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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2024) 6649 final
Subject:	ANNEX to the COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards establishing a template document for cooperation arrangements between competent authorities and supervisory authorities of third countries

Delegations will find attached document C(2024) 6649 ANNEX.

Encl.: C(2024) 6649 final



EUROPEAN
COMMISSION

Brussels, 26.9.2024
C(2024) 6649 final

ANNEX

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to the

COMMISSION DELEGATED REGULATION (EU) .../...

**supplementing Regulation (EU) 2023/1114 of the European Parliament and of the
Council with regard to regulatory technical standards establishing a template document
for cooperation arrangements between competent authorities and supervisory
authorities of third countries**

ANNEX
Template document for cooperation arrangements concerning the exchange of information between competent authorities of Member States and supervisory authorities of third countries and the enforcement of obligations arising under Regulation (EU) 2023/1114 in third countries

1. Introduction

Description of each signatory authority's legal basis for the exchange of information in order for them to carry out their duties in accordance with their laws and regulations relating to markets in crypto-assets.

Declaration that pursuant to the laws and regulations that constitute the legal basis for exchange of information, the signatory authorities are to provide each other with reciprocal mutual assistance in accordance with the cooperation arrangements.

Declaration that the provisions of the cooperation arrangements are not intended to create legally binding obligations or supersede domestic law.

2. Definitions

An appropriate list of definitions covering the terms used in the cooperation arrangements.

3. Type of assistance to be provided

Description of the type of assistance to be provided in accordance with Article 94 of Regulation (EU) 2023/1114 such as:

- (a) obtaining information held in the files of the requested authority;
- (b) obtaining statements or information from any person;
- (c) obtaining documents from persons or entities including through the performance of on-site inspections;
- (d) obtaining data traffic records, insofar as permitted by national law and, where applicable, with the assistance of the appropriate judicial authority depending on the implementation of Article 94(3), point (e), of Regulation (EU) 2023/1114 or any equivalent power under the laws of the relevant third country;
- (e) obtaining or assisting in obtaining the freezing or sequestration of assets in accordance with Article 94(3), point (f), of Regulation (EU) 2023/1114 or any equivalent power under the laws of the relevant third country;
- (f) obtaining or assisting in obtaining the temporary cessation of any practice or conduct that is considered contrary to the laws and regulations relating to markets in crypto-assets in accordance with Article 94(1), point (v), of Regulation (EU) 2023/1114 or any equivalent power under the laws of the relevant third country.

4. General provisions – denial of assistance

A list of cases in which cooperation requests may be denied by competent authorities shall include:

- (a) the request is not made in compliance with the cooperation arrangements;
- (b) the request would require the requested authority to act in a manner that would violate domestic law;

- (c) communication of the relevant information could adversely affect the security of the jurisdiction addressed, in particular the fight against terrorism or other serious crimes;
- (d) complying with the request could adversely affect the own investigation, such as criminal investigation, by the requested authority or its enforcement activities;
- (e) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the relevant authorities of the jurisdiction addressed;
- (f) a final judgment has already been delivered in relation to the same persons for the same actions in the jurisdiction addressed, unless the requesting authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the requesting authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the requested authority.

Assistance shall not be denied on the ground that the type of conduct under investigation is not a violation of the laws and regulations relating to markets in crypto-assets of the jurisdiction of the requested authority.

5. Sending and processing requests for assistance

Description of the procedure for sending and processing requests for assistance.

6. Permissible uses of information

Description of the rules on the permissible use of the information in accordance with Article 107(5) of Regulation (EU) 2023/1114 and that the information provided shall be intended for the performance of the tasks of the requesting authority to ensure compliance with and enforce the laws and regulations relating to markets in crypto-assets. The information exchanged shall be used solely for the purposes set forth in the request for assistance.

If a requesting authority intends to use the information provided under the cooperation arrangements for any purpose other than that stated in this section, it shall obtain the prior consent of the requested authority.

7. Processing of personal data

Indication that the processing of personal data shall be undertaken in full compliance with Regulation (EU) 2016/679.

8. Confidentiality restrictions

Description of the rules on confidentiality of any information disclosed, received, exchanged or transmitted. The description shall include the following:

- (a) all information exchanged between the signatory authorities under the cooperation arrangements that concerns business or operational conditions or other economic or personal affairs shall be considered to be confidential and shall be subject to the requirements of professional secrecy, except where the requested authority states, at the time of transmission of information, that the information may be disclosed, or where such disclosure is necessary for legal proceedings;
- (b) the obligation of professional secrecy applies to all natural and legal persons who work or who have worked for the signatory authorities. Information covered by professional secrecy may not be disclosed to any other natural or legal person or authority except by virtue of provisions laid down by Union or national law, or by virtue of provisions laid down in the laws of the relevant third country at least equivalent to such provisions.

The information exchanged shall not be disclosed to any other authority or entity except with the prior agreement of the signatory authority which provided it.

9. General provisions – identification of a contact point

To facilitate cooperation under the arrangements, designation of contact points by the signatory authorities.

10. General provisions – revision clause

Periodical review by the signatory authorities of the functioning and effectiveness of the cooperation arrangements with a view to expanding or altering the scope or operation of the arrangements, where necessary.

11. Other provisions – Miscellaneous