



Council of the
European Union

Brussels, 21 December 2021
(OR. en)

15251/21

EF 412
ECOFIN 1282
DROIPEN 159
ENFOPOL 523
CT 180
FISC 250
COTER 176

COVER NOTE

From: Mr José Manuel CAMPA, Chair of the European Banking Authority (EBA)

date of receipt: 20 December 2021

To: General Secretariat of the Council

Subject: EBA submission of the draft regulatory technical standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database

Delegations will find attached the above mentioned documents.

Encl.

THE CHAIRPERSON

John Berrigan
Director General
Directorate-General for Financial Stability,
Financial Services and Capital Markets Union (FISMA)
European Commission
Rue de Spa 2
1000 Brussels
Belgium

20 December 2021

Subject: Submission of the draft regulatory technical standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database

Dear Mr Berrigan,

Article 9 a(1) and (3) of the EBA (EU) No 1093/2010 confer on the EBA a mandate to establish and keep up to date a central anti-money laundering and countering the financing of terrorism (AML/CFT) database. This AML/CFT database will contain information on material AML/CFT weaknesses in financial sector operators that competent authorities have identified. It will also contain information on the measures competent authorities have taken in response to those material weaknesses. In accordance with Article 9 a(1) and (3) of the of Regulation (EU) No 1093/2010, the EBA is required to develop regulatory technical standards specifying:

- the definition of weaknesses, including the corresponding situations where weaknesses may occur, the materiality of weaknesses and the practical implementation of the information collection by the EBA as well as the type of information that should be provided pursuant to point (a) of the first subparagraph. In developing those technical standards, the Authority shall consider the volume of the information to be provided and the need to avoid duplication. It shall also set out arrangements to ensure effectiveness and confidentiality;
- how information is to be analysed and made available to competent authorities on a need-to-know and confidential basis.



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EBA-2021-D-3737

It is my pleasure to submit to you today these draft regulatory technical standards as endorsed by the EBA's Board of Supervisors. These standards were developed following the procedure described in Article 10 of Regulation (EU) No. 1093/2010 (EBA Regulation). As previously agreed, the draft regulatory technical standards are attached in Legiswrite format. You will also find attached, for your complete information, the Final Report on the RTS that includes in an Annexe the technical specifications with the detailed data points that competent authorities will be expected to provide, and a list of the type of competent authorities that will be submitting information indirectly.

In addition, the draft regulatory technical standards will be published on the EBA's public website.

We will launch our central AML/CFT database, EuReCA (the European Reporting system for material CFT/AML weaknesses), at the end of January 2022. Competent authorities will begin to submit data. We expect that EuReCa will be fully operational later next year, when the RTS have been adopted by you and therefore I look forward to the completion of the process of adoption of the standards.

Yours sincerely,



José Manuel Campa

CC: Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs, European Parliament
Claudia Lindemann, Head of ECON Secretariat
Andrej Šircelj, Slovenian Minister of Finance, President of the Rotating Council of the European Union
Tuomas Saarenheimo, Chair of Economic and Finance Committee, Council of the European Union
Jeppe Tranholm-Mikkelsen, Secretary-General, Council of the European Union
Alexandra Jour-Schroeder, DG FISMA, Deputy Director-General
Martin Merlin, DG FISMA, Director Dir D, Bank, Insurance and Financial Crime
Almoro Rubin De Cervin, DG FISMA, Head of Unit D1, Bank Regulation and Supervision
Dominique Thienpont, DG FISMA, Legal Counsellor to Dir D
Raluca Pruna, DG FISMA, Head of Unit D2, Financial Crime

Encl: Final Report on draft RTS under Article 9a (1) and (3) setting up an AML/CFT central database



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2021) **XXX** draft

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

of **XXX**

supplementing Regulation (EU) No 1093/2010 of the European Parliament and of the Council with regard to regulatory technical standards setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 9a(1) subparagraph 3 and 9a(3) subparagraph 3 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Articles 10 to 14 of Regulation No (EU) 1093/2010, delegated acts on a central AML/CFT database that will be maintained by the EBA. These delegated acts also specify the type of information competent authorities shall report, how they shall report it and how the EBA will analyse and make available information from this database to competent authorities on a need-to-know and confidential basis.

In accordance with Article 10(1) of Regulation No (EU) 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Article 9a (1) and (3) of No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC. A consultation paper was published on the EBA internet site on 6 May 2021, and the consultation closed on 17 June 2021. Moreover, the EBA worked in close cooperation with the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority, and requested the Banking Stakeholder Group set up in accordance with Article 37 of Regulation No (EU) 1093/2010 to provide advice on them. Together with the draft technical standards, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has submitted its impact

assessment, including its analysis of the costs and benefits, related to the draft technical standards submitted to the Commission. This analysis is available at <https://www.eba.europa.eu/regulation-and-policy/anti-money-laundering-and-counter-terror-ism/financing-terrorism/regulatory-technical-standards-central-databases>, pages 37-44 of the Final Report on the draft technical standards.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The EBA is required to set up and maintain a central AML/CFT database. This database will contain information on material weaknesses in individual financial sector operators that make them vulnerable to money laundering or terrorist financing. Competent authorities have to report material weaknesses that they have identified, as well as the measures they have taken to address those material weaknesses.

These draft technical standards specify when weaknesses are material. They also set out which information competent authorities have to report, how they have to report it, and how the EBA will analyse this information and make it available to competent authorities.

They also set out the rules that will apply to ensure confidentiality and the protection of personal data contained in the database.

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

of **XXX**

supplementing Regulation (EU) No 1093/2010 of the European Parliament and of the Council with regard to regulatory technical standards setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹, and in particular Article 9a (1) and (3) thereof,

Whereas:

- (1) In accordance with Regulation (EU) 2019/2175² amending Regulation (EU) No 1093/2010, the EBA is entrusted with the power to act within the scope of Regulations (EU) No 1094/2010 and (EU) No 1095/2010 insofar as such power relates to the prevention and countering of money laundering or of terrorist financing, and to the extent that it concerns financial sector operators and the competent authorities supervising them, which are covered by those Regulations. Within this context, the EBA is tasked with the collection of information on material weaknesses regarding financial sector operators identified by the relevant Union and national authorities in relation to the prevention of money laundering and terrorist financing and on measures taken in response to those material weaknesses and to store such information in a centralised database, at the same time fostering cooperation among authorities by ensuring the appropriate analysis and dissemination of relevant information. This Regulation specifies the materiality of a weakness, what type of information will be collected by the EBA and how the EBA will collect and share that information.
- (2) Given the complementary character of the mandate set out in paragraph 1 of Article 9a of Regulation (EU) No 1093/2010 pertaining to the definition of weakness and its materiality,

¹ OJ L 331, 15.12.2010, p. 12.

² Regulation (EU) 2019/2175 of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds, OJ L 334 of 27.12.2019, p. 1

the specification of corresponding situations where a weakness may occur and the type and practical implementation of the information collection and of the mandate set out in paragraph 3 of that Article as to how information collected should be analysed and made available on a need to-know and confidential basis, the relevant specifications should be set out in a single Regulation.

- (3) Given that, in accordance with Article 9a of Regulation (EU) No 1093/2010, the EBA shall collect information about the measures taken by the competent authorities in response to material weaknesses identified, such measures should be understood as any supervisory and administrative measures, sanctions and penalties including precautionary or temporary measures, taken by competent authorities in the context of a supervisory activity as set out in the second subparagraph of Article 2 (5) of Regulation 1093/2010, in the second subparagraph of Article 2 (5) of Regulation 1094/2010 and in the second subparagraph of Article 2 (5) of Regulation 1095/2010.
- (4) This Regulation should specify the corresponding situations where weaknesses may occur. To that end, the Regulation should take into account that supervision, perceived as including all relevant activities, without prejudice to national competences, of all competent authorities to be carried out pursuant to the sectoral legislative acts, is, indeed, diverse. Therefore, this Regulation should specify the corresponding situations having regard to the supervisory activities performed by the different competent authorities.
- (5) For the materiality of a weakness to be determined, there is a need to set out a general definition and a non-exhaustive list of criteria to specify that definition further. This is in order to achieve a harmonised approach in the application of this general definition, while also ensuring that all material weaknesses, in the sense of the general definition, are captured taking into account the specific context.
- (6) To ensure that weaknesses are reported to the database at an early stage, a material weakness should be defined in such a way that it encompasses not only weaknesses that reveal, but also those that could lead to a significant failure in compliance with applicable AML/CFT-related requirements even if that failure has not occurred yet. This is also justified by the fact that information should be reported to the database on a best effort basis by those competent authorities that do not possess the same level of AML/CFT information and expertise as the supervisory authorities designated as competent under Directive (EU) 2015/8495.
- (7) To set out the type of information to be submitted, this Regulation should distinguish between general information, information on material weaknesses and information on the measures taken.
- (8) When setting out the components of the general information to be submitted, particular attention should be given to financial sector operators that operate on a cross-border basis, including financial sector operators that are part of a group for which a college operates. Furthermore, it should be specified that AML/CFT competent authorities should also submit to the EBA as part of this general information the financial sector operator's AML/CFT risk profile using common categories, for comparability of information to be ensured.
- (9) Prudential authorities should, as part of the general information that they have to report, provide information on the result of the relevant risk assessment of any supervisory review process and of any other similar process impacted by the ML/TF risk of the financial sector operator along with information on any negative final assessment or decision on applications

for authorisation or approval, where such assessment or decision is also based on the grounds of ML/TF risks.

- (10) There is a need to have regard to the distinct competences of the home and host AML/CFT authorities as set out in Directive (EU) 2015/849. To that end, it should be clarified that both the home and the host AML/CFT authorities are required to report to the EBA material weaknesses they have each identified in the performance of their respective competences. It should also be clarified that the measures taken by the host AML/CFT competent authority should be submitted to the database independently from any notification to the home authority.
- (11) To ensure that the EBA is able effectively to exercise its role to lead, coordinate and monitor with a view to preventing the use of the financial system for ML/TF purposes, by making full use of all its powers and tools under Regulation (EU) No 1093/2010 while respecting the principle of proportionality, there is a need to ensure that the EBA can combine, for the purposes of analysing the information submitted to the database, information that it has from other sources. The EBA should endeavour to make use of this information for the achievement of all its tasks as set out in Regulation 1093/2010.
- (12) While analysing information submitted and made available in accordance with this Regulation, cooperation with the EIOPA and ESMA should be ensured, in accordance with Article 4(3) of the TEU as further specified in Article 2 (4) of Regulation 1093/2010, Article 2 (4) of Regulation 1094/2010 and Article 2 (4) of Regulation 1095/2010.
- (13) In particular, it should be specified that information requested by the EBA to these authorities or otherwise received from these authorities in accordance with Article 4 (3) of the TEU as further specified in Article 2 (4) of Regulation 1093/2010, Article 2 (4) of Regulation 1094/2010 and Article 2 (4) of Regulation 1095/2010 could be used, where appropriate, for the purposes of the analysis and that the EBA should provide the EIOPA and ESMA with information, either on its own initiative or following a request received by them.
- (14) This Regulation should specify how information is made available to competent authorities. Article 9a (2) of Regulation (EU) No 1093/2010, which refers generically to the fact that the EBA shall ensure that information is made available to competent authorities on a need-to-know and confidential basis, and 9a(3), which refers specifically to reasoned requests, are both part of the process regarding how information is made available to competent authorities. To that end, the particular elements of the reasoned request to be received by the EBA from competent authorities should also be set out.
- (15) To ensure proportionality and avoid the duplication of information, there is a need to set out that an AML/CFT competent authority submitting information on a measure will be deemed as also submitting the notification referred to in Article 62 of Directive (EU) 2015/849 with regard to that measure; also that an AML/CFT or prudential authority submitting information under this Regulation shall specify with its submission whether it has already submitted a notification under Article 97 (6) of Directive (EU) 2013/36.
- (16) To ensure that the AML/CFT central database becomes an effective tool in the fight against ML/TF, there is a need to ensure that information is submitted to the database in a timely manner, and to ensure the quality of that information. To that end, information on material weaknesses and measures taken should be submitted without undue delay and competent

authorities should respond without undue delay to any call from the EBA made after any quality check analysis is performed. For the same reason, the ongoing accuracy, completeness, adequacy and updates of such information should be ensured, and information on a material weakness should be submitted independently from any measure in response to it.

- (17) To ensure time efficiency , thereby promoting consistent, systematic and effective monitoring and assessment of risks in relation to money laundering and terrorist financing in the Union's financial systems, this Regulation should specify that submissions and requests made in accordance therewith, shall be in English; at the same time, to ensure proportionality and avoid excessive costs for the competent authorities, where the supporting documents are not available in English, they should be submitted in the original language of the document accompanied by a summary in English.
- (18) Where the operation of a deposit guarantee scheme is administered by a private entity, there is a need to specify that the designated authority supervising that scheme should ensure that such scheme reports material weaknesses identified in the course of its activities to the designated authority.
- (19) Given the large number of competent authorities within the scope of these RTS and to anticipate the considerable differences in the reporting frequency as some of them are, due to their supervisory responsibilities, likely to report AML/CFT material weaknesses and measures less frequently than others, and in order to achieve operational and cost efficiency both for the competent authorities and for the EBA, there is a need for a sequential approach to be built into the architecture of the database on the basis of which some authorities should have direct and others indirect access to the database.
- (20) There is a need to specify that information provided in accordance with this Regulation will be bound by professional secrecy and confidentiality requirements for all parties involved in the exchange of that information. Hence, specific provisions should be set out in this Regulation as to how this information can be further disclosed, thereby preserving confidentiality.
- (21) When information submitted, requested, shared or made available in accordance with this Regulation concerns natural persons, there is a need to ensure that proportionality considerations are applied to the processing of information on these natural persons. To that end, this Regulation should specify the information processed concerning natural persons.
- (22) To further ensure data protection, there is a need to specify that Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 are applicable to the processing of personal data under this Regulation, that competent authorities submitting and requesting information under this Regulation shall comply with the requirements set out in these Regulations and with the national requirements on the protection of natural persons with regard to the processing of personal data, and that the EBA, ESMA and EIOPA shall process personal data in compliance with the requirements of Regulation (EU) 2018/1725.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies:

- (a) the definition of weaknesses identified by competent authorities during ongoing supervision and authorisation procedures in the processes and procedures, governance arrangements, fitness and propriety, acquisition of qualifying holdings, business models and activities of financial sector operators in relation to preventing and countering money laundering and terrorist financing;
- (b) the corresponding situations where the weaknesses may occur and the materiality of such weaknesses;
- (c) the type of information that competent authorities shall provide to the European Banking Authority ('EBA') pursuant to point (a) of paragraph 1 of Article 9a of Regulation 1093/2010 in relation to these weaknesses and the practical implementation of the information collection by EBA;
- (d) how information included in the central database referred to in point (a) of paragraph 1 of Article 9a of Regulation 1093/2010 will be analysed in order for that information to be shared by the EBA on its own initiative with competent authorities for their supervisory activities with regard to the prevention of the use of the financial system for the purposes of money laundering or terrorist financing;
- (e) how the information referred to in point (d) will be made available by the EBA to the competent authorities on a need-to-know basis;
- (f) the arrangements necessary to ensure confidentiality when information is being provided or made available as referred to in points (c) and (e).

Article 2

Scope

1. This Regulation applies to the following competent authorities:
 - (a) authorities that identify weaknesses during their ongoing supervision and authorisation procedures, in the processes and procedures, governance arrangements, fitness and propriety, acquisition of qualifying holdings, business models and activities of financial sector operators as defined in Article 4 (1a) of Regulation (EU) No 1093/2010 in relation to preventing and countering money laundering and terrorist financing; and
 - (b) authorities that take measures in response to the material weaknesses affecting one or more requirements of the legislative acts referred to in Article 1(2) of Regulation

(EU) 1093/2020, Article 1(2) of Regulation (EU) No 1094/2010³ and Article 1(2) of Regulation (EU) No 1095/2010⁴ and of any national laws transposing them with regard to preventing and countering the use of the financial system for the purpose of money laundering or terrorist financing.

2. 2. This Regulation applies with regard to financial sector operators defined in Article 4 (1a) of Regulation (EU) No 1093/2010.
3. 3. References in this Regulation to supervision shall be read in accordance with the second subparagraph of Article 2 (5) of Regulation (EU) No 1093/2010.

Article 3

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) ‘competent authority’ means an authority referred to in Article 2 (1);
- (2) ‘AML/CFT authority’ means a competent authority entrusted with the duty to ensure compliance of a financial sector operator with Directive (EU) 2015/849;
- (3) ‘prudential authority’ means a competent authority entrusted with the duty to ensure compliance of a financial sector operator with the prudential framework set out in any of the legislative acts referred to in Article 1(2) of Regulation 1093/2010, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No 1095/2010 and in any national laws transposing them, including the European Central Bank with regard to matters relating to the tasks conferred on it by Regulation (EU) No 1024/2013⁵.
- (4) ‘payment institutions authority’ means an authority referred to in Article 22 of Directive (EU) 2015/2366⁶.
- (5) ‘conduct of business’ means a competent authority entrusted with the duty to ensure compliance of a financial sector operator with the conduct of business or the consumer protection framework set out in any of the legislative acts referred to in Article 1(2) of Regulation (EU) 1093/2010, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No 1095/2010 and in any national laws transposing them.

³ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48)

⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84)

⁵ 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)

⁶ 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 of 23.12.2015, p. 35)

- (6) ‘resolution authority’ means a national authority designated by a Member State in accordance with Article 3 of Directive (EU) 2014/59⁷ and the Single Resolution Board established by Regulation (EU) No 806/2014⁸;
- (7) ‘designated authority’ means a competent authority as referred to in Article 2 (18) of Directive (EU) 2014/49⁹;
- (8) ‘AML/CFT-related requirement’ means any requirement imposed on a financial sector operator in accordance with the legislative acts referred to in Article 1(2) of Regulation (EU) No 1093/2010, Article 1(2) of Regulation (EU) No 1094/2010 and Article 1(2) of Regulation (EU) No 1095/2010 and with any national laws transposing them, with regard to the prevention, and countering the use of the financial system for the purpose of money laundering or terrorist financing;
- (9) ‘policy’ means any internal policies and procedures that financial sector operators put in place to comply with AML/CFT-related requirements.
- (10) ‘measure’ means any supervisory and administrative measures, sanctions and penalties, including precautionary or temporary measures, taken by a competent authority in response to a weakness which is deemed as material in accordance with Article 5;
- (11) ‘breach’ means any violation of an AML/CFT-related requirement committed by a financial sector operator and which has been identified by a competent authority;
- (12) ‘potential breach’ means a situation in which either the competent authority has reasonable grounds to suspect that a violation of an AML/CFT-related requirement has been committed by a financial sector operator or that such a violation has been attempted;
- (13) ‘ineffective or inappropriate application’ means an application by a financial sector operator of an AML/CFT-related requirement or policies in a way that is considered by a competent authority to be inadequate or insufficient to achieve the intended effects of those requirements or policies and is likely, by its nature, to lead to a breach if the situation is not rectified, but which is not a breach or a potential breach;
- (14) ‘branch’ means a place of business which forms a legally dependent part of a financial sector operator and which carries out directly all or some of the transactions inherent in the business of the financial sector operator, whether its head office is situated in a Member State or in a third country;.
- (15) ‘parent financial sector operator’ means a financial sector operator in a Member State which has another financial sector operator as a subsidiary or which holds a participation in

⁷ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190)

⁸ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1)

⁹ 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)

such a financial sector operator and which is not itself a subsidiary of another financial sector operator authorised in the same Member State;

- (16) ‘union parent financial sector operator’ means a parent financial sector operator in a Member State that is not a subsidiary of another financial sector operator established in any Member State.
- (17) ‘college’ means a college of supervisors as set out in Article 116 of Directive (EU) 2013/36, a resolution college or a European resolution college as set out in Articles 88 and 89 of Directive (EU) 2014/59, or an AML/CFT college.

Article 4

Weaknesses and corresponding situations where weaknesses may occur

1. For the purpose of point (a) of the first subparagraph of Article 9a of Regulation (EU) No 1093/2010, breaches, potential breaches and ineffective or inappropriate applications shall be weaknesses.
2. The corresponding situations where weaknesses may occur are set out in Annex 1.

Article 5

Materiality of a weakness

1. A weakness shall be considered material where it reveals or could lead to significant failures in the compliance of the financial sector operator, or of the group to which the financial sector operator belongs, with its AML/CFT-related requirements.
2. For the purpose of paragraph 1, at least all of the following criteria shall be assessed:
 - (a) It occurs repeatedly;
 - (b) It has persisted over a significant period of time (duration);
 - (c) It is serious or egregious (gravity);
 - (d) The management body or the senior management of the financial sector operator either appear to have a knowledge of the weakness and decided not to remediate it or they adopted decisions or deliberations directed at generating the weakness (negligence and wilful misconduct);
 - (e) The weakness increases the ML/TF risk exposure of the financial sector operator or the ML/TF risk associated with the financial sector operator, or of the group to which it belongs;
 - (f) The weakness has or could have a significant impact on the integrity, transparency and security of the financial system of a Member State or of the Union as a whole;

- (g) The weakness has or could have a significant impact on the viability of the financial sector operator or of the group to which the financial sector operator belongs, or on the financial stability of a Member State or of the Union as a whole;
- (h) The weakness has or could have a significant impact on the orderly functioning of financial markets.

Article 6

Type of information – general

The type of general information to be provided pursuant to point (a) of paragraph 1 of Article 9a of Regulation (EU) No 1093/2010 shall comprise the following:

- (a) identification of the competent authority, including specification of the home and host AML/CFT authority and, where Article 13(4) applies, identification of the authority indirectly submitting the information;
- (b) identification of the financial sector operator and of its branches, agents and distributors under Directive (EU) 2015/2366 and Directive (EU) 2009/110 concerned by the material weakness or the measures taken, including the type of financial sector operator and, where applicable, the type of establishment;
- (c) where the firm is part of a group, identification of the Union parent financial sector operator, the parent financial sector operators in a Member State;
- (d) in the case of the European Central bank, the Single Resolution Board or the national competent authorities of the Member State where the registered office of the financial sector operator is situated, or, if the financial sector operator has no registered office, of the Member State in which its head office is situated, identification of the countries in which the financial sector operator operate branches and subsidiaries or through a network of agents and distributors;
- (e) where the financial sector operator is part of a group, information as to any college established where the competent authority participates, including information on the members, observers, lead supervisor/group supervisor/consolidating supervisor/group level resolution authority of that college;
- (f) whether there is a central contact point as referred to in Article 45(9) of Directive (EU) 2015/849, where applicable, and its identification;
- (g) any other relevant information, including whether the financial sector operator is currently applying for authorisation, establishment or other supervisory approvals, whether the financial sector operator is in the process of application to exercise its right of establishment or its freedom to provide services, and whether the financial sector operator, is subject to any proceedings set out in Directive (EU) 2014/59 or other insolvency proceedings;
- (h) information on the size of the financial sector operator's and branch's activities, including, where applicable:

- (a) information on financial statements;
 - (b) number of clients;
 - (c) volume of assets under management;
 - (d) for an insurance undertaking, its annual gross written premium (GWP) and the size of its technical provisions;
 - (e) for an insurance intermediary, the volume of premiums intermediated;
 - (f) for payment institutions and electronic money institutions: the size of the distribution network including information on the number of agents and distributors;
- (i) Prudential authorities shall, in addition to points (a) to (h), specify the following:
- (a) The result of the relevant risk assessment of any supervisory review process, including the processes referred to in Article 97 of Directive (EU) 2013/36 and in Directive (EU) 2009/138 and of any other similar process impacted by the ML/TF risk of the financial sector operator or of the branch, including in the areas of internal governance, business model, operational risk, liquidity and credit risk;
 - (b) Any negative final assessment or decision on an application for authorisation or approval, including where a member of the management body does not meet the requirements on fitness and propriety, where such decision is also based on grounds of ML/TF risks. Any reporting on natural persons shall be made in accordance with Annex 2.
- (j) AML/CFT authorities shall, in addition to points (a) to (h), provide the ML/TF risk profile of the financial sector operator and branch as well as available information about agents' and distributors' ML/TF risk profile using the categories specified in Annex 3.

Article 7

Type of information to be submitted for the material weakness

The type of information to be provided pursuant to point (a) of paragraph 1 of Article 9a of Regulation (EU) No 1093/2010 in relation to the material weakness itself shall comprise:

- (a) the type of weakness as set out in article 4 paragraph 1;
- (b) the reason for materiality as set out in Article 5;
- (c) the description of the material weakness;
- (d) the corresponding situation where the weakness has occurred in accordance with Annex 1;
- (e) the timeline of the material weakness;

- (f) the identification of the origin of the information on the material weakness, including whether the information derives from the reporting competent authority or from other sources;
- (g) the AML/CFT-related requirements to which the material weakness relates;
- (h) the type of products, services or activities for which the financial sector operator has been authorised that are impacted by the material weakness;
- (i) whether the material weakness concerns the financial sector operator, branch, agent or distributor alone, as well as any cross-border impact of the material weakness;
- (j) whether information on the material weakness has been communicated to a college that has been established for the group where the financial sector operator belongs; if not communicated yet: the reason why;
- (k) for the host AML/CFT competent authorities: whether the information on the material weakness has been communicated to the home AML/CFT competent authority or to the central contact point as referred to in Article 45(9) of Directive (EU) 2015/849 where applicable; if not communicated yet: the reason why;
- (l) whether the material weakness appears to be inherent in the design of that particular product, service or activity;
- (m) whether the material weakness appears to be linked with specific natural persons, whether a client, a beneficial owner, a member of the management body or key function holder, including reasoning thereof; any reporting on natural persons shall be made in accordance with Annex 2;
- (n) any contextual or background information with regard to the material weakness where known by the competent authority, including:
 - (a) whether the material weakness is linked with a specific area relevant for AML/CFT already identified by the EBA;
 - (b) for the AML/CFT authorities, whether the material weakness points to a ML/TF emerging risk (emerging risks include new risks that have not been identified before and existing risks that have significantly increased or taken on new significance);
 - (c) whether the material weakness is linked to the use of new technology, and a short description of the technology employed.

Article 8

Type of information transmitted in relation to measures taken in response to material weaknesses

The type of information to be provided pursuant to point (a) of paragraph 1 of Article 9a of regulation (EU) No 1093/2010 in relation to a measure taken in response to a material weakness shall comprise the following:

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- (a) a reference to the material weakness in relation to which the measure has been taken, and any necessary update of the information provided in accordance with Article 7;
- (b) the date of the imposition of the measure(s);
- (c) the type of measure, its internal reference number and link to it, if published;
- (d) full information as to the legal and natural persons which the measure concerns; any reporting on natural persons shall be made in accordance with Annex 2;
- (e) a description of the measure taken, including its legal basis;
- (f) the status of the measure, including whether any appeal has been brought against the measure;
- (g) whether and how the measure has been published, including the reasoning for any anonymous publication, delay in publication or non-publication;
- (h) all information relevant to the remediation of the material weakness that the measure concerns, including any action planned or taken for such remediation, any additional information necessary and the relevant timeline;
- (i) whether the information on the measure has been communicated to a college that has been established for the group where the financial sector operator belongs; if not communicated yet: the reason why;
- (j) for the host AML/CFT competent authorities: whether information on the measure has been communicated to the home AML/CFT competent authority; if not communicated yet: the reason why.

Article 9

Timelines and obligation to provide updates

1. Information on material weaknesses and measures taken shall be submitted by competent authorities in accordance with this Regulation without undue delay.
2. The reporting of a material weakness referred to in paragraph 1 shall be made by any competent authority independently from any measure in response thereto and by the host AML/CFT authority independently from the notification to the home AML/CFT authority.
3. Competent authorities shall ensure that the information submitted in accordance with this Regulation remains accurate, complete, appropriate and up to date.
4. Competent authorities shall provide, without undue delay, any additional or subsequent information required by the EBA when the EBA determines that the information submitted is not accurate, complete, adequate or up to date.
5. Competent authorities shall provide, in due time, all the information necessary to keep the EBA informed about any subsequent developments relating to the information provided,

including information related to the material weakness identified or to the measure taken and its remediation.

Article 10

Analysis of the information received by the EBA under this Regulation

1. EBA shall analyse the information received in accordance with this Regulation on a risk-based approach.
2. EBA may seek, where appropriate, to combine information submitted in accordance with this Regulation with information available to the EBA or with information that the EBA has gathered from other sources during the performance of its tasks, including information disclosed to the EBA by any natural or legal person, including competent authorities, the Commission, the EIOPA or the ESMA.
3. The EBA may seek, where appropriate, to obtain additional information from the ESMA and EIOPA. The competent authorities – the ESMA and the EIOPA – shall, in such cases, provide the information requested.
4. The EBA shall endeavour to make use of the information received in accordance with this Regulation for the achievement of all its tasks as set out in Regulation (EU) 1093/2010, including but without limitation, the following tasks:
 - (a) to conduct analysis on an aggregate basis in order to:
 - (a) inform the opinion it is requested to deliver pursuant to Article 6(5) of Directive (EU) 2015/849;
 - (b) perform risk assessments under Article 9a(5) of Regulation (EU) No 1093/2010;
 - (b) to provide responses to requests received from competent authorities for information about financial sector operators relevant for the supervisory activities of these authorities with regard to the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing, as specified in Article 9 a(3) of Regulation (EU) No 1093/2010;
 - (c) to inform requests under Article 9b of Regulation (EU) No 1093/2010;
 - (d) to disclose, on its own initiative, information to competent authorities relevant for their supervisory activities as specified in Article 11 (1) (b);
 - (e) to provide the EIOPA and ESMA with information analysed in accordance with this article, including information on individual financial sector operators, and on natural persons in accordance with Annex 2, either on its own initiative, or following a request received by these authorities providing reasons as to why that information is necessary for the achievement of their tasks as set out in Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010, respectively.

Article 11

Making information available

1. Information received in accordance with this Regulation and analysed in accordance with Article 10 shall be made available by the EBA to the competent authorities:
 - (a) following a request received by the competent authority for information about financial sector operators relevant for the supervisory activities of these authorities with regard to the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, as specified in Article 9 a(3) of Regulation (EU) No 1093/2010;
 - (b) on the EBA's own initiative, including but not limited to the following cases on a risk-based approach:
 - (a) to the lead supervisor/group supervisor/consolidating supervisor/group level resolution authority, where a college has been established but the information has not been disseminated therein as per in point (k) of Article 7 and point (i) of Article 8 and the EBA deems the information relevant;
 - (b) where no college has been established but the financial sector operator is part of a cross-border group or has branches or operates through agents or distributors in other countries and the EBA deems the information relevant for the authorities supervising such group entities, branches, agents or distributors;
2. The request referred to in point (a) of paragraph 1 shall identify the requesting competent authority and the authority enabling the indirect submission where appropriate, as well as the financial sector operator concerned by the request, and shall specify whether the request concerns the financial sector operator or a natural person; why the information is relevant for the requesting authority and its supervisory activities with regard to the prevention of the use of the financial system for the purpose of money laundering or terrorist financing; what the intended use of the requested information is; the date by which the information should be received, if any; whether there is a degree of urgency and relevant justifications for both, as well as any additional information that may assist or is requested by the EBA while processing the request.
3. Requests and making information available shall be made in accordance with Annex 2 where natural persons are concerned.

Article 12

Articulation with other notifications

1. An AML/CFT competent authority submitting information on a measure in accordance with this Regulation shall be deemed as also submitting the notification referred to in Article 62 of Directive (EU) 2015/849 with regard to that measure.

2. An AML/CFT or a prudential competent authority submitting information under this Regulation shall specify with its submission whether it has already submitted a notification under Article 97 (6) of Directive (EU) 2013/36.

Article 13

Practical implementation of the information collection

1. The submissions and requests to the EBA under this Regulation by competent authorities and the requests to the EBA by the ESMA and EIOPA shall be made by electronic means and in English.
2. Where the supporting documents are not available in English, their submission shall be made in the original language of the document accompanied by a summary in English.
3. Where the operation of a deposit guarantee scheme is administered by a private entity, the designated authority supervising that scheme should ensure that such scheme reports material weaknesses identified in the course of its activities to the designated authority.
4. Where a competent authority ('authority indirectly submitting') other than an AML/CFT authority submits information and requests to the EBA and receives information from the EBA through the AML/CFT authority in charge of the supervision of the financial sector operator concerned by the material weakness of the Member State where the authority indirectly submitting is established ('authority enabling indirect submission'), the following shall apply:
 - (a) the authority indirectly submitting shall submit information and requests to and receive information from the EBA as set out in this Regulation only through the authority enabling indirect submission;
 - (b) the liability of the authority enabling indirect submission shall be limited solely to submitting to the EBA all the information and requests received by the authority indirectly submitting and to transferring to that authority all the information received by the EBA;
 - (c) the authority indirectly submitting shall remain exclusively liable to comply with its obligations to report material weaknesses and measures in accordance with this Regulation;
 - (d) the notifications under Article 9 a(3) are done by the EBA for the authority indirectly submitting through the authority enabling indirect submission.
5. Competent authorities shall declare to the EBA a person of appropriate seniority that will represent the authority vis-à-vis the EBA for the purpose of submitting information in accordance with this Regulation; they shall report to the EBA any change of that person and they shall ensure that sufficient resources are dedicated for their reporting obligations under this Regulation to be discharged. Competent authorities shall notify to the EBA a person or persons designated as the contact points for the submission, the requests and the reception of information under this Regulation. Those notifications and any changes thereof shall be made in accordance with Annex 2. Authorities indirectly submitting shall

make the declarations referred to in this paragraph to the authorities enabling their indirect submission.

6. Additional information set out in the penultimate subparagraph of point (a) of Article 9a (1) of Regulation 1093/2010 includes – for the AML/CFT competent authority – the current ML/TF risk profile of the group if any, the ML/TF risk assessments of the financial sector operator, branch, agent or distributor or of the group; any information or document not referred to in this Regulation relevant for any material weakness or measure shall be provided by the competent authority with an explanation of such relevance;
7. The EBA shall, without prejudice to Annex 2, set out and communicate to competent authorities technical specifications, including data exchange formats, representations, relevant data points and instructions rights of access to the relevant database, to which authorities shall conform, where submitting or receiving information in accordance with this Regulation. The EBA shall, having regard to the different supervisory activities of the competent authorities, the expected frequency of submissions and the need to achieve operational and cost efficiency, identify the competent authorities that shall be authorities indirectly submitting in accordance with paragraph 4.

Article 14

Confidentiality

8. Without prejudice to provisions of this Regulation as to how information is analysed and made available to authorities, information submitted to the EBA in accordance with this Regulation shall be subject to Articles 70, 71 and 72 of Regulation (EU) No 1093/2010. Information received by the EIOPA and ESMA in accordance with this Regulation shall be subject to Articles 70, 71 and 72 of Regulation (EU) No 1094/2010 and to Articles 70, 71 and 72 of Regulation (EU) No 1095/2010, respectively.
9. Members of the competent authorities' management bodies and persons working or who have worked for these authorities, even after their duties are ceased, shall be subject to professional secrecy requirements and shall not disclose information received in accordance with this Regulation except only in summary or aggregate form, such that individual financial sector operators, branches, agents, distributors or natural persons cannot be identified, without prejudice to cases covered by criminal law.
10. Competent authorities receiving information in accordance with this Regulation shall treat this information as confidential and shall use it only in the course of their supervisory activities with regard to the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing, carried out pursuant to the legal acts referred to in Article 1(2) of Regulation (EU) 1093/2010, Article 1 (2) of Regulation (EU) 1094/2010 and Article 1 (2) of Regulation (EU) 1095/2010, including in appeals against measures taken by these authorities and in any court proceedings concerning supervisory activities.
11. Paragraph 2 shall not preclude a competent authority from disclosing information received in accordance with this Regulation to another competent authority or to an authority or body pursuant to the legal acts referred to in Article 1 (2) of Regulation (EU) 1093/2010, Article 1 (2) of Regulation (EU) 1094/2010 and Article 1 (2) of Regulation (EU) 1095/2010.

Article 15

Data protection

1. Regulation (EU) 2016/679¹⁰ and Regulation (EU) 2018/1725¹¹ are applicable to the processing of personal data under this Regulation. The competent authorities submitting and requesting information under this Regulation shall comply with the requirements set out in these Regulations and with the national requirements on the protection of natural persons with regard to the processing of personal data. This paragraph applies also in cases of indirect submissions or requests in accordance with paragraph 4 of Article 13.
2. The EBA, ESMA and EIOPA shall process personal data included in information submitted, requested, shared or made available in accordance with this Regulation in compliance with the requirements of Regulation (EU) 2018/1725.
3. The EBA, ESMA, EIOPA and the competent authorities shall determine their respective responsibilities as joint controllers of personal data by means of an arrangement between them in accordance with Article 26 of Regulation (EU) 2016/679 and Article 86 of Regulation (EU) 2018/1725, to the extent that those responsibilities are not determined by Union or Member State law to which they are subject.
4. Data may be kept on an identifiable form for a period of up to ten years, at the end of which personal information shall be deleted. Based on a regular assessment of their necessity, personal data may be deleted before the end of that maximum period on a case-by-case basis.

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

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

Done at Brussels,

For the Commission
The President

On behalf of the President

¹⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (*OJ L 119, 4.5.2016, p. 1*)

¹¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (*OJ L 295, 21.11.2018, p. 39*)

[Position]

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Brussels, **XXX**
[...] (2021) **XXX** draft

ANNEXES 1 to 3

ANNEXES

to the

COMMISSION DELEGATED REGULATION (EU) No .../...

supplementing Regulation (EU) No 1093/2010 of the European Parliament and of the Council with regard to regulatory technical standards setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein

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ANNEX I CORRESPONDING SITUATIONS

Competent authorities may come across weaknesses in the following situations:

PART 1: AML/CFT authorities

When carrying out their on-site and off-site supervisory activities in relation to:

5. Customer due diligence measures, including customer ML/TF risk assessments, reliance on third parties and transaction monitoring;
6. Suspicious transaction reporting;
7. Record-keeping;
8. Internal AML/CFT systems and controls;
9. Risk management system, including business-wide ML/TF risk assessments;
10. Group-wide policies and procedures including policies for sharing information within the group.

PART 2: Prudential authorities

11. During the authorisation process and the process for the assessment of acquisition of qualifying holdings:
 - (e) Business strategy, business model analysis and reflection on other risk areas, including liquidity where applicable;
 - (f) Fitness and propriety assessment of the members of the management body and key function holders, where performed;
 - (g) Notification to establish a branch or to provide services under the freedom of establishment or the freedom to provide services;
 - (h) Shareholders or members holding qualifying holdings or exclusively at authorisation, where applicable identity of 20 largest shareholders or members if there are no qualifying holdings;
 - (i) Internal governance arrangements including remuneration policies and practices;
 - (j) Internal control framework including risk management, compliance and internal audit;
 - (k) Information communication technology risk and risk management;
 - (l) Assessment of the sources of funds to pay up capital at authorisation or the source of funds to purchase the qualifying holding;

12. During ongoing supervision, including on-site inspections and off-site supervisory activities, regarding :
- (m) Internal governance arrangements including remuneration policies and practices;
 - (n) Internal control framework including risk management, compliance and internal audit;
 - (o) Fitness and propriety assessment of the members of the management body and key function holders, where performed;
 - (p) The assessment of the notifications of proposed acquisitions of qualifying holdings;
 - (q) Operational risks including legal and reputational risks;
 - (r) Information communication technology risk and risk management;
 - (s) Business models;
 - (t) Liquidity management;
 - (u) Outsourcing arrangements and third party risk management;
 - (v) Carrying out the procedures related to market access/banking licensing/authorisations;
 - (w) Carrying out the Supervisory Review and Evaluation Process (SREP); carrying out the supervisory review process (SRP) or similar supervisory review processes
 - (x) Assessment of ad hoc requests, notifications and applications;
 - (y) Assessment of the eligibility of and monitoring institutional protection schemes;
 - (z) Information received during ongoing work to ensure compliance with EU prudential rules such as the collection of supervisory reporting;

PART 3: Designated authorities

When preparing for DGS interventions, including stress testing and on-site or off-site inspections, or when executing a DGS intervention, including payouts.

PART 4: Resolution authorities

In the course of their functions, from resolution planning to execution.

PART 5: Conduct of business authorities

When carrying out their on-site and off-site supervisory activities and, in particular, in situations where they are aware of:

13. A denial of access to financial products/services for AML/CFT reasons;
14. A termination of a contract or the end of a service for AML/CFT reasons;
15. An exclusion of categories of customers, in particular in the situations mentioned in 1. and 2. for AML/CFT reasons.

PART 6: Payment institutions authorities

In particular :

16. During the authorisation process and passporting;
17. When carrying out their on-site and off-site supervisory activities and, in particular:
 - (aa) with regard to payment institutions and electronic money institutions, including when they provide their activities through agents and distributors;
 - (bb) with regard to the payment service provider's obligations under Directive (EU) 2015/2366 on payment services in the internal market, including the obligation of the payee's payment service providers to make funds available to the payee immediately after the amount is credited to the payment service provider's account.

PART 7: Any other situations where the weakness is material.

ANNEX 2
INFORMATION ON NATURAL PERSONS

18. The information to be provided in application of Article 6 (i) (b)
- (cc) Name, surname, date of birth, country of residence, nationality, function in the financial sector operator or branch;
 - (dd) The grounds of ML/TF.
19. The information to be provided in application of Article 7 (m) is as follows:

Customer or beneficial owner :

- (a) name, surname, date of birth, country of residence, nationality;
- (b) whether this natural person is also a member, or was also a member, of the management body or a key function holder in the financial sector operator or branch;
- (c) whether this natural person holds or held, directly or indirectly, shares in the financial sector operator or branch;
- (d) for a customer, whether the natural person is considered as ‘high risk’ by the financial sector operator, branch, agent or distributor.

Member(s) of the management body or key function holder(s)

Name, surname, date of birth, country of residence, nationality, function in the financial sector operator or branch;

Any natural person:

The reason why the competent authority considers that the natural person appears to be linked with the material weakness.

20. The information to be provided in application of Article 8 (d) is as follows:
Name, surname, date of birth, country of residence, nationality, function in the financial sector operator, branch, agent or distributor or role (with regard to customer or beneficial owner);

21. The information to be provided in application of Article 11 (3) is as follows:
- (ee) The information to be submitted by a competent authority when making a request about a natural persons:
 - (a) Name, surname, date of birth, nationality, country of residence;
 - (b) The function, or role (with regard to the customer or beneficial owner), where known;

- (c) The rationale(s) for the request: the reason why the information about that specific person is necessary for the requesting competent authority for its supervisory activity with regard to the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and the intended use (s) of the information requested.

- (ff) The dissemination of personal data by the EBA

Personal data will be shared by the EBA upon request under the conditions mentioned under Point 4 (a) (c.) and by the EBA on its own initiative as described in Article 11 (1) (c) if the information about that specific person is necessary for the competent authority for its supervisory activity with regard to the prevention of the use of the financial system for the purpose of money laundering or terrorist financing. In both cases, the information will be shared between authenticated users and using secured communication channels.

22. The information to be provided in application of Article 13 (5) is as follows:

Name, surname, function, business contact.

ANNEX 3
ML/TF RISK PROFILE

i. Less significant risk profile

The financial sector operator/branch/agent or distributor has a less significant risk profile where its inherent risk is less significant and its risk profile remains unaffected by mitigation, or where inherent risk is moderately significant or significant but is effectively mitigated through AML/CFT systems and controls.

ii. Moderately significant risk profile

The financial sector operator/branch/agent or distributor has a moderately significant risk profile where its inherent risk is moderately significant and its risk profile remains unaffected by mitigation, or where its inherent risk is significant or very significant but is effectively mitigated through AML/CFT systems and controls.

iii. Significant risk profile

The financial sector operator/branch/agent or distributor has a significant risk profile where its inherent risk exposure is significant and the risk profile remains unaffected by mitigation, or where its inherent risk is very significant but is effectively mitigated through AML/CFT systems and controls.

iv. Very significant risk profile

The financial sector operator/branch/agent or distributor has a very significant risk profile where its inherent risk is very significant and, regardless of the mitigation, the risk profile remains unaffected by mitigation, or where the inherent risk is very significant but is not effectively mitigated due to systemic AML/CFT system and control weaknesses in the financial sector operator.