

EBA/CP/2021/19

6 May 2021

Consultation Paper

Draft on Regulatory Technical Standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 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

Contents

1. Responding to this consultation	3
2. Executive Summary	4
3. Background and rationale	5
4. Draft regulatory technical standards	12
5. Accompanying documents	34
6. Annexes	41

1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in the rationale.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 17 June 2021. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

The EBA is mandated to lead, coordinate and monitor the EU financial sector's fight against money laundering and terrorist financing (ML/TF). As part of this mandate, the EBA has to establish and keep up to date a central anti-money laundering and countering the financing of terrorism (AML/CFT) database. The mandate foresees for the central AML/CFT database to contain information on AML/CFT weaknesses that have been identified by competent authorities and on the measures taken by them in response to those material weaknesses.

The central AML/CFT database will be based on a mandate conferred onto the EBA under Article 9a(1) and (3) of the EBA Regulation, which is to develop two regulatory technical standards (RTS). Given the complementary character of those RTSs, the EBA has drafted them as a single instrument.

The draft RTS proposed in this Consultation Paper specify 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.

It also set out the rules to ensure confidentiality of data and the efficiency of the database. The draft RTS proposed in this Consultation Paper specify the articulation with other notifications and the provisions to ensure confidentiality and data protection.

Once the RTSs are finalised following consultation, the EBA will use this database in particular to inform its view of ML/TF risk affecting the EU's financial sector including emerging risks, to inform its AML/CFT policy, to perform aggregated analysis.

Recent AML/CFT scandals across Europe have shown that cross-border cooperation is essential to an effective approach to fighting ML/TF. Therefore, the EBA will use this database to facilitate the flows of information, by sharing information submitted by the competent authorities, on their request, with other competent authorities, by proactively share information with competent authorities where relevant and by responding to requests for information by competent authorities.

The AML/CFT central database will be a key tool in the coordination of the efforts to prevent and counter ML/TF in Europe. It will serve as an early warning tool to enable the competent authorities to act before the ML/TF risk crystalize. It will help the competent authorities at all stages of the supervisory process such as for instance in the planning of their inspections or to perform off-site monitoring, especially with regard to firms with cross-border activities.

3. Background and rationale

Background

1. The EBA is mandated to lead, coordinate and monitor the EU financial sector's fight against money laundering and terrorist financing (ML/TF). As part of this mandate, the EBA has to establish and keep up to date a central anti-money laundering and countering the financing of terrorism (AML/CFT) database.
2. The EBA will set up a central AML/CFT database based on mandates conferred on the EBA under Article 9a (1) and (3) of the revised EBA Regulation.
3. Those mandates are the following:
 - a. *"(...) the Authority shall develop draft 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 Authority as well as the type of information that should be provided (...). 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."*
 - b. *"(...) the Authority shall develop draft regulatory technical standards specifying how information is to be analysed and made available to competent authorities on a need-to-know and confidential basis."*
4. Given the complementary character of those mandates, the EBA proposes to draft these two Regulatory Technical Standards as a single instrument. As set out in the EBA Regulation, the EBA will use this database to:
 - a. share relevant information proactively on its own initiative with competent authorities in support of their supervisory activities. The EBA will share the information through colleges where relevant.
 - b. answer 'reasoned requests' for information from competent authorities about financial sector operators to the extent that this information is relevant for competent authorities' supervisory activities with regard to the prevention of the use of the financial system for the purpose of ML/TF.
 - c. analyse the information on an aggregate basis to inform the Opinion on ML/TF risk and to perform risk assessments under Article 9 a(5) of the EBA Regulation.
 - d. more broadly, to support the EBA's work to lead, coordinate and monitor the EU financial sector's AML/CFT efforts.

5. The draft RTS proposed in this Consultation Paper define what an AML/CFT weakness is and the corresponding situations where such a weakness may occur. They also define material weaknesses and specify the type of information that competent authorities will have to submit. The draft RTS also set out how the EBA will analyse this information and how the EBA will disseminate it.
6. To avoid duplication of reporting, the draft RTS clarify how reporting obligations under these RTS interact with other notifications such as the one under Article 62 of Directive EU (2015/849). They also specify the timelines for reporting and the reporting of associated updates, and the practical aspects of the information collection by the EBA.
7. The draft RTS set out confidentiality and data protection requirements. With regard to data protection, EBA staff has also performed a Data Protection Impact Assessment (DPIA) which in particular further analyses the risks linked with the processing of personal data and establishes the controls that will be performed by the EBA for the identified risks. A summary of the DPIA is published on the EBA website. Furthermore, the view of the European Data Protection Supervisor (EDPS) is sought on these draft RTS, in accordance with article 42(1) of the EUDPR¹, in parallel of the Public Consultation on the draft RTS. The responses of the EDPS will be taken into consideration when the final report on the draft RTS post-consultation will be developed.

Rationale

8. This chapter explains the rationale for the policy decisions taken in the draft RTS proposed in this consultation paper. It focuses on the main areas covered by these draft RTS, which are: the definitions, including the definition of a weakness and its materiality, the corresponding situations where a weakness may occur, the type of information that will have to be reported to the EBA, the analysis of the information by the EBA and how the EBA will make the information available, the provisions to ensure the efficiency of the database and how the information will be reported to the EBA, as well as the articulation with other notifications and the provisions to ensure confidentiality and data protection.

Definitions, including definition of a ‘weakness’

9. The draft RTS set out the definitions applicable for the purpose of these draft RTS and in particular the definition of a weakness as required by the mandate. The definition of a weakness is based on provisions in article 9a of the EBA Regulation and covers three notions: a ‘breach’, a ‘potential breach’ and ‘ineffective application’. Those three notions have been further specified in Article 3. Similarly the draft RTS define the meaning of ‘measures’ as measures taken in response to material weaknesses will have to be reported to the central AML/CFT database.

¹ 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. 39–98*

Question 1: Do you have any comments on the definitions proposed in Articles 3 and 4? If so, please explain your reasoning?

Corresponding situations where a weakness may occur

10. The mandate requires the EBA to specify ‘the corresponding situations where a weakness may occur’. The corresponding situations are defined in Article 4 of these draft RTS with regard to the supervisory activities performed by the different competent authorities in the scope of these draft RTS. They are further specified in Annex 1 of the draft RTS.

Question 2: Do you have any comments on the corresponding situations identified and proposed in Article 4 and Annex 1 for each type of competent authority in the scope of the draft RTS? If so, please explain your reasoning.

Materiality of a weakness

11. As required by the mandate, the draft RTS proposed in this CP specify how to determine the materiality of weaknesses that, if confirmed, will trigger the obligation of reporting the information to the EBA. For this purpose the principle of proportionality and the need to consider the volume of information provided have been taken into account and a list of criteria has been elaborated.

Question 3: Do you have any comments on the definition of the materiality of a weakness proposed in Article 5? If so, please provide your reasoning.

Type of information

12. These draft RTSs, as required by the mandate, set out the ‘type of information’ that will have to be provided by competent authorities to the EBA when complying with their reporting obligations. They distinguish three types of information: the general information, the information related to a material weakness and the information related to a measure taken in response to a material weakness. The detailed data points the competent authorities will have to report for all those three types of information are included in Technical Specifications in accordance with article 13(7) of these draft RTS as they are not part of the mandate given to the EBA. The Technical Specification with the detailed data points are set out in an annex of this Consultation Paper.

Type of information – general

13. The general information serves to identify the competent authority that reports the information and the firm that is the subject of the report. It includes information on the firm’s structure, including whether it is part of a group, and its size and its risk profile as those information support

the analysis of the impact of the weakness should associated ML/TF risks it materialise. AML/CFT authorities should report information using common ML/TF risk categories that are set out in Annex 3.

Type of information to be submitted for the material weakness

14. The type of information to be submitted in respect of a material weakness should facilitate the comprehensive assessment of the weakness and its impact or potential impact, and the factors leading up to it. To enable the EBA to use the information contained in the database also for the purpose of the Opinion on ML/TF risk pursuant to Article 6(5) of Directive (EU) 2015/849 or for risk assessment under article 9a (5) of the EBA Regulation, as required by the mandate, any contextual or background information with regard to the weakness are also requested. Examples of background information to supply in such cases include whether the weakness point to an emerging risk or is linked with a specific area relevant for AML/CFT already identified by the EBA.

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

15. The type of information transmitted in relation to measures competent authorities have imposed in response to a material weakness reflects existing reporting requirements, in particular the type information that AML/CFT competent authorities already have to report, as part of the notification received by the EBA under Article 62 of Directive (EU) 2015/849 and of information requested by the EBA of competent authorities for the purpose of the Opinion on ML/TF risk pursuant to Article 6(5) of Directive (EU) 2015/849. Moreover, a particular emphasis has been put on the remediation measures imposed by the competent authority, including the action planned or taken by the competent authority. This information will enable the EBA to fully understand how the competent authority has reacted to a material weakness it has identified.

Question 4: Do you have any comments on the type of information-as specified in Articles 6, 7 and 8 and Annex 3? If so, please provide your reasoning.

Analysis of the information by the EBA and making information available

16. The draft RTSs proposed in this CP define how the information received will be analysed by the EBA and made available to competent authorities. They set out how the database will ensure the cooperation with ESMA and EIOPA In order to avoid duplication of reporting, and specify that the EBA will combine, where appropriate, the information from the database with information otherwise available to the EBA.

17. The information will be made available by the EBA in three different ways: reactively, following a request by a competent authority following a declaration made by the authority submitting the information so as to facilitate the sharing of information swiftly, and proactively, on the EBA's own initiative.

18. With regard to the sharing of information on the EBA's own initiative, and to avoid duplication, the draft RTS envisage that information be shared through colleges to the extent that the information relates to a firm's cross-border activities. Sharing information through colleges where relevant also enables those colleges to act before associated ML/TF risk crystalize.

Question 5: Do you have any comments on the proposed approach with regard to the EBA's analysis and dissemination of the information contained in the database, as proposed in Articles 10 and 11 of the draft RTS? If you do, please provide your reasoning.

Timelines and obligations to provide update/ language

19. To ensure that the central AML/CFT database will become an efficient tool, the quality, timeliness and completeness of the information contained therein is essential. To that end, these draft RTS specify that information on material weaknesses and measures taken shall be submitted immediately and that competent authorities shall respond immediately to any request from the EBA additional or subsequent information, where the EBA determines that the information submitted does not appear to be accurate, complete or adequate. Those provisions are consistent with the requirements set out in article 97 (6) of Directive 2013/36/EU which require an immediate notification to the EBA of the common ML/TF assessment specified in this article. For the same reason, these draft RTS set out that submissions and requests made in accordance therewith, shall be in English.

Question 6: Do you have any comments on the provisions proposed in articles 9 'timelines and obligations to provide updates' and in article 13 (1) and (2) in relation the language used? If so, please provide your reasoning.

Articulation with other notifications

20. The mandates requires the EBA to avoid duplication. For this purpose, these draft RTS clarify the articulation with the notification referred to in article 62 of Directive (EU) 2015/849 and with the notification under article 97 (6) of Directive 2013/36/EU.

Question 7: Do you have any comments on the provisions proposed in Article 12 on the 'articulation with other notifications'? If so, please provide your reasoning.

Practical implementation of the information collection including sequential approach

21. These draft RTS specify that the competent authorities submitting and requesting information 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 these draft RTS. Competent must also designates a person or persons as contact points for the submission, requests and the reception of information under these draft RTS. The draft RTS further specifies that the competent authority



will have to ensure that sufficient resources are dedicated for the reporting. Due to the sensitive nature of the data competent authorities will be submitting in line with these draft RTS, it is essential to ensure the efficiency of the reporting and the quality of the data submitting.

22. Furthermore, these draft RTS set out how the information will have to be communicated to the EBA. Given the large number of competent authorities concerned by these RTS, recognising that some competent authorities due to their supervisory activities are likely to report AML/CFT weaknesses and measures less frequently than others, and taking into account the need to achieve operational and cost efficiency both for the competent authorities and for the EBA, a sequential approach is being proposed on the basis of which some authorities should have direct and some other indirect access to the database through the AML/CFT authority in charge of the AML/CFT supervision of the firm concerned by the material weakness. The Technical specifications further clarify the authorities indirectly submitting to the AML/CFT database in an annex of this consultation

Questions 8: Do you have any comments on the approach proposed in Article 13 and in particular on the sequential approach described in paragraph 4 of that Article? If so, please provide your reasoning.

Confidentiality and data protection

23. Articles 14 and 15 of these draft RTS propose the requirements to ensure confidentiality and data protection. The information requested on natural persons are set out in Annex 2.

24. With regard to data protection, the draft RTS specify in particular that 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, to the extent that those responsibilities are not determined by Union or Member State law to which they are subject.

25. Moreover, as mentioned in the background section of this draft Consultation Paper, EBA staff has also performed a Data Protection Impact Assessment (DPIA) which is not included in this CP but a summary of the DPIA is published on the EBA website. The view of the European Data Protection Supervisor (EDPS) is sought on these draft RTS, in accordance with article 42(1) of the EUDPR², in parallel of this Public Consultation. The responses of the EDPS will be taken into consideration when the final report on this draft RTS will be elaborated.

Question 9: Do you have any comments on the approach proposed in Articles 14 and 15 with regard to confidentiality and data protection, and on Annex 2, which sets out the information

² 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. 39–98*



in relation to natural persons for the purpose of this draft RTS or more generally on data protection? If so, please provide your reasoning.

Technical specifications

26. As the Technical Specifications on the detailed data points and on the authorities indirectly submitting to the AML/CFT database are not part of the draft RTS, the EBA is not required to consult on them. However, EBA staff considers it useful to add those in an Annex of the CP for completeness and information. **Do you have any comments on the Technical Specifications specified in the Annexes of this draft Consultation Paper? If so, please provide your reasoning.**

4. Draft regulatory technical standards

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

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/EC³, and in particular Article 9a (1) and (3) thereof,
Whereas:

- (1) In accordance with Regulation (EU) 2019/2175⁴ 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 related to the prevention and countering of money laundering or of terrorist financing, where it concerned financial sector operators and the competent authorities supervising them, which were covered by those Regulations. Within that context, the EBA is tasked to collect information on material weaknesses identified by the relevant Union and national authorities in relation to the prevention of money laundering and terrorist financing activities and on measures taken in response and to store such information in a centralised database at the same time fostering cooperation among authorities by ensuring appropriate analysis and dissemination of relevant information. This

³OJ L 331, 15.12.2010, p. 12.

⁴ 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.



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, 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, there is a need to set out the relevant specifications 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, there is a need to define that 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, there is a need to 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 define that the weakness is material where it reveals, or could lead to significant failures in the compliance of the firm or of the group which this firm belongs to, with its AML/CFT requirements, independently from a number of criteria against all of which that weakness should be assessed and which should also be laid down in this Regulation.
- (6) When specifying the materiality of a weakness to be reported to the database established under Article 9a of Regulation (EU) 1093/2010, consideration should be given to the fact that only some of the competent authorities that are required to report information to that database are authorities designated as competent for the supervision of the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849⁵ for compliance with that Directive, and that other competent authorities reporting to the database do not possess the same level of AML/CFT information and expertise as the supervisory authorities designated as competent under said Directive. Given the more limited information that these authorities therefore have, for them to be in a position to enter information into the database on a best efforts basis, a weakness shall be defined in such a way that it encompasses, not only supervisory observations that reveal, but also those that could lead, to a significant failure in the compliance with applicable AML/CFT requirements. Besides, any weakness should be defined as material and reported to the database by all



competent authorities in the scope of this Regulation, if it could lead to such significant failure, even if that failure has not occurred yet.

- (7) To set out the type of information to be submitted, this Regulation should distinguish between general information, information on material weakness and information on the measure taken.
- (8) When setting out the components of the general information, particular attention should be given to firms that are part of a group for which a college operates. Furthermore, it should be set out that AML/CFT competent authorities should additionally submit to the EBA as part of that general information the firm'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 firm along with information on any negative final assessment or decision on applications for authorisation or approval, where such decision is also based on grounds of ML/TF risks.
- (10) To enable EBA sharing information with competent authorities swiftly, there is a need to specify that in their initial notification competent authorities could note whether that information should be seen as relevant to other authorities, which authorities these are and the reasons thereof. This should be seen as independent from the obligation of those authorities to note whether the weakness or the measure has been communicated to a college in operation for the group to which the firm belongs.
- (11) Where identifying material weaknesses, 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 immediately and independently from their notification to the home authority.
- (12) To ensure that the EBA is able effectively to exercise its role to lead, coordinate and monitor to prevent 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 provide that the EBA can combine, for the purposes of the analysis of the information submitted in the database, information that it has from other sources. The EBA should endeavour to make use of the information for the achievement of all its tasks as set out in Regulation 1093/2010.
- (13) While analysing information submitted and made available in accordance with this Regulation, cooperation with 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.
- (14) 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 EBA will provide EIOPA and ESMA with information, either on its own initiative, or following a request received by them.

- (15) This Regulation should specify 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.
- (16) To ensure proportionality and avoid 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 2013/36/EU.
- (17) To ensure that the AML/CFT central database becomes an effective tool in the fight against ML/TF, there is a clear need to ensure the quality and timeliness of the information contained therein. To that end, it should be specified that information on material weaknesses and measures taken shall be submitted immediately and that competent authorities respond immediately to any call of the EBA made after any quality check analysis performed. For the same reason, the ongoing accuracy, completeness, aptness and update of that information should be ensured and information on a material weakness should be submitted independently from any measure in response thereto.
- (18) 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, there is a need to set out in this Regulation that submissions and requests made in accordance therewith, shall be in English; at the same time, to ensure proportionality and avoid excessive cost for the competent authorities, it should be set out that, 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.
- (19) 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.
- (20) Given the large number of in-scoped competent authorities and to anticipate considerable differences in the reporting frequency as some of them are, due to their supervisory responsibilities, likely to report AML/CFT 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 in the architecture of the database on the basis of which some authorities should have direct and some other indirect access to the database.
- (21) 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.



- (22) 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 being applied to the processing of information on these natural persons. To that end, this Regulation should specify the information processed concerning natural persons.
- (23) To further ensure data protection, there is a need to specify that the Regulation (EU) 2016/679 and the 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 those Regulation and with the national requirements on the protection of natural persons with regard to the processing of personal data, and that EBA, ESMA and EIOPA shall process personal data in compliance with the requirements of the 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 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, which, 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, which 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) 1093/2010, Article 1(2) of Regulation (EU) No 1094/2010⁶ and Article 1(2) of Regulation (EU) No 1095/2010⁷ and of any national laws transposing them with regard

⁶ 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).

⁷ 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).

to the prevention, and countering the use of the financial system for the purpose, of money laundering or terrorist financing.



2. This Regulation applies with regard to financial sector operators defined in Article 2 (1a) of Regulation (EU) No 1093/2010.

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 in Article 2 (1);
- 2) 'firm' means a financial sector operator defined in Article 4 (1a) of Regulation (EU) No 1093/2010;
- 3) 'AML/CFT authority' means a competent authority entrusted with the duty to ensure compliance of a firm with Directive (EU) 2015/849;
- 4) 'prudential authority' means a competent authority entrusted with the duty to ensure compliance of a firm 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 1024/2013⁸.
- 5) 'payment institutions authority' means an authority referred to in Article 22 of Directive (EU) 2015/2366⁹.
- 6) 'conduct of business' means a competent authority entrusted with the duty to ensure compliance of a firm 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.

⁸ 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).

⁹ 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)



- 7) 'resolution authority' means a national authority designated by a Member State in accordance with Article 3 of Directive 2014/59/EU¹⁰, and the Single Resolution Board established by Regulation (EU) No 806/2014¹¹.
- 8) 'designated authority' means a competent authority as referred to in article 2 (18) of Directive 2014/49/EU¹²;
- 9) 'AML/CFT Requirement' means any requirement imposed on a firm 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;
- 10) 'policy' means any internal policies and procedures that firms put in place to comply with AML/CFT requirements.
- 11) '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;
- 12) 'breach' means any violation of an AML/CFT requirement committed by a firm and which has been identified by a competent authority;
- 13) 'Potential breach' means a situation, in which either the competent authority has reasonable grounds to suspect that a violation of an AML/CFT requirement has been committed by a firm or that such a violation has been attempted;
- 14) 'Ineffective application' means an application by a firm of an AML/CFT requirement or policies in a way that is considered by a competent authority to be ineffective or inappropriate and 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;
- 15) 'Branch' means a branch, or any other form of establishment of a firm which is regarded as or treated like a branch pursuant to a provision of a legislative act 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, located in the Union, whether its head office is situated in a Member State or in a third country.

¹⁰ 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).

¹¹ 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).

¹² 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).



- 16) 'Third-country branch' means a branch, located in the Union, of a firm referred to in points (1) or (2) of Article 3 of Directive 2015/849, the head office of which is situated in a third country;
- 17) 'Parent firm in a Member State' means a firm in a Member State which has another firm as a subsidiary or which holds a participation in such a firm and which is not itself a subsidiary of another firm authorised in the same Member State;
- 18) 'Union parent firm' means parent firm in a Member State which is not a subsidiary of another firm established in any Member State.
- 19) 'College' means a college or supervisors set out in Article 116 of Directive 2013/36/EU, a resolution college or a European resolution college set out in Articles 88 and 89 2014/59/EU or an AML/CFT college.

Article 4 Weakness 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 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 firm, or of the group to which the firm belongs, with its AML/CFT requirements.
2. For the materiality of a weakness to be determined, all the following criteria shall be assessed:
 - (a) It occurs frequently;
 - (b) It has persisted over a significant period of time (duration);
 - (c) It is serious or egregious (gravity);
 - (d) The decision-making bodies of the firm 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 firm or the ML/TF risk associated with the firm, or of the group which it belongs to;
 - (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 firm or of the group to which the firm belongs to or on the financial stability of a Member State or of the Union as a whole;

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 whether it acts as home or host AML/CFT authority and, where Article 13(4) applies, identification of the authority indirectly submitting the information;
- (b) identification of the firm and of its branches concerned by the material weakness or the measures taken including the type of firm and where applicable the type of establishment;
- (c) where the firm is part of a group, identification of the Union parent firm, the parent firms in a Member State;
- (d) where the competent authority is the home authority, identification of the countries in which the firm operate branches and subsidiaries;
- (e) where the firm 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 in Article 45(9) of Directive (EU) 2015/849 where applicable and its identification;
- (g) any other relevant information, including whether the firm is currently applying for authorization, establishment or other supervisory approvals, whether the firm is in the process of application to exercise its right of establishment or its freedom to provide services, whether the firm, or any other firm of the relevant group, is subject to any proceedings set out in Directive 2014/59/EU or any other insolvency proceedings;
- (h) information on the size of the firm's and branch's activities, including, where applicable:
 - a. information on financial statement;
 - 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 its 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 of the processes referred to in Article 97 of Directive 2013/36/EU and in Directive 2009/138/EU and of any other similar process, impacted by the ML/TF risk of the firm 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 do 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 firm's 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 requirements, to which the material weakness relates;
- (h) the type of services, products or activities for which the firm has been authorised impacted by the material weakness;
- (i) whether the material weakness concerns the supervised firm or branch alone or whether it could also concern other firms or branches of the group;
- (j) any cross-border impact of the material weakness including on other firms;
- (k) whether information on the material weakness has been communicated to a college that has been established for the group where the firm belongs. Where not communicated yet, whether the information on the material weakness is relevant for any other participant of the colleges;
- (l) for the host AML/CFT competent authorities: whether the information on the material weakness has been communicated to the home AML/CFT competent authority and whether the information could be relevant for other host AML/CFT competent authorities as well;
- (m) whether the material weakness appears as inherent in the design of that particular product, service or activity;
- (n) 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
- (o) 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. whether the material weakness points to emerging risks (emerging risks include new risks that have not been identified before and existing risk, which have significantly increased or taking on new significance);
 - c. whether the material weakness is linked to the use of new technology and a short description of the technology employed;
- (p) whether and which information relevant to this material weakness should be communicated by the EBA to other competent authorities, which competent authorities these are and the reasons thereof.

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:

- (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 when 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 has the measure been published including reasoning for any anonymous publication, delay in publication or non publication;
- (h) all information relevant to the remediation of the material weakness concerned by the measure, including any action planned or taken for that 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 firm belongs. Where not communicated yet, whether information on the measures is relevant for any other participant of the college;
- (j) for the host AML/CFT competent authorities: whether information on the measure has been communicated to the home AML/CFT competent authority and whether the information could be relevant for other host AML/CFT competent authorities as well;
- (k) whether and which information relevant to this measure should be communicated by the EBA to other competent authorities, which competent authorities these are and the reason thereof;

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 immediately.
2. The immediate 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 immediately any information required by the EBA in accordance with Article 10 (2).
5. Competent authorities shall provide in due time all 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 analyze the information received in accordance with this Regulation as set out in paragraphs 2 to 5.
2. EBA shall review the information submitted in accordance with this Regulation and shall request any additional or subsequent information, where it determines that the information submitted is not accurate, complete or adequate.
3. EBA shall seek, where appropriate, to combine information submitted in accordance with this Regulation with information available to the EBA or with information that EBA has gathered from other sources during the performance of its tasks including information disclosed to EBA by any natural or legal person, including competent authorities, the Commission, EIOPA or ESMA.
4. Following submission, EBA shall seek, where appropriate, to obtain additional information from ESMA and EIOPA. The competent authorities, the ESMA and EIOPA shall, in such a case, provide the information requested.
5. EBA shall endeavor 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 for the following:
 - (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 firms 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) (c);
 - (e) to provide EIOPA and ESMA with information analyzed in accordance with this article, including information on individual firms, 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 analyzed 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;
 - (b) following a declaration made by the competent authority submitting the information to the EBA in accordance with point (p) of Article 7 or point (k) of article 8;
 - (c) on the EBA's own initiative, including but not limited in the following cases:
 - a. with 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 firm is part of a cross-border group or has branches in other countries and the EBA deems the information relevant for the authorities supervising such group entities or branches;
2. The request referred to in point (a) of the paragraph 1 shall identify the requesting competent authority and the authority enabling the indirect submission where appropriate, the firm concerned by the request, and shall specify whether the request concerns the firm or a natural person, why 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 of terrorist financing, what is the intended use of the requested information, 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 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 2013/36/EU.

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 EBA by 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 firm 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 information and requests received by the authority indirectly submitting and to transferring to that authority all 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;
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 firm 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

1. Without prejudice to provisions of this Regulation as to how information is analyzed 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 EIOPA and ESMA according to 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.
2. 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 firm or natural person cannot be identified, without prejudice to cases covered by criminal law.



3. 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.

4. 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 referred to in Articles 53 to 54a, Articles 56 and 57 (1) and (2) and Article 61 of Directive 2013/36/EU, where the information is necessary for the supervisory activities of that competent authority, authority or body. Any such disclosure which is not made to a member of or to an observer in a college as defined at article 3 (19), or to an authority or body which is not a competent authority as defined in article 3 point (1), an EU Financial Intelligence Unit, or an European Union institution, body, office or agency, shall be subject to the prior express agreement of the EBA and solely for the purposes specified by the EBA in its agreement. The EBA shall provide its agreement on a need-to-know basis and in a timely manner. Where the EBA does not provide its agreement, it shall give an explanation as to why the agreement is not provided. The information received in accordance with this paragraph shall in any event be subject to professional secrecy requirements at least equivalent to those referred to in paragraphs 2 and 3, which shall apply accordingly.

Article 15 Data protection

1. Regulation (EU) 2016/679¹³ and the Regulation (EU) 2018/1725¹⁴ 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 those Regulation and with the national requirements on the protection of natural persons with regard to the processing of personal data. This paragraph applies also in case of indirect submission or request 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. 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

¹³ 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).

¹⁴ 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).

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.



Article 16

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

[For the Commission
On behalf of the President

[Position]

ANNEX 1

CORRESPONDING SITUATIONS

PART 1: AML/CFT authorities

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

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

PART 2: Prudential authorities

1. During the authorization process and the process for the assessment of acquisition of qualifying holdings:
 - a. Business strategy of the firm, Business Model analysis and reflection on other risk areas including liquidity where applicable;
 - b. Fitness and propriety assessment of the members of the management body and key function holders where performed;
 - c. Authorizations to conduct business under freedom of services or freedom of establishment where applicable;
 - d. Shareholders or members holding qualifying holdings or where applicable identity of 20 largest shareholders or members if there is no qualifying holdings;
 - e. Internal Governance arrangements including remuneration policies and practices;
 - f. Internal control framework including risk management, compliance and internal audit;
 - g. Information Communication Technology risk management;
 - h. Assessment of the sources of funds to pay up capital at authorisation or the source of funds to pay the holding;
2. During on-going supervision including onsite inspections and off-site supervisory activities, regarding :
 - a. Internal Governance arrangements including remuneration policies and practices;
 - b. Internal control framework including risk management, compliance and internal audit;
 - c. Fitness and propriety assessment of the members of the management body and key function holders where performed;
 - d. The assessment of the requests for authorisations for proposed acquisitions of qualifying holdings;

- e. Operational risks including legal and reputational risks;
- f. Information Communication Technology risk management;
- g. Business models;
- h. Liquidity management;
- i. Outsourcing arrangements and third party risk management;
- j. The carrying out of the procedures related to market access/banking licensing/authorisations
- k. The carrying out of the Supervisory Review and Evaluation Process (SREP), the carrying out of of the supervisory review process (SRP) or similar supervisory review processes for the other type of firms;
- l. The assessment of ad hoc requests, notifications and applications;
- m. The assessment of the eligibility of and monitoring institutional protection schemes
- n. Information received during the ongoing work to ensure compliance with EU prudential rules such as the collection of supervisory reporting;

PART 3: Designated authorities

Regarding the designated authorities when preparing for DGS interventions, including stress testing, or when executing a DGS intervention, including payouts.

PART 4: Resolution authorities

Regarding the 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:

- 1. A denial of access to financial product/services for AML/CFT reasons;
- 2. A termination of a contract or the end of a service for AML/CFT reasons;
- 3. 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 :

- 1. During the authorization process and passporting;
- 2. When carrying out their on-site and off-site supervisory activities and in particular :
 - a. with regard to payments institution and electronic money institutions including when they provide their activities through agents and distributors;
 - b. 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

1. The information to be provided in application of article 6 (i) (b)

- a. Name, surname, date of birth, country of residence, nationality, function in the firm;
- b. The grounds of ML/TF.

2. The information to be provided in application of article 7 (n) are the following :

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 firm;
- c. whether this natural person holds or held directly or indirectly shares in the firm;
- d. for a customer, whether the natural person is considered as 'high risk' by the firm.

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

Name, surname, date of birth, country of residence, nationality, function in the firm;

Any natural person:

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

3. The information to be provided in application of article 8 (d) are the following:

Name, surname, date of birth, country of residence, nationality, function in the firm;

4. The information to be provided in application of article 11 (3) are the following:

- a) **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, nationality;
 - b. The function, or role (with regard to customer of beneficial owner), where known;
 - c. The rationale (s) for the request : whether the information about that specific person is relevant for the requesting competent authority for its supervisory with regard to the prevention of the use of the financial system for the purpose of money laundering or of terrorist financing and intended use (s) of the information requested.

b) The dissemination of personal data by the EBA

Personal data will be shared by the EBA upon request under the conditions mentioned 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 of terrorist financing. In both cases, the information will be shared between authenticated users and using secured communication channels.

5. The information to be provided in application of article 13 (5) are the following:

Name, surname, function, business contact.

ANNEX 3 AML/TF RISK PROFILE

i. Less significant risk profile

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

ii. Moderately significant risk profile

The firm 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 firm 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 firm has a very significant risk profile, where its inherent risk is very significant but is not effectively mitigated due to systemic AML/CFT system and control weaknesses in the firm.

5. Accompanying documents

Draft cost-benefit analysis/impact assessment

I. Introduction

1. The EBA leads, coordinates and monitors the EU financial sector's fight against money laundering and terrorist financing (ML/TF) and in that context has been mandated to establish and keep up to date an AML/CFT central database¹⁵. The database will serve the EBA to fulfil this threefold mandate. Firstly, the database would be useful to strengthen the cooperation between competent authorities by sharing information (either through requests or on the EBA's own initiative). Secondly the database will serve as an early warning tool that prompt competent authorities to take action and address ML/TF risks in a timely manner, before they crystalize. Thirdly, the EBA will use the database to lead the identification of ML/TF risks and develop a common approach to mitigate these risks and inform the EBA's policy and strategy.
2. The AML/CFT central database will be elaborated on the basis of two legal mandates under Article 9a (1) and (3) of Regulation (EU) 1093/2010 to collect information related to weaknesses and measures taken in response to material weaknesses.
3. The database will collect information from a large scope of competent authorities (such as the AML/CFT authorities, prudential authorities including the European Central Bank, the resolution authorities including the Single Resolution Board (SRB), payment institutions authority, conduct of business, designated authority and any other authority that identify ML/TF material weaknesses and/or can impose measures in relation to those weaknesses) that supervise any 'financial sector operator' (such as credit institutions, credit providers, life insurance undertakings, life insurance intermediaries, payment institutions, bureaux de change, investment firms).

II. Policy objectives

4. Recent AML/CFT scandals across Europe have shown that cross-border cooperation is essential to an effective approach to fighting ML/TF. The AML/CFT central database that will be elaborated on the basis those RTSs will aim in particular at facilitating the flow of information and to serve as an early warning tool enabling the competent authorities to act before the ML/TF risk crystalize. Currently there is not such a tool at EU level. Moreover, with regard to aggregated analysis, the EBA obtains only punctually data in the context of the elaboration of the opinion on ML/TF risks the EBA is requested to deliver pursuant to Article 6(5) of Directive (EU) 2015/849 and only for an ex-post analysis. In drafting these Regulatory Technical Standards the overall policy objective is to enable the EBA to perform all the tasks/missions allocated to this AML/CFT

¹⁵ Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority).

central database and more broadly to support the EBA's mission to lead, coordinate and monitor AML/CFT in Europe, and to do so in a way that is efficient, proportionate and avoid duplication.

5. *Objectives of the information to be collected:* The main uses of the information collected under those RTSs are related to the sharing of the information with the competent authorities for their supervisory activities and the performance of aggregated analysis such as for the opinion on ML/TF risks. The sharing of information can be done by request of competent authorities or by the EBA on its own initiative (Article 9a (3) of the EBA Regulation). Other uses of the database are for instance related to the possibility to perform risk assessments as described in Article 9a (5) or to inform requests under Article 9b of the EBA Regulation and more broadly for the performance of all the EBA's task as set out in the EBA Regulation.

III. Baseline scenario

6. The RTS under article 9 a(1) aim at collecting information of weaknesses and measures imposed in response to material weaknesses. For this reason, the definition of what constitutes a weakness and the materiality of the weaknesses will define the scope of the reporting requirements and amount of information to be provided by the competent authorities.
7. The RTS mandate requires the EBA to collect information of all weaknesses identified, without considering the level of materiality. It also requires the EBA to take into account the principle of proportionality and the necessity to consider the 'volume of the information'. Moreover, as for the measures, Article 9a(1) is clear that the information is to be collected only relating to 'material weaknesses'. Therefore the baseline scenario is that in practice, the focus of all reporting and information collection will be on 'material weaknesses'.
8. In this sense, a weakness is considered material if it is serious or very serious. This is consistent with other works already done or currently done by the EBA. Indeed, with regard to breaches (which is one component of a weakness), the survey that forms the basis of the Opinion on ML/TF risk already distinguishes four level of seriousness for AML/CFT breaches: (i) minor breaches, (ii) moderate breaches, (iii) serious breaches, (iv) egregious breaches. Moreover, this is also consistent with article 117(6) of the Capital Requirement Directive (CRD) and the mandates to issue guidelines for cooperation and information exchange between competent authorities, FIUs and AML/CFT supervisors with a focus on the serious breaches of AML/CFT rules, as well as with Objective 5 of Council Action Plan which requires European Supervisory Authorities (ESAs) to interpret uniformly the concept of 'serious breaches' of AML/CFT rules for the purposes of the CRD.
9. In addition, there is a need to ensure that competent authorities will be consistent in their designation of materiality while at the same time acknowledging that materiality could depend on different factors. For this purpose a definition of materiality and some criteria to be assessed will be specified in the RTS.
10. Moreover, there is information requested in the RTS that could be already available in the EBA. In that case, information would not be transmitted twice to the EBA in order to avoid

duplications and there will be a specific article in the RTS in order to specify the articulation with other notifications. Similarly, with regard to the sharing of information on its own initiative, the EBA intends to use the colleges and to share the information through a college only when it has not been already disseminated therein in order to avoid duplication.

IV. Options considered

11. The mandates in Article 9a (1) and (3) of the EBA Regulation focus in particular on the definition of weaknesses, the situations where weaknesses may occur and the materiality of weaknesses as well as the type of information to be collected. The EBA has considered different options for the following topics:

Article 4 and Annex 1. The situations where a weakness may occur.

12. The mandate requires the EBA to specify ‘the corresponding situations where a weakness may occur’.

Option 1: Minimum list aligned with the situations mentioned in Article 9a

13. Article 9a (1) already lists some situations where weaknesses can be identified, such as ongoing supervision, authorisation procedures, governance arrangements, fitness and propriety, acquisition of qualifying holdings, business models and activities of the firm. One option could be to align the list of corresponding situations with this list. However this list is mainly related to the supervisory activities of prudential authorities. Therefore the main disadvantage is that it does not provide sufficient information for all the various type of competent authorities in the scope of the RTS including the AML/CFT competent authorities that are likely to be one of the type of authorities reporting the most frequently to the AML/CFT central database.

Option 2: List of situations defined with regard to the supervisory activities performed by all the different type of competent authorities in the scope of the RTS

14. This approach completes Option 1 by specifying the situations where a weakness may occur with regard to the supervisory activities performed by all the various type of competent in the scope of the RTS (such as the AML/CFT supervisors, the resolution authorities including the Single Resolution Board (SRB), payment institutions authority, conduct of business, designated authority ..). As all those competent authorities will have to report to the database and their supervisory activities are very diverse, it make sense to define the corresponding situations by reference to each of these type of competent authorities. It will strengthen the awareness of all the competent authorities about the situations where AML/CFT weaknesses may occur and therefore ensure a better quality of the reporting and in the end enhanced the effectiveness of the AML/CFT central database.

15. Option 2 is the EBA’s preferred option.

Article 5. Materiality of a weakness

16. The materiality of a weakness determines the volume of information to be reported and the level of proportionality achieved with the database. In this sense, this volume has to be sufficient to fulfil the legal mandate without imposing excessive burden to competent authorities. During the drafting process, the EBA considered the extent of the principle of proportionality, the definition and criteria for materiality.

Option 1: Materiality only based on the impact on a system-wide basis

17. This option entails the inclusion in the database only those weaknesses considered material with regard to the impact on a system-wide basis. This option does not entail the impact on the firm itself. This approach will reduce significantly the burden for competent authorities. However, one disadvantage of this approach is that it undermines the capacity of the EBA to identify weaknesses in a sector of activity by aggregating weaknesses of smaller firms (such as in some cases e-money institutions). It would also undermine the usefulness of the database as an ‘early warning tool’. Moreover, this option would not enable the EBA to obtain sufficient information to fulfil the part of the mandate that consists in sharing information with competent authorities about *financial sectors operators* relevant for their supervisory activities with regard to the prevention of the use of the financial system for the purpose of ML/TF.

Option 2: Materiality based both on the impact on the firm itself and on a system-wide basis

18. This option will take into account criteria to assess the impact on a system-wide basis but also the impact of the weakness on the firm itself. Other criteria such as the frequency, the duration of the weakness, the ML/TF risk exposure of the firm or the ML/TF risk associated with the firm, or of the group which it belongs are also considered, so as the negligence and wilful misconduct. This approach is consistent with the approach taken for other existing regulatory products with regard to ‘serious breaches’ and the criteria listed for sanctions in article 59 of Directive (EU) 2015/849 with regard to breaches which are ‘serious, repeated and systematic, or a combination thereof’. This would therefore reduce the implementation costs and reduce uncertainty by competent authorities.

19. Option 2 is the EBA’s preferred option.

Articles 6, 7 and 8: The type of information transmitted

20. With regard to the type of information transmitted the following policy options were assessed.

Option 1: Discretionary collection of the qualitative and quantitative information under Article 9a

21. Under this option, the addressed authorities would report material weaknesses, measures taken by competent authorities, subsequent developments relating to the information provided on a

discretionary basis. This option would not entail additional costs and would provide flexibility in order to report all the related information to the weakness concerned. However, the purpose of the database which is serving as an early warning tool would be undermined, as the cost of aggregating different information obtained from each authority will be high and would take time and would not result in accurate information to be assessed in aggregate.

Option 2: Standardization of the qualitative and quantitative information provided

22. Under this option, the degree of standardization of the information collected is higher, while leaving sufficient room of adding free text by competent authorities.

23. This option entails the standardization of the information related to material weaknesses through already pre-defined lists (e.g. type, reason for the materiality, timeline, sources of information and the requirement concerned) but with the inclusion of free text by competent authorities (i.e. description and impact of the material weaknesses). Moreover, qualitative additional background information would be also included (e.g. material weakness appears to be linked with a specific natural person, if it relates to the use of new technologies or emerging risks, etc.).

24. In relation to the measures taken, the standardization relates to the type, date and information linked with the remediation, while the information collected through free text relates to information to understand the measure taken (i.e. description).

25. This option ensures the efficiency of the database and facilitates the analysis of the information contained while keeping sufficient flexibility so as to adjust the reporting to specificities of the competent authorities. Another advantage is that a higher degree of standardization will provide more convergence of practices at EU level.

26. Option 2 is the EBA's preferred option.

Article 13: The practical implementation of the data collection and in particular the access to the database

27. Article 13 specifies in particular the manner of the transmission of information from competent authorities to the EBA. For this, the following policy options have been discussed in the drafting process.

Option 1: Direct access to the database by all the competent authorities

28. This option represents a direct submission of information and requests to the EBA from all the competent authorities concerned as well as a direct reception of information from the EBA by all the competent authorities. There is a large number of competent authorities concerned by the RTS, and some competent authorities are likely to report AML/CFT weaknesses and measures less frequently than others due to their supervisory activities. Therefore this option does not achieve operational and cost efficiency both for the competent authorities and the EBA.

Option 2: Direct access to the database by some competent authorities and indirect access by others through a 'sequential approach'

29. This option represents a combination of a direct and an indirect access to the database ('authority indirectly submitting') through the AML/CFT authority in charge of the supervision of the firm concerned by the material weakness of the Member State where the authority indirectly submitting is established ('authority enabling indirect submission'). The EBA, having regard to the different supervisory activities of the competent authorities and the expected frequency of submissions will identify the competent authorities that shall be authorities indirectly submitting. This option would better reflect the organisation at national level and would entail more limited costs.

30. Option 2 is the EBAs' preferred option.

V. Cost-benefit analysis

31. The implementation of the RTS under Article 9a (1) and (3) of the EBA Regulation on the AML/CFT 'central database' entail costs for both the EBA and competent authorities. However, the creation of a repository about weaknesses and measures taken in response to material weaknesses for the single market also benefits both. In this section, we analyse first the costs and then the benefits for both the EBA and the competent authorities that are addressed in the RTS.

32. Regarding the EBA, costs are in particular related to the collection of information of weaknesses and measures as well as the process of reporting the information by competent authorities. Those costs are mainly related to the build-up and maintenance of the IT infrastructure. Moreover, the EBA shall analyse all the information received in order to fulfil all the tasks described in the RTS. The analysis and dissemination of the information contained in the database will require the work of AML/CFT data specialists. The EBA will have to comply with the process and the timeline.

33. Regarding competent authorities, the associated costs mainly arise from the implementation of the notion of 'weakness' (i.e. breaches, potential breaches and the inappropriate or ineffective application) and the designation of materiality. The competent authorities will have to submit the information in the expected timeline and they may also have to adjust their internal processes to identify weaknesses. Lastly, once weaknesses are identified, they should comply with the reporting process designed by the EBA to submit the information correctly.

34. The expected benefits for both the EBA and the competent authorities are related to the uses of the database as an early warning tool that will facilitate the flow of information and the coordination against ML/TF at EU level. For the EBA it will be a useful source of information to inform its AML/CFT policy work and support its mandates to lead, coordinate and monitor AML/CFT in Europe. For competent authorities, the benefits are also related to the use of the database for the purposes of their supervisory activities such as for instance the planning of their on-site and off-site inspections.

VI. Overall impact assessment

35. For the purposes of assessing the impact of implementing the RTS under article 9 a(1) of the EBA Regulation, the EBA carried out a survey to assess the level of implementation of the definition of ‘weakness’ and ‘materiality’ from an AML/TF perspective sent to the AML/CFT competent authorities. Responses to the survey were received with deadline for submissions as of mid-September 2020. As the RTS refers to all financial sector operators (i.e. credit institutions, credit providers, life insurance undertakings, life insurance intermediaries, e-money institutions, payment institutions, investment firms, etc.), the AML/CFT competent authorities consulted have been those that supervise all these entities. Therefore, the EBA received 32 responses from 26 member states (one for each member state, plus an additional authority for three member states and two additional authorities for another one).

36. As the RTS will require competent authorities to report ‘weaknesses’ and measures imposed on material weaknesses, the implementation of the RTS rely on implemented definitions at the level of each competent authority of both concepts. Regarding ‘weaknesses’, only four AML/CFT competent authorities account with a definition in either the national law, regulation, case law or guidance. Regarding ‘materiality’ of a weakness, only six competent authorities account with an implemented criteria. Therefore as a small proportion of AML/CFT competent authorities have already developed legal provisions in their national jurisdictions that would define the scope of the reporting requirements. However, it has to be noted that the definition of a ‘weakness’ contains the notion of ‘breach’ which is already known by the competent authorities and the definition of materiality is consistent with other work done with regard to ‘serious breaches’.

37. Therefore, the implementation of the definitions of the RTS for the purposes of reporting to the AML/CFT central database is expected to be medium.



6. Annexes

Technical Specifications in accordance with article 13(7) of the Regulatory Technical Standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database

Data Points

Article of the RTS	Type of information	Data points
Article 6 Type of information-general		
6 (a)	identification of the competent authority identification of the authority indirectly submitting the information where Article 13(4) applies	<p>The name of the authority;</p> <p>The Member State of the authority (pre-defined list, single choice)</p> <p>The type of authority (pre-defined list, single choice)</p> <p><input type="checkbox"/> AML/CFT authority;</p> <p><input type="checkbox"/> Prudential authority;</p> <p><input type="checkbox"/> Resolution authority;</p> <p><input type="checkbox"/> Designated Authority;</p> <p><input type="checkbox"/> Conduct of business;</p> <p><input type="checkbox"/> Payment institutions authority;</p> <p><input type="checkbox"/> Other authority.</p>



	whether the authority acts as home or host AML/CFT authority	(pre-defined list, single choice) <input type="checkbox"/> Home authority <input type="checkbox"/> Host authority
6(b)	identification of the firm and of its branches concerned by the material weakness or the measures taken including the type of firm and where applicable the type of establishment	<p>The legal name of the firm/branch.</p> <p>The commercial name of the firm/branch. (If different from the legal name).</p> <p>The address of the firm/branch: a) Street address; b) Postcode; c) City; d) Country (pre-defined list, single choice)</p> <p>The type of firm/branch (pre-defined list, single choice) <input type="checkbox"/> Credit Institution; <input type="checkbox"/> Credit Union; <input type="checkbox"/> Credit provider (other than credit institutions, for example consumer credit, factoring, leasing, mortgage credit and commercial credit); <input type="checkbox"/> Life insurance undertaking; <input type="checkbox"/> Life insurance intermediary <input type="checkbox"/> E-money institution; <input type="checkbox"/> Payment Institution; <input type="checkbox"/> Bureau de change; <input type="checkbox"/> Investment firm; <input type="checkbox"/> Collective investment undertakings/Fund managers: <input type="checkbox"/> Alternative investment fund managers’ as defined under Article 4(1)(b) of Directive 2011/61/EU,, including registered (sub-threshold) and authorised AIFMs¹⁶ as well as non-EU AIFMs managing EU AIFs or marketing (EU or non-EU) AIFs to investors in the EU; <input type="checkbox"/> ‘management companies’ as defined under Article 2(1)(b) of Directive 2009/65/EC; <input type="checkbox"/> ‘manager of a qualifying venture capital funds’ as defined under Article 3(c) of Regulation (EU) No 345/2013;</p>

¹⁶ Including internally managed AIFs in accordance with Article 5(1)(b) of the AIFMD.



		<p> <input type="checkbox"/> 'manager of a qualifying social entrepreneurship funds' as defined under Article 3(1)(c) of Regulation (EU) No 346/2013; <input type="checkbox"/> 'manager of European Long-Term Investment Funds' as defined under Article 2(12) of the Regulation (EU) 2015/760. <input type="checkbox"/> 'alternative investment funds' as defined under Article 4(1)(a) of Directive 2011/61/EU17, marketing their units or shares; <input type="checkbox"/> Other type of firm/branch (free text) </p> <p>The type of establishment (pre-defined list, single choice):</p> <p> <input type="checkbox"/> Branch of a firm located in another European Union Member State; <input type="checkbox"/> Branch of an entity located in a third country; <input type="checkbox"/> The firm operates establishments: </p> <p style="padding-left: 40px;"> <input type="checkbox"/> Through a network of agent and distributors. <input type="checkbox"/> Other form (free text) </p> <p>The entity identifier</p> <p style="padding-left: 40px;"> a) The Legal Entity Identifier (LEI) if available (for a branch : the LEI of the parent); A code that allows legally distinct entities that engage in financial transactions to be uniquely identified. </p> <p style="padding-left: 40px;"> b) The national identifier. In the case of an agent under PSD 2: the national identification number </p>
6(c)	where the firm is part of a group, identification of the Union parent firm, the parent firms in a Member State;	<p>The name of the Union parent firm;</p> <p>The name of the parent firm;</p> <p>The address of the union parent firm/parent firm:</p> <p style="padding-left: 40px;"> a) Street address; b) Postcode; c) City; d) Country (pre-defined list, single choice). </p>
6(d)		Countries where the firm operates branches (EU/non-EU).

¹⁷ Including European Venture Capital Funds (EuVECA), European Social Entrepreneurship Funds (EuSEF), European Long-Term Investment Funds (ELTIFs) and Money Market Funds (MMF) qualifying as AIFs in accordance with Article 4(1)(a) of Directive 2011/61/EU.



	<p>where the competent authority is the home authority, identification of the countries in which the firm operate branches and subsidiaries;</p>	<p>Countries where the firm operates subsidiaries (EU/non-EU).</p>
<p>6(e)</p>	<p>where the firm 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</p>	<p>The type of college established (if any):</p> <p><input type="checkbox"/> An AML/CFT college is established</p> <p style="margin-left: 20px;">a) Role of the authority in the college (pre-defined-list, single choice)?</p> <p style="margin-left: 40px;"><input type="checkbox"/> Permanent member;</p> <p style="margin-left: 40px;"><input type="checkbox"/> Observer;</p> <p style="margin-left: 40px;"><input type="checkbox"/> Lead supervisor.</p> <p style="margin-left: 20px;">b) If it is not the lead supervisor, name of the authority that is the lead supervisor and country;</p> <p style="margin-left: 20px;">c) Is the college part of the EBA platform for colleges (Yes/No)?</p> <p><input type="checkbox"/> A prudential college is established</p> <p style="margin-left: 20px;">a) Role of the authority in the college (pre-defined-list, single choice)</p> <p style="margin-left: 40px;"><input type="checkbox"/> Permanent member;</p> <p style="margin-left: 40px;"><input type="checkbox"/> Observer;</p> <p style="margin-left: 40px;"><input type="checkbox"/> Consolidated supervisor/group supervisor;</p> <p style="margin-left: 20px;">b) If it is not the consolidated supervisor/group supervisor, name of the authority that is the consolidated supervisor/group supervisor and country ;</p> <p style="margin-left: 20px;">c) Is the college part of the EBA platform for colleges (Yes/No)?</p> <p><input type="checkbox"/> A resolution college is established</p> <p style="margin-left: 20px;">a) Role of the authority in the college (pre-defined list, single choice)</p> <p style="margin-left: 40px;"><input type="checkbox"/> Permanent member/</p> <p style="margin-left: 40px;"><input type="checkbox"/> Observer/</p> <p style="margin-left: 40px;"><input type="checkbox"/> Group Lead Resolution Authority (GLRA) of this college;</p> <p style="margin-left: 20px;">b) If it is not the GLRA, name of the authority that is the GLRA and country;</p> <p style="margin-left: 20px;">c) Is the college part of a platform (Yes/No)?</p>
<p>6(f)</p>	<p>whether there is a Central Contact Point as referred to in Article 45(9) of Directive (EU) 2015/849 where applicable and its identification;</p>	<p><input type="checkbox"/> Yes;</p> <p><input type="checkbox"/> No</p> <p>To be fulfilled in situation where agents or distributors under PSD 2 are concerned by the material weakness.</p> <p>Is 'yes' is selected:</p> <p>Name;</p> <p>Contact details.</p>



6(g)	any other relevant information, including whether the firm is currently applying for authorization, establishment or other supervisory approvals, whether the firm is in the process of application to exercise its right of establishment or its freedom to provide services, whether the firm, or any other firm of the relevant group, is subject to any proceedings set out in Directive 2014/59/EU or any other insolvency proceedings;	<p>The current status of the firm (from a pre-defined list, single choice):</p> <input type="checkbox"/> Request for authorisation /date; <input type="checkbox"/> Authorised/ date; <input type="checkbox"/> Request for passporting/date; <input type="checkbox"/> In the process of application to exercise its right of establishment /date; <input type="checkbox"/> In the process of application to exercise its right to provide services under the freedom to provide services/date <input type="checkbox"/> Withdrawal of authorisation /date <input type="checkbox"/> Suspension of authorisation/date <input type="checkbox"/> Liquidation/ date;
6(h)	<p>information on the size of the firm's and branch's activities, including, where applicable:</p> <p>a) information on financial statement; 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 its distribution network including information on the number of agents and distributors;</p>	<p>With regard to the type of firms below, the following information shall be provided (information in the Member State)</p> <p>a) For the banking sector, (to be submitted by the prudential competent authority on a mandatory basis/ voluntary by the others): Balance sheet of the firm (total assets (liability+equities)/date</p> <p>b) For life insurance undertaking, (to be submitted by the prudential competent authority on a mandatory basis/ voluntary by the others): annual gross written premium (GWP); size of the technical provisions.</p> <p>c) For life insurance intermediaries: The volume of premiums intermediated.</p> <p>d) For payment institutions and electronic money institutions: number of agents/distributors operating in the Member State (to be fulfilled by the host AML/CFT competent authority);</p> <p>e) For investment firms: client assets under management and amount of own assets (balance sheet (total assets) /date);</p> <p>f) Other type of firms: number of clients, assets under management, balance sheet (total assets) /date).</p>
6(i)	<p>Prudential authorities shall, in addition to points (a) to (h), specify the following:</p> <p>a) The result of the relevant risk assessment of any supervisory review process, including of the processes referred to in Article 97 of Directive 2013/36/EU and Directive 2019/138/EC and of any other similar process, impacted by the ML/TF risk of</p>	Free text



	the firm 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 do 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.	Free text. Any reporting on natural persons shall be made in accordance with Annex 2 of the draft RTS.
6(j)	AML/CFT authorities shall, in addition to points (a) to (h), provide the firm's ML/CFT risk profile using the categories specified in Annex 3.	Categories as specified in Annex 3 of the draft RTS
Article 7 Type of information to be submitted for the material weakness		
7(a)	the type of weakness as set out in article 4 paragraph 1;	(Pre-defined list, single choice) <input type="checkbox"/> Breach; <input type="checkbox"/> Potential breach; <input type="checkbox"/> Ineffective application.
7(b)	the reason for materiality as set out in Article 5;	a)The criteria that constitutes the materiality as defined in article 5 (pre-defined list, multiple choice); b)Other reason if not in the list of criteria (free text);
7(c)	the description of the material weakness;	Free text
7(d)	the corresponding situation where the weakness has occurred in accordance with Annex 1;	(pre-defined list, multiple choice) in accordance with Annex 1 of the draft RTS For AML/CFT authorities, more details to be provided based on the list in Annex 1 Part 1 (pre-defined list, multiple choice).



		<ol style="list-style-type: none"> 1. Customer due diligence measures, including customer ML/TF risk assessments and the reliance on third parties; <ol style="list-style-type: none"> i. Existence and adequacy of the AML/CFT policies and procedures: <ol style="list-style-type: none"> 1. Existence and adequacy of the identification and verification policies and procedures; 2. Existence and adequacy of the policies and procedure to assess and obtain information on the purpose and intended nature of the business relationship; 3. Existence and adequacy of other policies and procedures (free text) ii. Effectiveness of the application of the identification and verification policies and procedures <ol style="list-style-type: none"> 1. Customer identification; 2. Customer verification; 3. Customer risk rating; 4. Remote on boarding; 5. Beneficial ownership identification 6. Beneficial ownership verification; 7. Identification of the Politically Exposed Persons; 8. EDD in relation with Politically Exposed Persons; 9. EDD in relation to correspondent banking relationships; 10. EDD with regard to high risk third countries as defined in article 9 AMLD ; 11. The material weakness implied jurisdictions associated with a higher ML/TF risk as assessed by the firm; 12. Simplified Due Diligence. 13. Reliance of third party; 14. Other (free text) 2. Transaction monitoring; <ol style="list-style-type: none"> i. Existence and adequacy of the on-going monitoring policies and procedures including transaction monitoring; ii. Effectiveness of on-going monitoring including transaction monitoring. iii. EDD: complex transactions/unusually large transaction/conducted in an unusual patter/do not have an apparent or economic lawful purpose;
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		<ul style="list-style-type: none"> iv. Inappropriate management of risks arising from the characteristics of the products/ services/ delivery channels/ geographic areas, type of customer (inadequacy of the risk based approach applied); <p>3. Suspicious transaction reporting;</p> <ul style="list-style-type: none"> i. Existence and adequacy of suspicious transaction reporting policies and procedures ; ii. Effectiveness of the suspicious transaction reporting : <ul style="list-style-type: none"> 1. Identification of STRs; 2. Quality of STRs; 3. Delays in reporting STRs; Average time to report STRs (free text/number) 4. Failure to report STRs; 5. Other (free text) <p>4. Record-keeping;</p> <ul style="list-style-type: none"> i. Existence and adequacy of the polices and procedure with regard to record keeping ; ii. Effectiveness of the record keeping <ul style="list-style-type: none"> 1. Quality of record held; 2. Failure to keep record; 3. Retention period of the record; 4. Others (free text); <p>5. Internal AML/CFT systems and controls;</p> <ul style="list-style-type: none"> i. Existence and adequacy of the internal control policies and procedures; ii. Effectiveness of the application of the internal control policies and procedures; iii. Adequacy of the governance structure including reporting lines and senior management responsibility <ul style="list-style-type: none"> 1. Independency of the compliance function ; 2. Effectiveness of governance structure including reporting lines and senior management buy-in ; 3. Senior management oversight; iv. Adequacy of AML/CFT human and material resources ;
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		<ul style="list-style-type: none"> v. Awareness of ML/TF risks, including availability and effectiveness of staff AML/CFT training ; vi. Other (free text) <p>6. Risk management system, including business-wide ML/TF risk assessments;</p> <ul style="list-style-type: none"> i. Existence of the business wide risk assessment; ii. Adequacy of the business wide-risk assessment; iii. Timeliness of the business wide risk assessment iv. Quality of the business wide risk assessment ; v. Other (free text) <p>7. Group-wide policies and procedures including policies for sharing information within the group.</p> <ul style="list-style-type: none"> i. Existence of the group-wide policies and procedures; ii. Adequacy of group-wide policies and procedures ; iii. Effectiveness of the group-wide policies and procedure; <ol style="list-style-type: none"> 1. Procedure for sharing information within the group for AML/CFT purpose; 2. Data protection policies and procedure; 3. Situation where the third country's law does not permit the implementation of the policies and procedures (RTS on third countries). 4. With regard to another topic, to specify (free text) <p>For prudential authorities, when the corresponding situations relates to natural persons, reporting is done accordance with annex 2 paragraph 1.</p>
7(e)	the timeline of the material weakness	<p>The starting date of the material weakness (pre-defined list, single choice):</p> <ul style="list-style-type: none"> <input type="checkbox"/> 'date' <input type="checkbox"/> unknown; <hr/> <p>The date on which the material weakness was known for the first time by the authority (detection date).</p> <hr/> <p>The current status of the material weakness (pre-defined list, single choice):</p> <ul style="list-style-type: none"> <input type="checkbox"/> The material weakness is terminated: 'End date';



		<input type="checkbox"/> The material weakness is on-going; <input type="checkbox"/> Unknown.
7(f)	the identification of the origin of the information on the material weakness	<input type="checkbox"/> The reporting authority <ul style="list-style-type: none"> <input type="checkbox"/> Off-site monitoring; <ul style="list-style-type: none"> a) Date; b) Type (pre-defined list, single choice) <ul style="list-style-type: none"> <input type="checkbox"/> Regular off-site monitoring; <input type="checkbox"/> Schedule off site review; <input type="checkbox"/> Ad hoc off site review; <input type="checkbox"/> Off-site thematic review; <input type="checkbox"/> Off-site follow up review; <input type="checkbox"/> AML/CFT returns (means regular or ad hoc requests to firms for quantitative and qualitative data and information relating to key ML/TF risk indicators. AML/CFT returns are different from off-site inspections in that they are frequently automated and often not comprehensive. Their aim is often to help supervisors gain a better understanding of the ML/TF risks to which their sector is exposed, rather than to assess the adequacy of a firm's AML/CFT systems and controls'); <input type="checkbox"/> Other (free text) <input type="checkbox"/> On-site inspection; <ul style="list-style-type: none"> a) Date; b) Type (pre-defined list, single choice) <ul style="list-style-type: none"> <input type="checkbox"/> Full scope inspection; <input type="checkbox"/> Scheduled targeted inspection; <input type="checkbox"/> Ad hoc inspection; <input type="checkbox"/> Thematic inspections; <input type="checkbox"/> Follow up inspection; <input type="checkbox"/> Inspections that included an AML/CFT element; <input type="checkbox"/> On-site engagements (means other type of on-site engagements with a firm or the firm's key personnel either at the premises of the firm or at the competent authority. These engagements are likely to include bi-lateral meetings with the firm's personnel, which are scheduled in line with the risk-based



		<p>approach. Such engagement is not part of the other type of on-site inspection); <input type="checkbox"/> Other (free text). <input type="checkbox"/> Authorisation procedure; <input type="checkbox"/> Passport notification; <input type="checkbox"/> Other (free text). <input type="checkbox"/> Another authority (e.g. in the context of a college or, in general, as a result of cooperation and exchange of information); <input type="checkbox"/> Financial Intelligence Unit (FIU); <input type="checkbox"/> Third party such as auditor; <input type="checkbox"/> Other law enforcement authorities; <input type="checkbox"/> Whistleblowing; <input type="checkbox"/> Breach reports from the public (including under article 23 of SSM Regulation); <input type="checkbox"/> Media report (to specify, free text); <input type="checkbox"/> Any other credible source of information (free text).</p>
7(g)	the AML/CFT requirements, to which the material weakness relates;	<p>References in the EU framework; <input type="checkbox"/> Directive (EU) 2015/849 (AMLD); <input type="checkbox"/> Regulation (EU) 2015/847 on information accompanying transfers of funds (AMLR); <input type="checkbox"/> Directive (EU) 2015/2366 on payment services in the internal market (PSD 2); <input type="checkbox"/> Directive (EU) 2009/110 (EMD 2); <input type="checkbox"/> Directive (EU) 2009/138 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency 2); <input type="checkbox"/> Directive 2013/36/EU (CRD); <input type="checkbox"/> Regulation (EU) 2019/876 (CRR); <input type="checkbox"/> Directive (EU) 2019/2034 (investment firms); <input type="checkbox"/> Directive Deposit Guarantee Schemes Directive (articles 5(1) (c) and 8(8) DGSD); <input type="checkbox"/> Directive (EU) 2014/65 (MiFiD 2); <input type="checkbox"/> Directive (EU) 2009/65 of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS); <input type="checkbox"/> Directive (EU) 2011/61 of 8 June 2011 on Alternative Investment Fund Managers; <input type="checkbox"/> Regulation (EU) No 345/2013 of 17 April 2013 on European venture capital funds; <input type="checkbox"/> Regulation (EU) No 346/2013 of 17 April 2013 on European social entrepreneurship funds; <input type="checkbox"/> Regulation (EU) 2015/760 of 29 April 2015 on European long-term investment funds; <input type="checkbox"/> Regulation (EU) 2017/1131 of 14 June 2017 on money market funds;</p>



		<input type="checkbox"/> Other (free text). References in the national framework (free text).
7(h)	the type of services, products or activities for which the firm has been authorised impacted by the material weakness;	The information regarding the type of services/products/activities being concerned by the material weakness (pre-defined list multiple choice) <input type="checkbox"/> Correspondent banking; <input type="checkbox"/> Retail banking; <input type="checkbox"/> Electronic money; <input type="checkbox"/> Money remittance; <input type="checkbox"/> AIS and PIS; <input type="checkbox"/> Other payment services as referred to in Annex I to PSD2 (free text); <input type="checkbox"/> Wealth management; <input type="checkbox"/> Asset management; <input type="checkbox"/> Trade finance; <input type="checkbox"/> Life insurance; <input type="checkbox"/> Investments firms; <input type="checkbox"/> Investment funds; <input type="checkbox"/> Crowdfunding; <input type="checkbox"/> Currency exchange; <input type="checkbox"/> Corporate finance; <input type="checkbox"/> Other (free text). The activity (es) /service(s) for which the firm has been authorized which is (are) subject of the material weakness: (free text).
7(i)	whether the material weakness concerns the supervised firm or branch alone or whether it could also concern other firms or branches of the group;	(Pre-defined list, single choice) <input type="checkbox"/> The material weakness concerns the supervised firm or branch alone; <input type="checkbox"/> The material weakness could also concern other firms or branches of the group (free text).
7(j)	any cross-border impact of the material weakness including on other firms;	a) Other firms that may be impacted (free text); b) Other competent authorities/members states/third countries that may be impacted (free text);



7(k)	whether information on the material weakness has been communicated to a college that has been established for the group where the firm belongs. Where not communicated yet, whether the information on the material weakness is relevant for any other participant of the colleges;	<p>a) whether information the material weakness been already communicated to the lead supervisor/consolidated supervisor/the group level resolution authority (GLRA)/the group supervisor?</p> <p><input type="checkbox"/> Yes; <input type="checkbox"/> No.</p> <p>b) Is the information about the material weakness relevant for other members/observers?</p> <p><input type="checkbox"/> Yes (Free text); <input type="checkbox"/> No.</p>
7(l)	for the host AML/CFT competent authorities: whether the information on the material weakness has been communicated to the home AML/CFT competent authority and whether the information could be relevant for other host AML/CFT competent authorities as well;	<p>a) For the host AML/CFT authority: Has the material weakness reported under this Regulation already been notified to the home AML/CFT competent authority?</p> <p><input type="checkbox"/> Yes; <input type="checkbox"/> No.</p> <p>b) To the Central Contact Point where there is one?</p> <p><input type="checkbox"/> Yes; <input type="checkbox"/> No.</p> <p>c) Could the information be relevant for other host AML/CFT competent authorities ?</p> <p><input type="checkbox"/> Yes (Free text); <input type="checkbox"/> No.</p>
7(m)	whether the material weakness appears as inherent in the design of that particular product, service or activity;	<p><input type="checkbox"/> Yes; If 'yes' selected: Name of the product/service/activity and description of the characteristics (free text) <input type="checkbox"/> No.</p>
7(n)	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	Annex 2 of the draft RTS
7(o)	any contextual or background information with regard to the material weakness where known by the competent authority including;	Evolving list that will be elaborated by the EBA based on the areas it will have identified thanks to its role to lead, coordinate and monitor AML/CFT in Europe, (pre-defined list with multiple choice)



	a) whether the material weakness is linked with a specific area relevant for AML/CFT already identified by the EBA;	<i>Examples of risks previously identified in the Opinion on ML/TF Risk: De risking, tax related crime, ML/TF risk arising as a result of COVID-19, Risk associated with terrorist financing.</i>
	b) whether the material weakness points to emerging risks (emerging risks include new risks that have not been identified before and existing risk, which have significantly increased or taking on new significance);	<input type="checkbox"/> Yes; If yes selected: Name of this emerging risk (free text) <input type="checkbox"/> No.
	c) whether the material weakness is linked to the use of new technology and a short description of the technology employed;	<input type="checkbox"/> Yes; If yes selected: short description of the technology employed: free text <input type="checkbox"/> No.
7(p)	whether and which information relevant to this material weakness should be communicated by the EBA to other competent authorities, which competent authorities these are and the reasons thereof.	<input type="checkbox"/> The information should be communicated by the EBA to another authority. If selected, the competent authority shall communicate the following information: a) The information to identify the authority with which the competent authority ask the EBA to share the information with as specified for the purpose of article 6 (a) of this Regulation; b) The rationale for the notification (cross border issue; free text);
Article 8 Type of information transmitted in relation to measures taken in response to material weaknesses		
8(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;	a) The reference communicated by the EBA of the material weakness previously submitted (where applicable); b) Any update of the information communicated about the weakness for the purpose of article 7 of the RTS if necessary;
8(b)	the date of the imposition of the measure(s);	Date



<p>8(c)</p>	<p>the type of measure, its internal reference number and link to it when published;</p>	<p>The type of measure(s) taken: The type of measure(s) taken concerning the firm/branch or any other legal person that is part of the firm (where applicable)(pre-defined list, multiple choice)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Warning; <input type="checkbox"/> Reprimand; <input type="checkbox"/> Restriction of business relationships with certain customers; <input type="checkbox"/> Restriction of carrying out certain transactions; <input type="checkbox"/> Capital add-ons; <input type="checkbox"/> Full withdrawal of authorization; <input type="checkbox"/> Restriction of activities; <input type="checkbox"/> Public statement; <input type="checkbox"/> Cease and desist order(order to cease the conduct or to desist form the repetition of that conduct); <input type="checkbox"/> Order to comply; <input type="checkbox"/> Order to implement measures; <input type="checkbox"/> Order to put in place a remediation plan; <input type="checkbox"/> Fines /administrative pecuniary sanctions. In that case : amount for the fines/administrative pecuniary sanctions; <input type="checkbox"/> Business suspension orders; <input type="checkbox"/> Temporary suspension (or resignation) of one or several member(s) of the management body (executive functions); <input type="checkbox"/> Deregistration of a firm; <input type="checkbox"/> Other to specify (free text). <p>The type of measure(s) taken concerning members of the management body or of any other natural person, including a natural person acting on behalf on a firm (pre-defined list, multiple choice):</p> <ul style="list-style-type: none"> <input type="checkbox"/> In case of fines/ administrative pecuniary sanctions: amount in euros; <input type="checkbox"/> Temporary suspension of one or several member(s) of the management body (executive functions); <input type="checkbox"/> Reprimand; <input type="checkbox"/> Warning; <input type="checkbox"/> Removal of one or several member (s) of the management body; <input type="checkbox"/> Other (Free text). <p>Internal reference of the measure (s) (free text).</p>
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		Link to the text of the measure(s) when published (free text).
8(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;	<p>The reporting on natural person shall be made in accordance with Annex 2.</p> <p>With regard to the ‘function in the firm’ as specified in annex 2 for natural persons (pre-defined list, single choice);</p> <p><input type="checkbox"/> Member of the management body;</p> <p><input type="checkbox"/> AML/CFT Compliance officer at management level;</p> <p><input type="checkbox"/> Key functions holders;</p> <p><input type="checkbox"/> Shareholders;</p> <p><input type="checkbox"/> Agent;</p> <p><input type="checkbox"/> Distributor;</p> <p><input type="checkbox"/> Other (free text).</p> <p>Information regarding the legal persons</p> <p>a) The legal name;</p> <p>b) The commercial name (if different from the legal name);</p> <p>c) The address</p> <p style="padding-left: 40px;">a) Street address;</p> <p style="padding-left: 40px;">b) Postcode;</p> <p style="padding-left: 40px;">c) City;</p> <p style="padding-left: 40px;">d) Country (pre-defined list, single choice)</p> <p>d) The entity identifier</p> <p style="padding-left: 40px;">a) The Legal Entity Identifier (LEI) if available; A code that allows legally distinct entities that engage in financial transactions to be uniquely identified.</p> <p style="padding-left: 40px;">b) The national identifier.</p>
8(e)	a description of the measure taken including its legal basis;	<p>The description of the measures taken (free text).</p> <p>The legal basis</p> <p style="padding-left: 40px;">a) The legal basis that gave the CAs the power to impose the measures (EU);</p> <p style="padding-left: 40px;">b) The requirements concerned by the measure taken (only if different from what has already been reported under the material weakness), data points listed for the purpose of article 7 (g).</p>



<p>8(f)</p>	<p>the status of the measure including whether any appeal has been brought against the measure;</p>	<p>a) Subject to an internal appeal (internal appeal: appeal within the competent authority, different from the contradictory process) <input type="checkbox"/> Not applicable; <input type="checkbox"/> Yes; <input type="checkbox"/> No; <input type="checkbox"/> Partial (free text to explain)</p> <p>b) Subject to an external appeal (tribunal/court) <input type="checkbox"/> Yes; <input type="checkbox"/> No; <input type="checkbox"/> Partial (free text).</p> <p>c) Effect of this appeal : suspension of the decision taken <input type="checkbox"/> Yes; <input type="checkbox"/> No.</p> <p>d) Outcome of the appeal (if applicable and decision already taken at the time of the reporting of the measure) i. Internal appeal 1. Decision and rationale (free text); 2. Date. ii. External appeal (ie: tribunal/courts) 3. Decision and rationale (free text); 4. Date.</p> <p>e) Unknown at the time of the reporting.</p>
<p>8(g)</p>	<p>whether and how has the measure been published including reasoning for any anonymous publication, delay in publication or non publication;</p>	<p>(Pre-defined list, multiple choice) <input type="checkbox"/> Full publication; <input type="checkbox"/> Publication on an anonymous basis; If selected: a) The type of anonymity: <input type="checkbox"/> Anonymity of the firm; <input type="checkbox"/> Anonymity of the natural person; b) Reason for anonymous publication (pre-defined list, multiple choice): <input type="checkbox"/> Disproportionate damage; <input type="checkbox"/> Jeopardise on-going investigation; <input type="checkbox"/> Jeopardise the stability of the financial markets. <input type="checkbox"/> Delay in the publication;</p>



		<p>If selected:</p> <p>a) Reason for the delay in publication (pre-defined list, multiple choice):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Disproportionate damage; <input type="checkbox"/> Jeopardise on-going investigation; <input type="checkbox"/> Jeopardise the stability of the financial markets. <p>b) Time period by which the publication is delayed (free text)</p> <p><input type="checkbox"/> Non publication;</p> <p>Reason for which the measure is not published</p> <ul style="list-style-type: none"> <input type="checkbox"/> Disproportionate damage; <input type="checkbox"/> Jeopardise on-going investigation; <input type="checkbox"/> Jeopardise the stability of the financial markets. <input type="checkbox"/> Other (free text).
<p>8(h)</p>	<p>all information relevant to the remediation of the material weakness concerned by the measure, including any action planned or taken for that remediation, any additional information necessary and the relevant timeline;</p>	<p>a)The action planned or taken for the remediation; (pre-defined list, multiple choice)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Warning; <input type="checkbox"/> Follow up inspection; <input type="checkbox"/> Thematic inspection; <input type="checkbox"/> Enhanced reporting; <input type="checkbox"/> Full-scope on-site inspection; <input type="checkbox"/> Regular written updates from the firm on its remediation plan (or follow up letter); <input type="checkbox"/> Enhanced written engagement with the firm; <input type="checkbox"/> Rely on the firm to implement the remediation plan; <input type="checkbox"/> Regular meetings with the firm; <input type="checkbox"/> Off-site inspection; <input type="checkbox"/> Recommendation; <input type="checkbox"/> No further engagement with the firm; <input type="checkbox"/> Others (free text). <p>b)Additional explanations on the remediation process (if appears necessary to the competent authority/non mandatory: free text).</p> <p>c)The timeline for remediation as described in a). (free text with date (s) and/or period (s) of time if already decided).</p>
<p>8(i)</p>	<p>whether the information on the measure has been communicated to a college that has been established for the group where the firm belongs. Where not</p>	<p>a) The measure taken has been already communicated to the lead supervisor/consolidated supervisor/the group level resolution authority (GLRA)/the group supervisor?</p> <p><input type="checkbox"/> Yes;</p>



	communicated yet, whether information on the measures is relevant for any other participant of the college;	<input type="checkbox"/> No. b) Is the information about the measure taken relevant for other members/observers? <input type="checkbox"/> Yes; (Free text) <input type="checkbox"/> No.
8(j)	for the host AML/CFT competent authorities: whether information on the measure has been communicated to the home AML/CFT competent authority and whether the information could be relevant for other host AML/CFT competent authorities as well;	a) The measures taken has been already been notified to the home AML/CFT competent authority: <input type="checkbox"/> Yes; <input type="checkbox"/> No. b) The information could be relevant for other host AML/CFT competent authorities: <input type="checkbox"/> Yes; (Free text) <input type="checkbox"/> No.
8(k)	whether and which information relevant to this measure should be communicated by the EBA to other competent authorities, which competent authorities these are and the reason thereof;	<input type="checkbox"/> The information should be communicated by the EBA to another authority If selected, the competent authority shall communicate the following information: a) The information to identify the authority with which the competent authority ask the EBA to share the information with as specified for the purpose of article 6 (a) of this Regulation; b) The rationale for the notification (cross border issue; free text).
Article 9 Timelines and obligation to provide updates		
9(5)	Competent authorities shall provide in due time all 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.	a) Subsequent development regarding the general information submitted for the purpose of article 6; b) Subsequent developments regarding the material weakness; Any substantive additional/new developments and date (including the end date of the material weakness if this is the case) (free text); c) Subsequent developments regarding the measures taken: 1. Update regarding the remediation;



		<p>With regard to the action taken by the competent authority as described purpose of article 8 (h), including challenges encountered and the outcome of the remediation (adequacy and effectiveness of the firm remediation effort) (free text).</p> <p>2. Update in regards to an appeal process, (if applicable):</p> <p>i. Internal appeal</p> <ol style="list-style-type: none"> 1. Decision and rationale (free text); 2. Date. <p>ii. External appeal (ie: tribunal/courts)</p> <ol style="list-style-type: none"> 3. Decision and rationale (free text); 4. Date.
<p>Article 11 Making information available</p>		
<p>11(2) and (3)</p>	<p>The request referred to in point (a) of the paragraph 1 shall identify the requesting competent authority and the authority enabling the indirect submission where appropriate, the firm concerned by the request, and shall specify whether the request concerns the firm or a natural person, why 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 of terrorist financing, what is the intended use of the requested information, 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. Requests and making information available shall be made in accordance with Annex 2, where natural persons are concerned.</p>	<p>a) The information to identify the requesting competent authority and the authority enabling the indirect submission where appropriate as for article 6(a);</p> <p>b) The information to identify the firm concerned as for article 6(b) (but not all the fields mandatory);</p> <p>c) The type of request:</p> <p><input type="checkbox"/> Information related to a firm;</p> <p><input type="checkbox"/> Information related to a natural person.</p> <p>The information to communicate for a request related to a firm:</p> <p>a) 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 of terrorist financing, what is the intended use of the requested information (free text).</p> <p>b) The categories of requests about a firm(pre-defined list, single choice):</p> <ol style="list-style-type: none"> i. For carrying out their on-site and off-site supervisory activities; ii. For the taking of a measure; iii. For the assessment of authorisation, acquisition or assessment of qualifying holdings, suitability of key function holders; iv. For the withdrawal of authorisation; v. For the assessment of the ML/TF risk associated with the applications the right of establishment and freedom to provide services;



		<p>vi. Other (free text);</p> <p>a) The information to communicate for a request related to a natural person shall be made in accordance with Annex 2 (but not all the fields mandatory).</p> <p>b) The categories of request about a natural person (pre-defined list, single choice):</p> <ul style="list-style-type: none"> i. Fit and proper assessment; ii. Key functions holders assessment; iii. Information about a customer/BO; iv. Other (free text). <p>a) The date by which the information is necessary (if any) and justification of the date (mandatory if a date is mentioned/free text);</p> <p>b) Degree of urgency <input type="checkbox"/> Yes; If 'yes' selected, justification of the urgency (free text). <input type="checkbox"/> No.</p> <p>Any additional information that may assist the EBA in processing the request (free text/not mandatory).</p>
<p>Article 13 Practical implementation of the information collection</p>		
<p>13(6)</p>	<p>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 firm or of the group; Any information or document not referred to in this Regulation relevant for any</p>	<p>a) Additional information: free text, including explanation of the relevance of the additional information.</p> <p>b) Supporting documents: Ability to upload a document, summary of the document, free text to explain the relevance of it</p>



	material weakness or measure shall be provided by the competent authority with an explanation of such relevance;	
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Authorities indirectly submitting to the AML/CFT central database

The competent authorities, as defined in article 3 of the Regulatory Technical Standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010, that shall be authorities indirectly submitting in accordance with article 13(4) of these RTSs are the following:

- Payment institutions authority;
- Conduct of business;
- Resolution authority with the exception of the Single Resolution Board;
- Designated authority;
- Any other competent authority as defined in article 3 (1) and not listed in this article.