enforcement of this Regulation.

3. Where the decision imposing an administrative penalty or other administrative measure is subject to appeal before the relevant judicial or other authority, competent authorities shall also publish on their official website, without delay, information on the appeal and any subsequent information on the outcome of such an appeal insofar as it concerns legal persons. Where the appealed decision concerns natural persons and the derogation under paragraph 2 is not applied, competent authorities shall publish information on the appeal ~~only in an anonymised version~~ **without the identity of the natural person**. **Where the appealed decision concerns natural persons and the derogation under paragraph 2 is applied, the competent authority may decide to publish the identity or other personal data of the natural person concerned.**

4. Competent authorities shall ensure that any publication made in accordance with this Article remains on their official website for a period of at least 5 years. Personal data contained in the publication shall be kept on the official website of the competent authority only if an annual review shows the continued need to publish that data to protect the stability of the financial markets or to ensure the effective enforcement of this Regulation, and in any event for no longer than 5 years.

Article 26

Cooperation and exchange of information between competent authorities

1.**For the purposes of this Regulation**, c~~C~~ompetent authorities shall cooperate with each other and **with other relevant competent authorities designated under Union or national law** ~~applicable to financial institutions for the purposes of this Regulation carrying out the duties of the competent authorities.~~

Competent authorities shall exchange information as necessary for the performance of their duties under this Regulation. In case of exchanging information containing personal data, those authorities shall ensure full compliance with the Regulation 2016/679.

2. The exchange of information between competent authorities and the competent authorities of other Member States responsible for the authorisation and supervision of financial information service providers shall be allowed for the purposes of carrying out their duties under this Regulation.

3. Competent authorities exchanging information with other competent authorities under this Regulation may indicate at the time of communication that such information must not be disclosed without their express agreement, in which case such information may be exchanged solely for the purposes for which those authorities gave their agreement.

4. The competent authority shall not transmit information shared by other competent authorities to other bodies or natural or legal persons without the express agreement of the competent authorities which disclosed it and solely for the purposes for which those authorities gave their agreement, except in duly justified circumstances. In this last case, the contact point shall immediately inform the contact point that sent the information.

4a. Paragraphs 3 and 4 are without prejudice to Member States national ~~law~~ legislation concerning access to official documents.

5. Where obligations under this Regulation concern the processing of personal data, competent authorities shall cooperate ~~**consult**~~ with the supervisory authorities established pursuant to Regulation (EU) 2016/679. ~~**before exercising their supervisory powers.**~~

Article 27

Settlement of disagreements between competent authorities

1. Where a competent authority of a Member State considers that, in a particular matter, cross-border cooperation with competent authorities of another Member State as referred to in Articles 28 or 29 of this Regulation does not comply with the relevant conditions set out in those provisions, it may refer the matter to EBA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. **In case of insurance or occupational pension's competent authorities, they may refer the matter to EIOPA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In case of securities and markets competent authorities, they may refer the matter to ESMA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1095/2010.**

2. Where EBA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1093/2010 without undue delay. EBA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1093/2010.

3. Where EIOPA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1094/2010 without undue delay. EIOPA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1094/2010.

43. Where ESMA has been requested to provide assistance pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1095/2010 without undue delay. ~~EIOPA~~ ESMA may also, on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1), second subparagraph of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution of the disagreement pursuant to Article 19 of Regulation (EU) No 1095/2010.

TITLE VII

Cross Border access to data

Article 28

Cross-border access to data by financial information service providers **and financial institutions**

1. Financial information service providers and financial institutions shall **upon request from a customer or upon request from a data user and based on the customer's explicit permission in accordance with Article 5(1),** ~~shall~~be allowed to have access to the data listed in Article 2(1) of ~~Union~~ customers held by data holders established in the Union, pursuant to the freedom to provide services or the freedom of establishment.

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

(a) the name, **legal form, the legal entity identifier**, the address and, where applicable, the authorisation number of the financial information service provider;

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

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

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

~~**(e) where the financial information service provider intends to make use of a branch:**~~

~~**(i) the information referred to in Article 12(2), points (b), (c) and (e), with regard to the service business in the host Member State;**~~

~~**(ii) a description of the organisational structure of the branch;**~~

~~**(iii) the identity of those responsible for the management of the branch.**~~

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

3. Within ~~a maximum delay of~~ 1 month of receipt of all of the information referred to in paragraph ~~1~~**2** the competent authorities of the home Member State shall send it to the competent authorities of the host Member State. **The financial information service providers may then start to access data in the notified host 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~~**2**, including additional entities to which activities are outsourced in the host Member States in which it operates. The procedure provided for under paragraphs 2 and 3 shall apply.

5. The ~~European Supervisory Authorities (~~ESAs~~)~~, through the Joint Committee, shall develop draft regulatory technical standards specifying the framework for cooperation, and for the exchange of information, between competent authorities of the home and of the host Member State in accordance with this Article.

Those draft regulatory technical standards shall specify the method, means and details of cooperation in the notification of financial information service providers operating on a cross-border basis and, in particular, the scope and treatment of information to be submitted, including common terminology and standard notification templates to ensure a consistent and efficient notification process. Those draft regulatory technical standards shall be aligned with the Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017.

The ESAs shall submit those draft regulatory technical standards to the Commission by [OP please insert the date= 18 months after the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.

Article 29

Reasons and communication

Any measure taken by the competent authorities pursuant to Article 18 or Article 28 involving penalties or restrictions on the exercise of the freedom to provide services or the freedom of establishment shall be properly justified and communicated to the financial information service provider concerned.

TITLE VIII

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 the delegated act referred to in Article 11, shall be conferred on the Commission for a period of XX months from … [OP please insert: date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the XX-month period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in Article 11, may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

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

6. A delegated act adopted pursuant to Article 11, shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months on the initiative of the European Parliament or of the Council.

Article 31

Evaluation of this Regulation and report on access to financial data

1. By [OP please insert the date = 3 years after the date of ~~application~~ entry into force of this Regulation the Commission shall carry out a review and submit a report to the European Parliament and to the Council, accompanied, if deemed appropriate, by a legislative proposal. The report shall assess:

a) a detailed review of the application; impact in practice; and effectiveness of the requirements of this Regulation as they apply to undertaking designated as a gatekeepers or entities owned or controlled by gatekeepers when acting as data holders or as data users;

b) an evaluation whether additional measures, including the exclusion of undertaking designated as gatekeepers or entities owned or controlled by gatekeepers and/or a specific assessment and safeguards of such designated entities by national competent authorities are required.

~~1.~~ By [OP please insert the date = ~~4~~ **5** years after the date of entry into **force** ~~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~~;~~ **, including customer data on pension rights in occupational pension schemes, in accordance with Directive 2009/138/EC and Directive (EU) 2016/2341 of the European Parliament and of the Council.**

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

(c) changes in contractual practices of data holders and data users and the operation of financial data sharing schemes;

(ca) whether the governance framework of the schemes functions as intended and sufficiently enables the development of open finance markets;

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

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

~~(f) the activities under this Regulation of any undertaking designated as a gatekeeper or entities owned or controlled by a gatekeeper to evaluate whether additional measures, including the exclusion of such designated entities, are required. The competent authorities of Member States shall provide any relevant information they have that the Commission may require for the purposes of drawing up the assessment to this effect;~~

(g) the financial implications on data holders and data users, ~~including~~ as well as costs and benefits to consumers;

(h) data users' compliance with the provisions set out in Article 7.

2. By [OP please insert the date = ~~4~~ **5** years after the date of entry into force of this Regulation, the Commission shall submit a report to the European Parliament and the Council assessing the conditions for access to ~~financial~~ **customer** data applicable to account information service providers under this Regulation and under Directive (EU) 2015/2366. ~~under proposal for a Regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation (EU) No 1093/2010.~~ The report can be accompanied, if deemed appropriate, by a legislative proposal.

Article 32

Amendment to Regulation (EU) No 1093/2010

In Article 1(2) of Regulation (EU) No 1093/2010, the first subparagraph is replaced by the following:

‘The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC*, Directive 2009/110/EC, Regulation (EU) No 575/2013**, Directive 2013/36/EU***, Directive 2014/49/EU****, Directive 2014/92/EU*****, Directive (EU) 2015/2366******, Regulation (EU) 2023/1114 (*******), Regulation (EU) 2024/…/EU (********) of the European Parliament and of the Council and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013*********.

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

** 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).

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

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

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

Article 33

Amendment to Regulation (EU) No 1094/2010

In Article 1(2) of Regulation (EU) No 1094/2010, the first subparagraph is replaced by the following:

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

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

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

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

Article 34

Amendment to Regulation (EU) No 1095/2010

In Article 1(2) of Regulation (EU) No 1095/2010, the first subparagraph is replaced by the following:

‘The Authority shall act within the powers conferred by this Regulation and within the scope of Directives 97/9/EC, 98/26/EC, 2001/34/EC, 2002/47/EC, 2004/109/EC, 2009/65/EC, Directive 2011/61/EU of the European Parliament and of the Council*, Regulation (EC) No 1060/2009 and Directive 2014/65/EU of the European Parliament and of the Council**, Regulation (EU) 2017/1129 of the European Parliament and of the Council***, Regulation (EU) 2023/1114of the European Parliament and of the Council**** Regulation (EU) 2024/… of the European Parliament and of the Council***** and to the extent that those acts apply to firms providing investment services or to collective investment undertakings marketing their units or shares, issuers or offerors of crypto-assets, persons seeking admission to trading or crypto-asset service providers, financial information service providers and the competent authorities that supervise them, within the relevant parts of, Directives 2002/87/EC and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.

_____

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

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

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

Article 35

Amendment to Regulation (EU) 2022/2554

(1) Article 2(1) of Regulation (EU) 2022/2554 is amended as follows:

(a~~1~~) In point (u), "ICT third-party service providers." is replaced by "financial information service providers;"

~~(1) In point (u), the punctuation mark "."is replaced by ";"~~

(**b**~~2~~) the following point (v) is added:

"(v) ICT third-party service providers ."

(2) Article 2(2) of Regulation (EU) 2022/2554 is replaced ~~amended~~ as follows:

For the purposes of this Regulation, entities referred to in paragraph 1, points (a) to (u), shall collectively be referred to as 'financial entities'

(3) Article 2(3) of Regulation (EU) 2022/2554 is amended as follows:

(1) Point (e), is replaced as follows:

'insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries which are microenterprises or small or medium-sized enterprises, as well as ancillary insurance intermediaries carrying out insurance distribution activities that meet the conditions referred to in Article 1(3) of Directive (EU) 2016/97.'

(4) Article 46 of Regulation (EU) 2022/2554 is amended as follows:

(1) In point (q), the punctuation mark "."is replaced by ";"

(2) the following point (r) is added:

(r) for financial information service providers, the competent authority designated in accordance with Article 17(1) of Regulation on Financial Data Access (FIDA).

Article 36

Entry into force and application

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

~~It shall apply from [OP please insert the date = 24 months after the date of entry into force of this Regulation]. However, Articles 9 to 13 shall apply from [OP please insert the date = 18 months after the date of entry into force of this Regulation].~~

2. For the customer data listed in:

(i) Article 2(1)(a) with regard to data on credit agreements for consumers;

(ii) Article 2(1)(a) with regard to data on accounts;

(iii) Article 2(1)(b) with regard to data on savings;

(iv) Article 2(1)(e) with regard to data on motor insurance, including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/97;

it shall apply from [OP please insert the date = 24 months after the date of entry into force of this Regulation]. However, Articles 9 to 11 shall apply from [OP please insert the date = 18 months after the date of entry into force of this Regulation].

3. For the customer data listed in:

(i) Article 2(1)(a) with regard to data on credit agreements for consumers relating to residential immovable property ~~mortgage credit agreements~~;

(ii)Article 2(1)(b) with regard to data on investments in financial instruments, including data related to customers' sustainability preferences and other data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 25 of Directive 2014/65/EU;

~~(iii) Article 2(1)(b) with regard to data on insurance-based investment products, including data related to customers' sustainability preferences and other data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 30 of Directive (EU) 2016/97;~~

~~(iiiiv)~~ **Article 2(1)(b) with regard to data on crypto assets, including data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 81(1) of Regulation (EU) 2023/1114;**

(v) Article 2(1)(d),

(vi) Article 2(1)(b) with regard to data on entry knowledge test in accordance with Article 21 of Regulation (EU) 2020/1503,

it shall apply from [OP please insert the date = 36 months after the date of entry into force of this Regulation]. However, Articles 9 to 11 shall apply from [OP please insert the date = 30 months after the date of entry into force of this Regulation].

4. For the customer data listed in:

(i) Article 2(1)(a) with regard to data on credit agreements except for data on credit agreements for consumers and data for ~~mortgage credit agreements;~~credit agreements for consumers relating to residential immovable property;

(ii) Article 2(1)(a) with regard to data which forms part of a creditworthiness assessment of a firm and which is collected as part of a credit agreement application process or a request for a credit rating;

~~(iii) Article 2(1)(c) and~~

(iv) Article 2(1)(e) other than data on motor insurance, including data collected for the purposes of a demands and needs assessment in accordance with Article 20 of Directive (EU) 2016/9,

(v) Article 2(1)(b) with regard to data on insurance-based investment products, including data related to customers' sustainability preferences and other data collected for the purposes of carrying out an assessment of suitability and appropriateness in accordance with Article 30 of Directive (EU) 2016/97 and insurance-based individual pension products;

it shall apply from [OP please insert the date = 48 months after the date of entry into force of this Regulation]. However, Articles 9 to 11 shall apply from [OP please insert the date = 42 months after the date of entry into force of this Regulation].

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

Done at Brussels,

For the European Parliament For the Council

The President The President