



Council of the
European Union

Brussels, 17 January 2022
(OR. en)

5390/22

**Interinstitutional File:
2020/0268 (COD)**

EF 12
ECOFIN 43
TELECOM 11
CYBER 14
CODEC 47

COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Directive Amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 - Three-column table to commence trilogues

Delegations will find attached the three-column table on the above-mentioned draft Directive.

Encl.

Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 (Text with EEA relevance)
2020/0268(COD)

[3 CT: Commission Proposal, EP Mandate and Council Mandate]

	Commission Proposal	EP Mandate	Council Mandate
Formula			
1	2020/0268 (COD)	2020/0268 (COD)	2020/0268 (COD)
Proposal Title			
2	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 (Text with EEA relevance)	<i>Proposal for a</i> DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU <u>2009/138/EC</u> , 2011/61/EU, EU/2013/36 <u>2013/36/EU, 2014/59/EU</u> , 2014/65/EU, (EU) <u>2015/849, (EU) 2015/2366</u> and EU/2016/2341 <u>(EU) 2016/2341</u> (Text with EEA relevance)	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 (Text with EEA relevance)
Formula			
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Citation 1			
4	Having regard to the Treaty on the Functioning	Having regard to the Treaty on the Functioning	Having regard to the Treaty on the Functioning

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a pilot regime for market infrastructures based on distributed ledger technology (Text with EEA relevance)

	Commission Proposal	EP Mandate	Council Mandate
	of the European Union, and in particular Article 53(1) and 114 thereof,	of the European Union, and in particular Article 53(1) and 114 thereof,	of the European Union, and in particular Article 53(1) and 114 thereof,
Citation 2			
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,
Citation 3			
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,
Citation 4			
7	Having regard to the opinion of the European Central Bank, ¹ 1. OJ C ..., ..., p. 1...	Having regard to the opinion of the European Central Bank ⁷ ₁ 1. OJ C ..., ..., p. 1...	Having regard to the opinion of the European Central Bank ₅ ¹ , 1. OJ C ..., ..., p. 1...
Citation 5			
8	Having regard to the opinion of the European Economic and Social Committee, ¹ 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee ₇ ¹ 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee ₅ ¹ , 1. OJ C , , p. .
Citation 6			
9	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,

	Commission Proposal	EP Mandate	Council Mandate
Formula			
10	Whereas:	Whereas:	Whereas:
Recital 1			
11	(1) The Union needs to adequately and comprehensively address digital risks to all financial entities stemming from an increased use of information and communication technology (ICT) in the provision and consumption of financial services.	(1) The Union needs to adequately and comprehensively address digital risks to all financial entities stemming from an increased use of information and communication technology (ICT) in the provision and consumption of financial services, <u>thereby ensuring that further support is provided to the potential of digital finance in terms of innovation and competition.</u>	(1) The Union needs to adequately and comprehensively address digital risks to all financial entities stemming from an increased use of information and communication technology (ICT) in the provision and consumption of financial services.
Recital 2			
12	(2) Operators in the financial sector are heavily reliant on the use of digital technologies in their daily business and it is therefore of utmost importance to ensure the operational resilience of their digital operations against ICT risks. This need has become even more pressing because of the growth in the market for breakthrough technologies, notably enabling digital representations of value or rights be transferred and stored electronically, using distributed ledger or similar technology (“crypto-assets”) and for services related to those assets.	(2) Operators in the financial sector are heavily reliant on the use of digital technologies in their daily business and it is therefore of utmost importance to ensure the operational resilience of their digital operations against ICT risks. This need has become even more pressing because of the growth in the market for breakthrough technologies, notably enabling digital representations of value or rights be transferred and stored electronically, using distributed ledger or similar technology (“crypto-assets”) and for services related to those assets.	(2) Operators in the financial sector are heavily reliant on the use of digital technologies in their daily business and it is therefore of utmost importance to ensure the operational resilience of their digital operations against ICT risks. This need has become even more pressing because of the growth in the market for breakthrough technologies, notably enabling digital representations of value or rights be transferred and stored electronically, using distributed ledger or similar technology (“crypto-assets”) and for services related to those assets.

	Commission Proposal	EP Mandate	Council Mandate
Recital 3			
13	<p>(3) At Union level the requirements related to ICT risk for the financial sector are currently spread over Directives 2006/43/EC,¹ 2009/66/EC,² 2009/138/EC,³ 2011/61/EC,⁴ EU/2013/36,⁵ 2014/65/EU,⁶ (EU) 2015/2366,⁷ (EU) 2016/2341⁸ of the European Parliament and of the Council and are diverse and occasionally incomplete. In some cases, ICT risk has only been implicitly addressed as part of the operational risk, whereas in others it has not been addressed at all. This should be remedied by aligning Regulation (EU) xx/20xx of the European Parliament and of the Council⁹ [DORA] and those acts. This Directive puts forward a set of amendments that appear necessary to bring legal clarity and consistency in relation to the application by financial entities that are authorised and supervised in accordance with those Directives of various digital operational resilience requirements that are necessary in the pursuit of their activities, thus guaranteeing the smooth functioning of the internal market.</p> <p>1. Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87). 2. Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to</p>	<p>(3) At Union level the requirements related to ICT risk for the financial sector are currently spread over Directives 2006/43/EC,¹ 2009/66/EC,² 2009/138/EC,³ 2011/61/EC,⁴ EU/2013/36⁵ 2011/61/EU,⁴ 2013/36/EU,⁵ 2014/65/EU,⁶ (EU) 2015/2366,⁷ <u>and</u> (EU) 2016/2341⁸ of the European Parliament and of the Council-and are diverse and occasionally incomplete. <u>The existing provisions of Union law are not fully harmonised and it is necessary to avoid over-regulation and to guarantee the adequacy of those provisions with regard to the reality in the field, which is constantly evolving.</u> In some cases, ICT risk has only been implicitly addressed as part of the operational risk, whereas in others it has not been addressed at all. This should be remedied by aligning Regulation (EU) xx/20xx of the European Parliament and of the Council⁹ [DORA] and those acts. This Directive puts forward a set of amendments that appear necessary to bring legal clarity and consistency in relation to the application by financial entities that are authorised and supervised in accordance with those Directives of various digital operational resilience requirements that are necessary in the pursuit of their activities, thus guaranteeing the smooth functioning of the internal market, <u>while encouraging proportionality in particular with regard to SMEs, other small financial entities, and other</u></p>	<p>(3) At Union level the requirements related to ICT risk for the financial sector are currently spread over Directives 2006/43/EC,¹ 2009/66/EC,² 2009/138/EC,³ 2011/61/EC,⁴ EU/2013/36,⁵ 2014/65/EU,⁶ (EU) 2015/2366,⁷ (EU) 2016/2341⁸ of the European Parliament and of the Council and are diverse and occasionally incomplete. In some cases, ICT risk has only been implicitly addressed as part of the operational risk, whereas in others it has not been addressed at all. This should be remedied by aligning Regulation (EU) xx/20xx of the European Parliament and of the Council⁹ [DORA] and those acts. This Directive puts forward a set of amendments that appear necessary to bring legal clarity and consistency in relation to the application by financial entities that are authorised and supervised in accordance with those Directives of various digital operational resilience requirements that are necessary in the pursuit of their activities, thus guaranteeing the smooth functioning of the internal market.</p> <p>1. Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87). 2. Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to</p>

	Commission Proposal	EP Mandate	Council Mandate
	<p>undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).</p> <p>3. Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1) .</p> <p>4. Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).</p> <p>5. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).</p> <p>6. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p> <p>7. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</p> <p>8. Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).</p> <p>9. OJ L [...], [...], p. [...].</p>	<p><u>microenterprises, with the aim of reducing compliance costs.</u></p> <p>1. Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).</p> <p>2. Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).</p> <p>3. Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).</p> <p>4. Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).</p> <p>5. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).</p> <p>6. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p> <p>7. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</p> <p>8. Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).</p>	<p>undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).</p> <p>3. Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1) .</p> <p>4. Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).</p> <p>5. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).</p> <p>6. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).</p> <p>7. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</p> <p>8. Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).</p> <p>9. OJ L [...], [...], p. [...].</p>

	Commission Proposal	EP Mandate	Council Mandate
		9. OJ L [...], [...], p. [...].	
Recital 4			
14	<p>(4) In the area of banking services, Directive 2013/36/EU on access to the activity of credit institutions and the prudential regulation of credit institutions and investment firms currently sets out only general internal governance rules and operational risk provisions containing requirements for contingency and business continuity plans which implicitly serve as a basis for addressing ICT risk management. However, to ensure that ICT risk is explicitly addressed, the requirements for contingency and business continuity plans should be amended to include business continuity and disaster recovery plans also for ICT risk, in in accordance with the requirements laid down in Regulation (EU) 2021/xx [DORA].</p>	<p>(4) In the area of banking services, Directive 2013/36/EU on access to the activity of credit institutions and the prudential regulation of credit institutions and investment firms currently sets out only general internal governance rules and operational risk provisions containing requirements for contingency and business continuity plans which implicitly serve as a basis for addressing ICT risk management. However, to ensure that ICT risk is explicitly addressed, <u>and in order to provide legal clarity,</u> the requirements for contingency and business continuity plans should be amended <u>in a proportionate way</u> to include business continuity and disaster recovery plans also for ICT risk, in in accordance with the requirements laid down in Regulation (EU) 2021/xx [DORA]. <u>Furthermore, ICT risk is only implicitly included in the supervisory review and evaluation process (SREP) performed by competent authorities as part of operational risk management and the criteria for its assessment are currently defined in the guidelines of the European Supervisory Authority (European Banking Authority) (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹. In order to provide legal clarity and ensure that bank supervisors effectively identify and monitor ICT risks in line with the</u></p>	<p>(4) In the area of banking services, Directive 2013/36/EU on access to the activity of credit institutions and the prudential regulation of credit institutions and investment firms currently sets out only general internal governance rules and operational risk provisions containing requirements for contingency and business continuity plans which implicitly serve as a basis for addressing ICT risk management. However, to ensure that ICT risk is explicitly addressed, the requirements for contingency and business continuity plans should be amended to include business continuity and disaster recovery plans also for ICT risk, in in accordance with the requirements laid down in Regulation (EU) 2021/xx [DORA].</p>

	Commission Proposal	EP Mandate	Council Mandate
		<p><u><i>new framework on digital operational resilience, the scope of the SREP should be amended to explicitly include the requirements laid down in Regulation (EU) 2021/xx [DORA] and cover in particular the risks revealed by major ICT-related incident reports and by the results of the digital operational resilience tests performed by institutions in accordance with that Regulation.</i></u></p> <p><u><i>I. Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).</i></u></p>	
Recital 4a			
14a		<p><u><i>(4a) Digital operational resilience is an essential condition in order to preserve the critical functions and core business lines of an institution in the event of its resolution, and thereby to avoid disruption to the real economy and to the financial system. Major operational incidents can hamper the capacity of an institution to continue operating and can jeopardise resolution objectives. Relevant ICT service contracts are also essential in order to ensure operational continuity and provide the necessary data in the event of resolution. In order to be aligned with the objectives of the Union framework for operational resilience, Directive 2014/59/EU should be amended accordingly, with a view to ensuring that</i></u></p>	

	Commission Proposal	EP Mandate	Council Mandate
		<p><u><i>information relating to operational resilience is taken into account in the context of resolution planning and the assessment of institutions' resolvability.</i></u></p>	
Recital 4b			
14b		<p><u><i>(4b) Establishing and maintaining adequate network and information system infrastructures is also a fundamental precondition for effective risk data aggregation and risk reporting practices, which are in turn an essential requisite for the sound and sustainable risk management and decision-making processes of credit institutions. At international level, the Basel Committee on Banking Supervision (BCBS) published in 2013 a set of principles for effective risk data aggregation and risk reporting (BCBS 239) based on two overarching principles of governance and IT infrastructure. Global systemically important banks were required to implement those principles by the beginning of 2016. However, the Report of the European Central Bank (ECB) of May 2018 on the Thematic Review on effective risk data aggregation and risk reporting and the BCBS Progress Report of April 2020 found that the implementation progress made by global systemically important banks was unsatisfactory and a source of concern. In order to facilitate compliance and alignment with international standards, the Commission, in close cooperation with the ECB and after</i></u></p>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>consulting EBA and the European Systemic Risk Board (ESRB), should produce a report to assess how the BCBS 239 principles interact with the provisions of Regulation (EU) 2021/xx [DORA] and if appropriate how those principles should be incorporated into Union law.</i></u>	
Recital 5			
15	(5) Directive 2014/65/EU on markets in financial instruments sets out more stringent ICT rules for investment firms and trading venues only when performing algorithmic trading. Less detailed requirements apply to data reporting services and to trade repositories. Also, it only contains limited references to control and safeguard arrangements for the information processing systems and on use of appropriate systems, resources and procedures to ensure continuity and regularity of business services. That Directive should be aligned with Regulation (EU) 2021/xx [DORA] as regards continuity and regularity in the performance of investment services and activities, operational resilience, capacity of trading systems, and effectiveness of business continuity arrangements and risk management.	(5) Directive 2014/65/EU on markets in financial instruments sets out more stringent ICT rules for investment firms and trading venues only when performing algorithmic trading. Less detailed requirements apply to data reporting services and to trade repositories. Also, it only contains limited references to control and safeguard arrangements for the information processing systems and on use of appropriate systems, resources and procedures to ensure continuity and regularity of business services. That Directive should be aligned with Regulation (EU) 2021/xx [DORA] as regards continuity and regularity in the performance of investment services and activities, operational resilience, capacity of trading systems, and effectiveness of business continuity arrangements and risk management.	(5) Directive 2014/65/EU on markets in financial instruments sets out more stringent ICT rules for investment firms and trading venues only when performing algorithmic trading. Less detailed requirements apply to data reporting services and to trade repositories. Also, it only contains limited references to control and safeguard arrangements for the information processing systems and on use of appropriate systems, resources and procedures to ensure continuity and regularity of business services. That Directive should be aligned with Regulation (EU) 2021/xx [DORA] as regards continuity and regularity in the performance of investment services and activities, operational resilience, capacity of trading systems, and effectiveness of business continuity arrangements and risk management.
Recital 6			
16	(6) Currently, the definition of ‘financial instrument’ in Directive 2014/65/EU does not	(6) Currently, the definition of ‘financial instrument’ in Directive 2014/65/EU does not	(6) [Currently, the definition of ‘financial instrument’ in Directive 2014/65/EU does not

	Commission Proposal	EP Mandate	Council Mandate
	explicitly include financial instruments issued using a class of technologies which support the distributed recording of encrypted data (distributed ledger technology, "DLT"). In order to ensure that such financial instruments can be traded on the market under the current legal framework, the definition in Directive 2014/65/EU should be amended to include them.	explicitly include financial instruments issued using a class of technologies which support the distributed recording of encrypted data (distributed ledger technology, "DLT"). In order to ensure that such <u>those crypto-assets that qualify as</u> financial instruments can be traded on the market under the current legal framework <u>are covered by the existing Union financial services law and that they are subject to the same requirements applicable to traditional financial instruments, regardless of the technology used for their issuance or transfer</u> , the definition in Directive 2014/65/EU should be amended to include them.	explicitly include financial instruments issued using a class of technologies which support the distributed recording of encrypted data (distributed ledger technology, "DLT"). In order to ensure that such financial instruments can be traded on the market under the current legal framework, the definition in Directive 2014/65/EU should be amended to include them.]
Recital 7			
17	(7) In particular, in order to allow for the development of crypto-assets that would qualify as financial instruments and DLT, while preserving a high level of financial stability, market integrity, transparency and investor protection, it would be beneficial to create a temporary regime for DLT market infrastructures. This temporary legal framework should allow competent authorities to temporarily permit DLT market infrastructures to operate under an alternative set of requirements with regard to access to them compared to those otherwise applicable under the Union financial services legislation that could prevent them from developing solutions for the trading and settlement of transactions of crypto-assets that would qualify as financial	(7) In particular, in order to allow for the development of crypto-assets that would qualify as financial instruments and DLT, while preserving a high level of financial stability, market integrity, transparency and investor protection, it would be beneficial to create a temporary regime for DLT market infrastructures. This temporary legal framework should allow competent authorities to temporarily permit DLT market infrastructures to operate under an alternative set of requirements with regard to access to them compared to those otherwise applicable under the Union financial services legislation that could prevent them from developing solutions for the trading and settlement of transactions of crypto-assets that would qualify as financial	(7) [In particular, in order to allow for the development of crypto-assets that would qualify as financial instruments and DLT, while preserving a high level of financial stability, market integrity, transparency and investor protection, it would be beneficial to create a temporary regime for DLT market infrastructures. This temporary legal framework should allow competent authorities to temporarily permit DLT market infrastructures to operate under an alternative set of requirements with regard to access to them compared to those otherwise applicable under the Union financial services legislation that could prevent them from developing solutions for the trading and settlement of transactions of crypto-assets that would qualify as financial

	Commission Proposal	EP Mandate	Council Mandate
	<p>instruments. This legal framework should be temporary in order to enable the European Supervisory Authorities (ESAs) and the national competent authorities to gain experience on the opportunities and specific risks created by crypto-assets traded on those infrastructures. This Directive is consequently accompanying Regulation [on a pilot regime for market infrastructures based on distributed ledger technology] by supporting this new Union regulatory framework on DLT market infrastructures with a targeted exemption from specific provisions of Union financial services legislation applying to activities and services in relation to financial instruments as defined in point (15) of Article 4(1) of Directive 2014/65/EU that would otherwise not offer the full flexibility required when deploying solutions in the trading and post trading stages of transactions involving crypto-assets.</p>	<p>instruments. This legal framework should be temporary in order to enable the European Supervisory Authorities (ESAs) and the national competent authorities to gain experience on the opportunities and specific risks created by crypto-assets traded on those infrastructures. This Directive is consequently accompanying Regulation [on a pilot regime for market infrastructures based on distributed ledger technology] by supporting this new Union regulatory framework on DLT market infrastructures with a targeted exemption from specific provisions of Union financial services legislation applying to activities and services in relation to financial instruments as defined in point (15) of Article 4(1) of Directive 2014/65/EU that would otherwise not offer the full flexibility required when deploying solutions in the trading and post trading stages of transactions involving crypto-assets.</p>	<p>instruments. This legal framework should be temporary in order to enable the European Supervisory Authorities (ESAs) and the national competent authorities to gain experience on the opportunities and specific risks created by crypto-assets traded on those infrastructures. This Directive is consequently accompanying Regulation [on a pilot regime for market infrastructures based on distributed ledger technology]-by supporting this new Union regulatory framework on DLT market infrastructures with a targeted exemption from specific provisions of Union financial services legislation applying to activities and services in relation to financial instruments as defined in point (15) of Article 4(1) of Directive 2014/65/EU that would otherwise not offer the full flexibility required when deploying solutions in the trading and post trading stages of transactions involving crypto-assets.]</p>
Recital 8			
18	<p>(8) A DLT multilateral trading facility should be a multilateral system, operated by an investment firm or a market operator authorised under Directive 2014/65/EU, that has received a specific permission under Regulation (EU) xx/20xx of the European Parliament and of the Council¹ [Proposal for a regulation on a pilot regime on DLT market infrastructure]. DLT multilateral trading facilities should be subject to all the requirements applicable to a multilateral trading facility under that Directive,</p>	<p>(8) A DLT multilateral trading facility should be a multilateral system, operated by an investment firm or a market operator authorised under Directive 2014/65/EU, that has received a specific permission under Regulation (EU) xx/20xx of the European Parliament and of the Council¹ [Proposal for a regulation on a pilot regime on DLT market infrastructure]. DLT multilateral trading facilities should be subject to all the requirements applicable to a multilateral trading facility under that</p>	<p>(8) [A DLT multilateral trading facility should be a multilateral system, operated by an investment firm or a market operator authorised under Directive 2014/65/EU, that has received a specific permission under Regulation (EU) xx/20xx of the European Parliament and of the Council¹ [Proposal for a regulation on a pilot regime on DLT market infrastructure]. DLT multilateral trading facilities should be subject to all the requirements applicable to a multilateral trading facility under that Directive,</p>

	Commission Proposal	EP Mandate	Council Mandate
	<p>except if it were to be granted an exemption by its national competent authority in accordance with this Directive. One potential regulatory barrier to the development of a multilateral trading facility for transferable securities issued on a DLT could be the obligation of intermediation set out in Directive 2014/65/EU. A traditional multilateral trading facility can only admit as members and participants investment firms, credit institutions and other persons who have a sufficient level of trading ability and competence and who dispose of appropriate organisational arrangements and resources. A DLT multilateral trading facility should be allowed to request a derogation from such an obligation so that is can provide retail investors with easy access to the trading venue, provided that adequate safeguards are in place in terms of investor protection.</p> <p>¹. [full title] (OJ L [...], [...], p. [...]).</p>	<p>Directive, except if it were to be granted an exemption by its national competent authority in accordance with this Directive. One potential regulatory barrier to the development of a multilateral trading facility for transferable securities issued on a DLT could be the obligation of intermediation set out in Directive 2014/65/EU. A traditional multilateral trading facility can only admit as members and participants investment firms, credit institutions and other persons who have a sufficient level of trading ability and competence and who dispose of appropriate organisational arrangements and resources. A DLT multilateral trading facility should be allowed to request a derogation from such an obligation so that is can provide retail investors with easy access to the trading venue, provided that adequate safeguards are in place in terms of investor protection.</p> <p>¹. [full title] (OJ L [...], [...], p. [...]).</p>	<p>except if it were to be granted an exemption by its national competent authority in accordance with this Directive. One potential regulatory barrier to the development of a multilateral trading facility for transferable securities issued on a DLT could be the obligation of intermediation set out in Directive 2014/65/EU. A traditional multilateral trading facility can only admit as members and participants investment firms, credit institutions and other persons who have a sufficient level of trading ability and competence and who dispose of appropriate organisational arrangements and resources. A DLT multilateral trading facility should be allowed to request a derogation from such an obligation so that is can provide retail investors with easy access to the trading venue, provided that adequate safeguards are in place in terms of investor protection. The operator should also ensure that the participants that benefit from the derogation are not market makers, do not apply a high-frequency algorithmic trading technique, do not have direct electronic access to a trading venue and do not deal on own account when executing client orders and that such retail investors are fit and proper for anti-money laundering and combatting the financing of terrorism purpose.]</p> <p>¹. [full title] (OJ L [...], [...], p. [...]).</p>
Recital 9			
19			

	Commission Proposal	EP Mandate	Council Mandate
	<p>(9) Directive (EU) 2015/2366 on payment services sets out specific rules on ICT security controls and mitigation elements for the purposes of authorisation to perform payment services. Those authorisation rules should be amended in order to align them with to Regulation (EU) 2021/xx [DORA]. Furthermore, the incident notification rules in that Directive should not apply to ICT-related incident notifications that Regulation (EU) 2021/xx [DORA] fully harmonises.</p>	<p>(9) Directive (EU) 2015/2366 on payment services sets out specific rules on ICT security controls and mitigation elements for the purposes of authorisation to perform payment services. Those authorisation rules should be amended in order to align them with to Regulation (EU) 2021/xx [DORA]. Furthermore, <u>in order to reduce the administrative burden and avoid complexity and duplicative reporting requirements</u>, the incident notification rules in that Directive should not cease to apply to ICT-related incident notifications that <u>for payment service providers that fall within the scope of Chapter III of Regulation (EU) 2021/xx [DORA], thus creating a single and</u> fully harmonises <u>harmonised incident reporting mechanism for payment service providers with regard to all operational and security incidents, both payment-related and not payment-related.</u></p>	<p>(9) Directive (EU) 2015/2366 on payment services sets out specific rules on ICT security controls and mitigation elements for the purposes of authorisation to perform payment services. Those authorisation rules should be amended in order to align them with to Regulation (EU) 2021/xx [DORA]. Furthermore, the incident notification rules in that Directive should not apply to ICT-related incident notifications that entities which will have to comply with fully harmonised reporting obligations under chapter III of Regulation (EU) 2021/xx [DORA], namely credit institutions, payment institutions including those referred to in Article 32 (1) of Directive (EU) 2015/2366, account information service providers, as referred to in Article 33(1) of Directive (EU) 2015/2366, and e-money institutions including those referred to in Article 9 of Directive 2009/110/EC) fully harmonises.</p>
Recital 10			
20	<p>(10) Directives 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance and EU/2016/2341 on the activities and supervision of institutions for occupational retirement provision partially capture ICT risk within their general provisions on governance and risk management, leaving certain requirements to be specified through delegated regulations with or without specific references to ICT risk. Even less specific provisions apply</p>	<p>(10) Directives 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance and EU/2016/2341 on the activities and supervision of institutions for occupational retirement provision partially capture ICT risk within their general provisions on governance and risk management, leaving certain requirements to be specified through delegated regulations with or without specific references to ICT risk. Even less specific provisions apply</p>	<p>(10) Directives 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance and EU/2016/2341 on the activities and supervision of institutions for occupational retirement provision partially capture ICT risk within their general provisions on governance and risk management, leaving certain requirements to be specified through delegated regulations with or without specific references to ICT risk. Even less specific provisions apply</p>

	Commission Proposal	EP Mandate	Council Mandate
	<p>to statutory auditors and audit firms as Directive 2014/56/EU of the European Parliament and of the Council¹ only contains general provisions on internal organisation. Similarly, only very general rules apply to managers of alternative investment funds and management companies subject to Directives 2011/61/EU and 2009/65/EC. These Directives should therefore be aligned with the requirements laid down in Regulation (EU) 2021/xx [DORA] with regard to the management of ICT systems and tools.</p> <p>¹ Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (OJ L 158, 27.5.2014, p. 196).</p>	<p>to statutory auditors and audit firms as Directive 2014/56/EU of the European Parliament and of the Council¹ only contains general provisions on internal organisation. Similarly, only very general rules apply to managers of alternative investment funds and management companies subject to Directives 2011/61/EU and 2009/65/EC. These Directives should therefore be aligned with the requirements laid down in Regulation (EU) 2021/xx [DORA] with regard to the management of ICT systems and tools.</p> <p>¹ Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (OJ L 158, 27.5.2014, p. 196).</p>	<p>to statutory auditors and audit firms as Directive 2014/56/EU of the European Parliament and of the Council¹ only contains general provisions on internal organisation. Similarly, only very general rules apply to managers of alternative investment funds and management companies subject to Directives 2011/61/EU and 2009/65/EC. These Directives should therefore be aligned with the requirements laid down in Regulation (EU) 2021/xx [DORA] with regard to the management of ICT systems and tools.</p> <p>¹ Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (OJ L 158, 27.5.2014, p. 196).</p>
Recital 10a			
20a		<p><u><i>(10a) Ensuring operational resilience is crucial to strengthening the ability of financial institutions to combat money laundering and terrorist financing, especially in light of the increasing and emerging risks opened up in the post-COVID environment, where it is easier for criminals to exploit weaknesses and gaps in institutions' systems and controls. To ensure that the digital operational resilience dimension is adequately addressed in the context of combatting money laundering and terrorist financing, Directive (EU) 2015/849 should be amended to explicitly include, in respect of obliged entities that fall within the scope of Regulation (EU) 2021/xx [DORA], digital operational resilience requirements as</i></u></p>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>part of the policies, controls and procedures put in place by those obliged entities to mitigate and manage effectively the risks related to money laundering and terrorist financing.</i></u>	
Recital 11			
21	(11) In many cases, further ICT requirements have been already laid down in delegated and implementing acts, which have been adopted on the basis of draft technical regulatory and implementing technical standards developed by the competent ESA. In order to provide legal clarity about the fact that the legal base of ICT risk provisions henceforth exclusively derives from Regulation (EU) 2021/xx [DORA], the empowerments in these Directives should be amended explaining that ICT risk provisions fall outside the scope of those empowerments.	(11) In many cases, further ICT requirements have been already laid down in delegated and implementing acts, which have been adopted on the basis of draft technical regulatory and implementing technical standards developed by the competent ESA. In order to provide legal clarity about the fact that the legal base of ICT risk provisions henceforth exclusively derives from Regulation (EU) 2021/xx [DORA], the empowerments in these Directives should be amended explaining that ICT risk provisions fall outside the scope of those empowerments.	(11) In many cases, further ICT requirements have been already laid down in delegated and implementing acts, which have been adopted on the basis of draft technical regulatory and implementing technical standards developed by the competent ESA. In order to provide legal clarity about the fact that the legal base of ICT risk provisions henceforth exclusively derives from Regulation (EU) 2021/xx [DORA], the empowerments in these Directives should be amended explaining that ICT risk provisions fall outside the scope of those empowerments.
Recital 12			
22	(12) To ensure a consistent and simultaneous application of Regulation xx/20xx [DORA] and of this Directive, which together constitute the new framework on digital operational resilience for the financial sector, Member States should apply the provisions of national law transposing this Directive from the date of application of that Regulation.	(12) To ensure a consistent and simultaneous application of Regulation xx/20xx [DORA] and of this Directive, which together constitute the new framework on digital operational resilience for the financial sector, Member States should apply the provisions of national law transposing this Directive from the date of application of that Regulation.	(12) To ensure a consistent and simultaneous application of Regulation xx/20xx [DORA] and of this Directive, which together constitute the new framework on digital operational resilience for the financial sector, Member States should apply the provisions of national law transposing this Directive from the date of application of that Regulation.
Recital 13			

	Commission Proposal	EP Mandate	Council Mandate
23	(13) Directives 2006/43/EC, 2009/66/EC, 2009/138/EC, 2011/61/EC, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 have been adopted on the bases of Article 53(1) and 114 of the Treaty on the Functioning of the European Union. The amendments in this Directive should be included in a single act due to the interconnectedness of the subject matter and objectives of the amendments, and this single act should be adopted on the basis of both Article 53(1) and 114 of the Treaty on the Functioning of the European Union.	(13) Directives 2006/43/EC, 2009/66/EC, 2009/138/EC, 2011/61/EC, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 have been adopted on the bases of Article 53(1) and 114 of the Treaty on the Functioning of the European Union. The amendments in this Directive should be included in a single act due to the interconnectedness of the subject matter and objectives of the amendments, and this single act should be adopted on the basis of both Article 53(1) and 114 of the Treaty on the Functioning of the European Union.	(13) Directives 2006/43/EC , 2009/66/EC, 2009/138/EC, 2011/61/EC, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 have been adopted on the bases of Article 53(1) and 114 of the Treaty on the Functioning of the European Union. The amendments in this Directive should be included in a single act due to the interconnectedness of the subject matter and objectives of the amendments, and this single act should be adopted on the basis of both Article 53(1) and 114 of the Treaty on the Functioning of the European Union.
Recital 14			
24	(14) Since the objectives of this Directive cannot be sufficiently achieved by the Member States as they entail the harmonisation through updates and amendments of requirements already contained in Directives but can rather, by reason of both scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(14) Since the objectives of this Directive cannot be sufficiently achieved by the Member States as they entail the harmonisation through updates and amendments of requirements already contained in Directives but can rather, by reason of both scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(14) Since the objectives of this Directive cannot be sufficiently achieved by the Member States as they entail the harmonisation through updates and amendments of requirements already contained in Directives but can rather, by reason of both scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
Recital 15			

	Commission Proposal	EP Mandate	Council Mandate
25	<p>(15) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,</p> <p>¹. OJ C 369, 17.12.2011, p. 14.</p>	<p>(15) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,</p> <p>¹. OJ C 369, 17.12.2011, p. 14.</p>	<p>(15) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,</p> <p>¹. OJ C 369, 17.12.2011, p. 14.</p>
Formula			
26	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:
Article 1			
27	<p>Article 1</p> <p>Amendments to Directive 2006/43/EC</p>	<p>Article 1</p> <p>Amendments to Directive 2006/43/EC</p>	<p>Article 1</p> <p>Amendments to Directive 2006/43/EC</p>
Article 1, first paragraph, introductory part			
28	<p>In Article 24a(1) of Directive 2006/43/EC, point (b) is replaced by the following:</p>	<p>In Article 24a(1) of Directive 2006/43/EC, point (b) is replaced by the following:</p>	<p>In Article 24a(1) of Directive 2006/43/EC, point (b) is replaced by the following:</p>
Article 1, first paragraph, amending provision, first paragraph, introductory part			

	Commission Proposal	EP Mandate	Council Mandate
29	‘ (b) a statutory auditor or an audit firm shall have sound administrative and accounting procedures, internal quality control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements in order to manage its ICT systems and tools in accordance with Article 6 of Regulation (EU) 2021/xx [DORA] of the European Parliament and of the Council*.	‘ (b) a statutory auditor or an audit firm shall have sound administrative and accounting procedures, internal quality control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements in order to manage its ICT systems and tools in accordance with Article 6 of Regulation (EU) 2021/xx [DORA] of the European Parliament and of the Council*.	‘ (b) a statutory auditor or an audit firm shall have sound administrative and accounting procedures, internal quality control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements in order to manage its ICT systems and tools in accordance with Article 6 of Regulation (EU) 2021/xx [DORA] of the European Parliament and of the Council*.
Article 1, first paragraph, amending provision, first paragraph, first paragraph			
30	_____	_____	_____
Article 1, first paragraph, amending provision, first paragraph, second paragraph			
31	* [full title] (OJ L [...], [...], p. [...]).	* [full title] (OJ L [...], [...], p. [...]).	* [full title] (OJ L [...], [...], p. [...]).
Article 1, paragraph 1a, introductory part			
31a		<u>In Article 24a(1) of Directive 2006/43/EC, the following point is inserted:</u>	
Article 1, paragraph 1a, amending provision point (ba)			
31b		<u>‘(ba) a statutory auditor or an audit firm</u>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>which is not a micro, small or medium-sized enterprise, except if it audits entities listed in Article 2 of Regulation (EU) 2021/xx [DORA], shall have sound administrative and accounting procedures, internal quality control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements in order to manage its ICT systems and tools in accordance with Article 6 of Regulation (EU) 2021/xx [DORA] of the European Parliament and of the Council*.</i></u>	
Article 1, paragraph 1a, amending provision, point (bb)			
31c		<u>_____</u>	
Article 1, paragraph 1a, amending provision, point (bc)			
31d		<u>* [full title] (OJ L [...], [...], p. [...])..</u>	
Article 2			
32	Article 2 Amendments to Directive 2009/65/EC	Article 2 Amendments to Directive 2009/65/EC	Article 2 Amendments to Directive 2009/65/EC
Article 2, first paragraph, introductory part			
33	Article 12 of Directive 2009/65/EC is amended as follows:	Article 12 of Directive 2009/65/EC is amended as follows:	Article 12 of Directive 2009/65/EC is amended as follows:

	Commission Proposal	EP Mandate	Council Mandate
Article 2, first paragraph, point (1), introductory part			
34	(1) In the second paragraph of paragraph 1, point (a) is replaced by the following:	(1) In the second paragraph of paragraph 1, point (a) is replaced by the following:	(1) In the second paragraph of paragraph 1, point (a) is replaced by the following:
Article 2, first paragraph, point (1), amending provision, first paragraph, introductory part			
35	<p>‘</p> <p>(a) has sound administrative and accounting procedures and control and safeguard arrangements for electronic data processing, including information and communication technology systems that are set up and managed in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], as well as adequate internal control mechanisms including rules for personal transactions by its employees or for the holding and management of investments in financial instruments in order to invest on its own account and ensuring, at least, that each transaction involving the UCITS may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the UCITS managed by the management company are invested according to the fund rules or the instruments of incorporation and the legal provisions in force;</p>	<p>‘</p> <p>(a) has sound administrative and accounting procedures and control and safeguard arrangements for electronic data processing, including <i>network and</i> information and communication technology systems that are set up and managed in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], as well as adequate internal control mechanisms including rules for personal transactions by its employees or for the holding and management of investments in financial instruments in order to invest on its own account and ensuring, at least, that each transaction involving the UCITS may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the UCITS managed by the management company are invested according to the fund rules or the instruments of incorporation and the legal provisions in force;</p>	<p>‘</p> <p>(a) has sound administrative and accounting procedures and, control and safeguard arrangements for electronic data processing, including information and communication technology systems that are set up and managed in accordance with Article 6 of – Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], as well as adequate internal control mechanisms including, in particular, rules for personal transactions by its employees or for the holding and management of investments in financial instruments in order to invest on its own account and ensuring, at least, that each transaction involving the UCITS may be reconstructed according to to– its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the UCITS managed by the management company are invested according to the fund rules or the instruments of incorporation and the legal provisions in force;</p>
Article 2, first paragraph, point (1), amending provision, first paragraph, first paragraph			

	Commission Proposal	EP Mandate	Council Mandate
36	_____	_____	_____
Article 2, first paragraph, point (1), amending provision, first paragraph, second paragraph			
37	* [full title] (OJ L [...], [...], p. [...]);	* [full title] (OJ L [...], [...], p. [...]);	* [full title] (OJ L [...], [...], p. [...]);
Article 2, first paragraph, point (2), introductory part			
38	(2) paragraph 3 is replaced by the following:	(2) paragraph 3 is replaced by the following:	(2) paragraph 3 is replaced by the following:
Article 2, first paragraph, point (2), amending provision, numbered paragraph (3), introductory part			
39	‘ 3. Without prejudice to Article 116, the Commission shall adopt, by means of delegated acts in accordance with Article 112a, measures specifying:	‘ 3. Without prejudice to Article 116, the Commission shall adopt, by means of delegated acts in accordance with Article 112a, measures specifying:	‘ 3. Without prejudice to Article 116, the Commission shall adopt, by means of delegated acts in accordance with Article 112a, measures specifying:
Article 2, first paragraph, point (2), amending provision, numbered paragraph (3)(a)			
40	(a) the procedures and arrangements referred to in point (a) of the second subparagraph of paragraph 1, other than those related to information and communication technology risk management;	(a) the procedures and arrangements referred to in point (a) of the second subparagraph of paragraph 1, other than those related to information and communication technology risk management;	(a) the procedures and arrangements referred to in point (a) of the second subparagraph of paragraph 1, other than those related to information and communication technology risk management;

	Commission Proposal	EP Mandate	Council Mandate
Article 2, first paragraph, point (2), amending provision, numbered paragraph (3)(b)			
41	(b) the structures and organisational requirements to minimise conflicts of interests referred to in point (b) of the second subparagraph of paragraph 1. ;	(b) the structures and organisational requirements to minimise conflicts of interests referred to in point (b) of the second subparagraph of paragraph 1. ;	(b) the structures and organisational requirements to minimise conflicts of interests referred to in point (b) of the second subparagraph of paragraph 1.-';
Article 3			
42	Article 3 Amendment to Directive 2009/138/EC	Article 3 Amendment to Directive 2009/138/EC	Article 3 Amendment to Directive 2009/138/EC
Article 3, first paragraph, introductory part			
43	Directive 2009/138/EC is amended as follows:	Directive 2009/138/EC is amended as follows:	Directive 2009/138/EC is amended as follows:
Article 3, first paragraph, point (1), introductory part			
44	(1) in Article 41, paragraph 4 is replaced by the following:	(1) in Article 41, paragraph 4 is replaced by the following:	(1) in Article 41, paragraph 4 is replaced by the following:
Article 3, first paragraph, point (1), amending provision, numbered paragraph (4), introductory part			
45	4. Insurance and reinsurance undertakings shall take reasonable steps to ensure continuity and regularity in the performance of their activities, including the development of contingency	4. Insurance and reinsurance undertakings shall take reasonable steps to ensure continuity and regularity in the performance of their activities, including the development of contingency	4. Insurance and reinsurance undertakings shall take reasonable steps to ensure continuity and regularity in the performance of their activities, including the development of contingency

	Commission Proposal	EP Mandate	Council Mandate
	plans. To that end, the undertaking shall employ appropriate and proportionate systems, resources and procedures and shall set up information communication technology systems and manage them in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA].’;	plans. To that end, the undertaking shall employ appropriate and proportionate systems, resources and procedures, <u>in particular network and shall set up</u> information communication technology systems and manage them in accordance with Article 6 <u>Chapter II</u> of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA].’;	plans. To that end, the undertaking shall employ appropriate and proportionate systems, resources and procedures and shall set up appropriate and proportionate information and communication technology systems and manage them in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA].’;
Article 3, first paragraph, point (1), amending provision, numbered paragraph (4), first paragraph			
46	_____	_____	_____
Article 3, first paragraph, point (1), amending provision, numbered paragraph (4), second paragraph			
47	* [full title] (OJ L [...], [...], p. [...]).	* [full title] (OJ L [...], [...], p. [...]).	*_____ [full title] (OJ L [...], [...], p. [...]).
Article 3, first paragraph, point (2), introductory part			
48	(2) in Article 50(1), points (a) and (b) are replaced by the following:	(2) in Article 50(1), points (a) and (b) are replaced by the following:	(2) in Article 50(1),– points (a) and (b) are replaced by the following:
Article 3, first paragraph, point (2), amending provision, first paragraph			
49	‘ (a) the elements of the systems referred to in	‘ (a) the elements of the systems referred to in	‘ (a) the elements of the systems referred to in

	Commission Proposal	EP Mandate	Council Mandate
	Articles 41, 44, 46 and 47, other than the elements concerning the management of information communication technology risk, and the areas listed in Article 44(2);’;	Articles 41, 44, 46 and 47, other than the elements concerning the management of information communication technology risk, and the areas listed in Article 44(2);’;	Articles 41, 44, 46 and 47, other than the elements concerning the management of information and communication technology risk, and the areas listed in Article 44(2);’;
Article 3, first paragraph, point (2), amending provision, second paragraph			
50	(b) the functions referred to in Articles 44, 46, 47and 48, other than functions related to information communication technology risk management..	(b) the functions referred to in Articles 44, 46, 47and 48, other than functions related to information communication technology risk management.-	(b) the functions referred to in Articles 44, 46, 47and 48, other than functions related to information and communication technology risk management.’.
Article 4			
51	Article 4 Amendments to Directive 2011/61/EC	Article 4 Amendments to Directive 2011/61/EC <u>2011/61/EU</u>	Article 4 Amendments to Directive 2011/61/EC
Article 4, paragraph (-1), introductory part			
51a		<u>Directive 2011/61/EU is amended as follows:</u>	
Article 4, paragraph (-1), subparagraph 1			
51b		“ <u>(-1) in Article 6(4), the following point is added to point (b):</u>	
Article 4, paragraph -1, amending provision,			

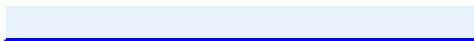

	Commission Proposal	EP Mandate	Council Mandate
subparagraph 2			
51c		<u>'(iv) any other ancillary service where the ancillary service represents a continuation of the services already undertaken by the AIFM or a use of internal competences, and does not create conflicts of interest that could not be managed by additional rules.'</u>	"
Article 4, first paragraph, introductory part			
52	Article 18 of Directive 2011/61/EC is replaced by the following:	<u>(1)</u> Article 18 of Directive 2011/61/EC <u>2011/61/EU</u> is replaced by the following:	Article 18 of Directive 2011/61/EC is replaced by the following:
Article 4, first paragraph, amending provision, first paragraph			
53	“ Article 18	“ Article 18	“ Article 18
Article 4, first paragraph, amending provision, second paragraph			
54	General principles	General principles	General principles
Article 4, first paragraph, amending provision, numbered paragraph (1), introductory part			
55	1. Member States shall require that AIFMs use,	1. Member States shall require that AIFMs use,	1. Member States shall require that AIFMs use,

	Commission Proposal	EP Mandate	Council Mandate
	at all times, adequate and appropriate human and technical resources that are necessary for the proper management of AIFs.	at all times, adequate and appropriate human and technical resources that are necessary for the proper management of AIFs.	at all times, adequate and appropriate human and technical resources that are necessary for the proper management of AIFs.
Article 4, first paragraph, amending provision, numbered paragraph (1), first paragraph			
56	In particular, the competent authorities of the home Member State of the AIFM, having regard also to the nature of the AIFs managed by the AIFM, shall require that the AIFM has sound administrative and accounting procedures, control and safeguard arrangements for managing the information communication technology systems required by Article 6 of [Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA]], as well as adequate internal control mechanisms, including, in particular, rules for personal transactions by its employees or for the holding or management of investments in order to invest on its own account and ensuring, at least, that each transaction involving the AIFs may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the AIFs managed by the AIFM are invested in accordance with the AIF rules or instruments of incorporation and the legal provisions in force.	In particular, the competent authorities of the home Member State of the AIFM, having regard also to the nature of the AIFs managed by the AIFM, shall require that the AIFM has sound administrative and accounting procedures, control and safeguard arrangements for managing the information communication technology <u>network and information</u> systems required by Article 6 of <u>in accordance with</u> [Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA]], as well as adequate internal control mechanisms, including, in particular, rules for personal transactions by its employees or for the holding or management of investments in order to invest on its own account and ensuring, at least, that each transaction involving the AIFs may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the AIFs managed by the AIFM are invested in accordance with the AIF rules or instruments of incorporation and the legal provisions in force.	In particular, the competent authorities of the home Member State of the AIFM, having regard also to the nature of the AIFs managed by the AIFM, shall require that the AIFM has sound administrative and accounting procedures, control and safeguard arrangements for managing the information and communication technology systems required by Article 6 of [Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA]], as well as adequate internal control mechanisms, including, in particular, rules for personal transactions by its employees or for the holding or management of investments in order to invest on its own account and ensuring, at least, that each transaction involving the AIFs may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the AIFs managed by the AIFM are invested in accordance with the AIF rules or instruments of incorporation and the legal provisions in force.
Article 4, first paragraph, amending provision, numbered paragraph (2), introductory part			

	Commission Proposal	EP Mandate	Council Mandate
57	2. The Commission shall, by means of delegated acts in accordance with Article 56 and subject to the conditions of Articles 57 and 58, adopt measures specifying the procedures and arrangements referred to in paragraph 1, other than for information communication technology systems.	2. The Commission shall, by means of delegated acts in accordance with Article 56 and subject to the conditions of Articles 57 and 58, adopt measures specifying the procedures and arrangements referred to in paragraph 1, other than for information communication technology systems.	2. The Commission shall, by means of delegated acts in accordance with Article 56 and subject to the conditions of Articles 57 and 58, adopt measures specifying the procedures and arrangements referred to in paragraph 1, other than for information and communication technology systems.
Article 4, first paragraph, amending provision, numbered paragraph (2), first paragraph			
58	_____	_____	_____
Article 4, first paragraph, amending provision, numbered paragraph (2), second paragraph			
59	* [full title] (OJ L [...], [...], p. [...]).. ,	* [full title] (OJ L [...], [...], p. [...]).. ,	* [full title] (OJ L [...], [...], p. [...]).? ,
Article 5			
60	Article 5 Amendment to Directive 2013/36/EU	Article 5 Amendment to Directive 2013/36/EU	Article 5 Amendment to Directive 2013/36/EU
Article 5, paragraph (-1), introductory part			
60a		<u>Directive 2013/36/EU is amended as follows:</u>	
Article 5, paragraph -1, point -1, subparagraph 1			

	Commission Proposal	EP Mandate	Council Mandate
60b		<u><i>(-1) in Article 65(3), point (a)(vi) is replaced by the following:</i></u>	(-1) in Article 65(3), point (a)(vi) is replaced by the following:
Article 5, paragraph -1, point -1, subparagraph 2			
60c		<u><i>'(vi) third parties to whom the entities referred to in points (i) to (iv) have outsourced functions or activities, including ICT third-party service providers referred to in Chapter V of Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA]*;';</i></u>	(1) '(vi) third parties to whom the entities referred to in points (i) to (iv) have outsourced operational functions or activities, including ICT-third party service providers in line with article 27 (2) (i) of Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA] *;
Article 5, paragraph -1, point -1, subparagraph 2(i)			
60d			* [full title] (OJ L [...], [...], p. [...]).'
Article 5, paragraph -1, point -1a, subparagraph 1			
60e		<u><i>(-1a) in Article 74(1), the first subparagraph is replaced by the following:</i></u>	
Article 5, paragraph -1a, point (-1a), subparagraph 2			
60f		<u><i>'Institutions shall have robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks they are</i></u>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>or might be exposed to, adequate internal control mechanisms, including sound administration and accounting procedures, network and information systems that are set up and managed in accordance with Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA], and remuneration policies and practices that are consistent with and promote sound and effective risk management.</i></u> ;	
Article 5, paragraph -1, point (-1b), subparagraph 1			
60g		<u><i>(-1b) in Article 85, paragraph 1 is replaced by the following:</i></u>	
Article 5, paragraph -1, point (-1b), subparagraph 2			
60h		<u><i>'1. Competent authorities shall ensure that institutions implement policies and processes to identify, monitor and manage the exposures to operational risk, including risks resulting from outsourcing and sub-outsourcing of functions and ICT third-party risk as defined in Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA], to model risk and to cover low-frequency high-severity events. Institutions shall identify the main sources of operational risk for the purposes of those policies and procedures.'</i></u> ;	
Article 5, first paragraph, introductory part			

	Commission Proposal	EP Mandate	Council Mandate
61	In Article 85 of Directive 2013/36/EU, paragraph 2 is replaced by the following:	<u>(1)</u> In Article 85 of Directive 2013/36/EU, paragraph 2 is replaced by the following:	In Article 85 of Directive 2013/36/EU, paragraph 2 is replaced by the following:
Article 5, first paragraph, amending provision, numbered paragraph (2), introductory part			
62	<p>2. Competent authorities shall ensure that institutions have adequate contingency and business continuity plans, including business continuity and disaster recovery plans for the technology they use for the communication of information (“information communication technology”) established in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA] of the European Parliament and of the Council * , for them to keep operating in the event of severe business disruption and limit losses incurred as a consequence of such a disruption..</p>	<p>2. <u>2.</u> Competent authorities shall ensure that institutions have adequate contingency and business continuity plans, including <u>ICT</u> business continuity <u>policy</u> and disaster recovery plans for the technology they use for the communication of information (“information communication technology”) <u>established, managed and tested</u> in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA] of the European Parliament and of the Council * , for them to keep operating in the event of severe business disruption and limit losses incurred as a consequence of such a disruption.-</p>	<p>2. Competent authorities shall ensure that institutions have adequate contingency and business continuity plans, including business continuity, as well as response and disaster recovery plans for the technology they use for the communication of information (“information and communication technology”) established in accordance with Article 610 of Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA] of the European Parliament and of the Council * , for them to keep operating in the event of severe business disruption and limit losses incurred as a consequence of such a disruption.-</p>
Article 5, first paragraph, amending provision, numbered paragraph (2), first paragraph -a			
62a			
Article 5, first paragraph, amending provision, numbered paragraph (2), first paragraph			
63			

	Commission Proposal	EP Mandate	Council Mandate
	* [full title] (OJ L [...], [...], p. [...]).	* [full title] (OJ L [...], [...], p. [...]).	*—— [full title] (OJ L [...], [...], p. [...]).’.
Article 5, paragraph (1a), introductory part			
63a		<u>(1a) Article 97 is amended as follows:</u>	
Article 5, paragraph (1a), amending provision, point (1), subparagraph 1			
63b		<u>(1) in paragraph 1, the following point is inserted:</u>	
Article 5, first paragraph, amending provision, point (1), subparagraph 2			
63c		<u>‘(b) risks revealed by digital operational resilience testing in accordance with Chapter IV of Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA];’</u>	
Article 5, paragraph (1a), amending provision, point (2), subparagraph 1			
63d		<u>(2) paragraph 2 is replaced by the following:</u>	
Article 5, paragraph (1a), amending provision, point (2), subparagraph 2			
63e			

	Commission Proposal	EP Mandate	Council Mandate
		<u>'2. The scope of the review and evaluation referred to in paragraph 1 shall cover all the requirements of this Directive and of Regulation (EU) No 575/2013 as well as the requirements laid down in Regulation (EU) 2021/xx of the European Parliament and of the Council*[DORA].'</u>	
Article 5a			
63f		<u>Article 5a</u> <u>Amendments to Directive 2014/59/EU</u>	
Article 5a, first paragraph, introductory part			
63g		<u>Directive 2014/59/EU is amended as follows:</u>	
Article 5a, first paragraph, point 1, introductory part			
63h		<u>(1) Article 10 is amended as follows:</u>	
Article 5a, paragraph 1, point (1), point (a), subparagraph 1			
63i		<u>(a) in paragraph 7, point (c) is replaced by the following:</u>	
Article 5a, paragraph 1, point (1), point (a), subparagraph 2			

	Commission Proposal	EP Mandate	Council Mandate
63j		<u><i>‘(c) a demonstration of how critical functions and core business lines could be legally and economically separated, to the extent necessary, from other functions so as to ensure continuity and digital operational resilience upon the failure of the institution’;</i></u>	
Article 5a, paragraph 1, point (1), point (b), subparagraph 1			
63k		<u><i>(b) in paragraph 7, point (q) is replaced by the following:</i></u>	
Article 5a, paragraph 1, point (1), point (b), subparagraph 2			
63l		<u><i>‘(q) a description of essential operations and systems for maintaining the continuous functioning of the institution’s operational processes, including network and information systems established in accordance with Regulation (EU) 2021/xx [DORA];’;</i></u>	
Article 5a, paragraph 1, point (1), point (c), subparagraph 1			
63m		<u><i>(c) in paragraph 9, the following subparagraph is added:</i></u>	
Article 5a, paragraph 1, point (1), point (c), subparagraph 2			

	Commission Proposal	EP Mandate	Council Mandate
63n		<u><i>'In accordance with Article 10 of Regulation (EU) No 1093/2010, EBA shall review and, if appropriate, update the regulatory technical standards in order, inter alia, to take account of the provisions of Chapter II of Regulation (EU) 2021/xx [DORA].'</i></u>	
Article 5a, first paragraph, point 2, introductory part			
63o		<u><i>(2) the Annex is amended as follows:</i></u>	
Article 5a, paragraph 1, point (2), point (a), subparagraph 1			
63p		<u><i>(a) in Section A, point (16) is replaced by the following:</i></u>	
Article 5a, paragraph 1, point (2), point (a), subparagraph 2			
63q		<u><i>'(16) arrangements and measures necessary to maintain the continuous functioning of the institution's operational processes, including network and information systems that are set up and managed in accordance with Regulation (EU) 2021/xx [DORA];'</i></u>	
Article 5a, paragraph 1, point (1), point (b), subparagraph 1			
63r			

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>(b) in Section B, point (14) is replaced by the following:</i></u>	
Article 5a, paragraph 1, point (2), point (b), subparagraph 2			
63s		<u><i>'(14) an identification of the owners of the systems identified in point (13), service level agreements related thereto, and any software and systems or licenses, including a mapping to their legal entities, critical operations and core business lines as well as the identification of critical third-party ICT service providers;'</i></u>	
Article 5a, paragraph 1, point (1), point (c), subparagraph 1			
63t		<u><i>(c) in Section B, the following point is inserted:</i></u>	
Article 5a, paragraph 1, point (2), point (c), subparagraph 2			
63u		<u><i>'(14a) institutions' major ICT-related incident reports and the results of digital operational resilience tests under Regulation XX [DORA];'</i></u>	
Article 5a, paragraph 1, point (1), point (d), subparagraph 1			
63v			

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>(d) in Section C, point (4) is replaced by the following:</i></u>	
Article 5a, paragraph 1, point (2), point (d), subparagraph 2			
63w		<u><i>'(4) the extent to which the service agreements, including ICT service contracts, that the institution maintains are robust and fully enforceable in the event of resolution of the institution;'</i></u>	
Article 5a, paragraph 1, point (1), point (e), subparagraph 1			
63x		<u><i>(e) in Section C, the following point is inserted:</i></u>	
Article 5a, paragraph 1, point (2), point (e), subparagraph 2			
63y		<u><i>'(4a) the extent to which the institution is capable of restoring and maintaining the network and information systems that support critical functions and core business lines of the institution, taking into account major ICT-related incident reports and the results of digital operational resilience tests under Regulation XX [DORA].'</i></u>	
Article 6			

	Commission Proposal	EP Mandate	Council Mandate
64	Article 6 Amendments to Directive 2014/65/EU	Article 6 Amendments to Directive 2014/65/EU	Article 6 Amendments to Directive 2014/65/EU
Article 6, first paragraph, introductory part			
65	Directive 2014/65/EU is amended as follows:	Directive 2014/65/EU is amended as follows:	Directive 2014/65/EU is amended as follows:
Article 6, first paragraph, point (1), introductory part			
66	(1) in Article 4(1), point 15 is replaced by the following:	(1) in Article 4(1), point 15 is replaced by the following:	(1) [in Article 4(1), point 15 is replaced by the following:
Article 6, first paragraph, point (1), amending provision, first paragraph			
67	‘ financial instrument’ means those instruments specified in Section C of Annex I, including such instruments issued by means of distributed ledger technology;;	‘ financial instrument’ means those instruments specified in Section C of Annex I, including such instruments issued by means of distributed ledger technology;:]	‘financial instrument’ means those instruments specified in Section C of Annex I, including such instruments issued by means of distributed ledger technology;’;]
Article 6, first paragraph, point (2), introductory part			
68	(2) Article 16 is amended as follows:	(2) Article 16 is amended as follows:	(2) Article 16 is amended as follows:
Article 6, first paragraph, point (2)(a), introductory part			
69	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:

	Commission Proposal	EP Mandate	Council Mandate
Article 6, first paragraph, point (2)(a), amending provision, numbered paragraph (4)			
70	<p>4. An investment firm shall take reasonable steps to ensure continuity and regularity in the performance of investment services and activities. To that end the investment firm shall employ appropriate and proportionate systems, including information communication technology (“ICT”) systems set up and managed in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], as well as appropriate and proportionate resources and procedures.;</p>	<p>4. An investment firm shall take reasonable steps to ensure continuity and regularity in the performance of investment services and activities. To that end the investment firm shall employ appropriate and proportionate systems, including information communication technology (“ICT”) systems set up and managed in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], as well as appropriate and proportionate resources and procedures.;</p>	<p>4. An investment firm shall take reasonable steps to ensure continuity and regularity in the performance of investment services and activities. To that end the investment firm shall employ appropriate and proportionate systems, including information and communication technology ("ICT") systems set up and managed in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], as well as appropriate and proportionate resources and procedures.’;</p>
Article 6, first paragraph, point (2)(b), introductory part			
71	(b) in paragraph 5, the second and third subparagraphs are replaced by the following:	(b) in paragraph 5, the second and third subparagraphs are replaced by the following:	(b) in paragraph 5, the second and third subparagraphs are replaced by the following:
Article 6, first paragraph, point (2)(b), amending provision, first paragraph			
72	An investment firm shall have sound administrative and accounting procedures, internal control mechanisms and effective procedures for risk assessment.	An investment firm shall have sound administrative and accounting procedures, internal control mechanisms and effective procedures for risk assessment.	-An investment firm shall have sound administrative and accounting procedures, internal control mechanisms and effective procedures for risk assessment.
Article 6, first paragraph, point (2)(b), amending			

	Commission Proposal	EP Mandate	Council Mandate
provision, second paragraph			
73	Without prejudice to the ability of competent authorities to require access to communications in accordance with this Directive and Regulation (EU) No 600/2014, an investment firm shall have sound security mechanisms in place to guarantee, in accordance with the requirements laid down in Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage maintaining the confidentiality of the data at all times.;	Without prejudice to the ability of competent authorities to require access to communications in accordance with this Directive and Regulation (EU) No 600/2014, an investment firm shall have sound security mechanisms in place to guarantee, in accordance with the requirements laid down in Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage maintaining the confidentiality of the data at all times.;	Without prejudice to the ability of competent authorities to require access to communications in accordance with this Directive and Regulation (EU) No 600/2014, an investment firm shall have sound security mechanisms in place to guarantee ensure, in accordance with the requirements laid down in Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], the security and authentication of the means of transfer of information, to minimise the risk of data corruption and unauthorised access and to prevent information leakage maintaining the confidentiality of the data at all times.’;
Article 6, first paragraph, point (3), introductory part			
74	(3) Article 17 is amended as follows:	(3) Article 17 is amended as follows:	(3) Article 17 is amended as follows:
Article 6, first paragraph, point (3)(a), introductory part			
75	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:
Article 6, first paragraph, point (3)(a), amending provision, numbered paragraph (1), introductory part			
76	‘ 1. An investment firm that engages in algorithmic trading shall have in place effective	‘ 1. An investment firm that engages in algorithmic trading shall have in place effective	‘ 1. An investment firm that engages in algorithmic trading shall have in place effective

	Commission Proposal	EP Mandate	Council Mandate
	systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA], are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders or the systems otherwise functioning in a way that may create or contribute to a disorderly market.	systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA], are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders or the systems otherwise functioning in a way that may create or contribute to a disorderly market.	systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA], are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders or the systems otherwise functioning in a way that may create or contribute to a disorderly market.
Article 6, first paragraph, point (3)(a), amending provision, numbered paragraph (1), first paragraph			
77	Such a firm shall also have in place effective systems and risk controls to ensure the trading systems cannot be used for any purpose that is contrary to Regulation (EU) No 596/2014 or to the rules of a trading venue to which it is connected.	Such a firm shall also have in place effective systems and risk controls to ensure the trading systems cannot be used for any purpose that is contrary to Regulation (EU) No 596/2014 or to the rules of a trading venue to which it is connected.	Such a firm shall also have in place effective systems and risk controls to ensure the trading systems cannot be used for any purpose that is contrary to Regulation (EU) No 596/2014 or to the rules of a trading venue to which it is connected.
Article 6, first paragraph, point (3)(a), amending provision, numbered paragraph (1), second paragraph			
78	The investment firm shall have in place effective business continuity arrangements to deal with any failure of its trading systems, including business continuity and disaster recovery plans for information communication technology established in accordance Article 6 of Regulation (EU) 2021/xx [DORA], and shall ensure its systems are fully tested and properly monitored to ensure that they meet the general	The investment firm shall have in place effective business continuity arrangements to deal with any failure of its trading systems, including business continuity and disaster recovery plans for information communication technology established in accordance Article 6 of Regulation (EU) 2021/xx [DORA], and shall ensure its systems are fully tested and properly monitored to ensure that they meet the general	The investment firm shall have in place effective business continuity arrangements to deal with any failure of its trading systems, including– business continuity and disaster as well as response and recovery plans for information and communication technology established in accordance– with Article 6 of Regulation (EU) 2021/xx [DORA], and shall ensure its systems are fully tested and properly

	Commission Proposal	EP Mandate	Council Mandate
	requirements laid down in this paragraph and any specific requirements laid down in Chapters II and IV of Regulation (EU) 2021/xx [DORA].;	requirements laid down in this paragraph and any specific requirements laid down in Chapters II and IV of Regulation (EU) 2021/xx [DORA].;	monitored to ensure that they meet the general requirements laid down in this paragraph and any specific requirements laid down in Chapters II and IV of Regulation (EU) 2021/xx [DORA].;
Article 6, first paragraph, point (3)(b), introductory part			
79	(b) in paragraph 7, point (a) is replaced by the following:	(b) in paragraph 7, point (a) is replaced by the following:	(b) in paragraph 7, point (a) is replaced by the following:
Article 6, first paragraph, point (3)(b), amending provision, first paragraph			
80	(a) the details of organisational requirements laid down in paragraphs 1 to 6, other than those related to ICT risk management, which are to be imposed on investment firms providing different investment services, investment activities, ancillary services or combinations thereof, whereby the specifications in relation to the organisational requirements laid down in paragraph 5 shall set out specific requirements for direct market access and for sponsored access in such a way as to ensure that the controls applied to sponsored access are at least equivalent to those applied to direct market access;;	(a) the details of organisational requirements laid down in paragraphs 1 to 6, other than those related to ICT risk management, which are to be imposed on investment firms providing different investment services, investment activities, ancillary services or combinations thereof, whereby the specifications in relation to the organisational requirements laid down in paragraph 5 shall set out specific requirements for direct market access and for sponsored access in such a way as to ensure that the controls applied to sponsored access are at least equivalent to those applied to direct market access;;	(a) the details of organisational requirements laid down in paragraphs 1 to 6, other than those related to ICT risk management, which are to be imposed on investment firms providing different investment services, investment activities, ancillary services or combinations thereof, whereby the specifications in relation to the organisational requirements laid down in paragraph 5 shall set out specific requirements for direct market access and for sponsored access in such a way as to ensure that the controls applied to sponsored access are at least equivalent to those applied to direct market access.;
Article 6, first paragraph, point (4), introductory part			

	Commission Proposal	EP Mandate	Council Mandate
81	(4) in Article 19, the following paragraph is added:	(4) in Article 19, the following paragraph is added:	(4) [in Article 19, the following paragraph is added:
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3), introductory part			
82	“ 3. However, where the investment firm or market operator operates a distributed ledger technology multilateral trading facility (“DLT multilateral trading facility”) as defined in Article 2(3) of Regulation xx/20xx [proposal for a regulation on a pilot regime for DLT market infrastructure], the competent authority may permit that, under its rules governing access as referred to in Article 18(3) and for a maximum of four years, the investment firm or market operator admits natural persons to the DLT multilateral trading facility as members or participants, provided that those persons fulfil the following requirements:	“ 3. However, where the investment firm or market operator operates a distributed ledger technology multilateral trading facility (“DLT multilateral trading facility”) as defined in Article 2(3) of Regulation xx/20xx [proposal for a regulation on a pilot regime for DLT market infrastructure], the competent authority may permit that, under its rules governing access as referred to in Article 18(3) and for a maximum of four years, the investment firm or market operator admits natural persons to the DLT multilateral trading facility as members or participants, provided that those persons fulfil the following requirements:	“ 32b. However, where the investment firm or market operator operates a distributed ledger technology multilateral trading facility (“DLT multilateral trading facility”)– as defined in Article 2(3) of Regulation xx/20xx [proposal for a regulation on a pilot regime for DLT market infrastructure], the competent authority may permit that, under its rules governing access as referred to in Article 18(3) and for a maximum of four six years, the investment firm or market operator admits natural and legal persons to deal on own account on the DLT multilateral trading facility as members or participants, provided that those persons fulfil the following requirements:
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3)(a)			
83	(a) they must be of sufficient good repute and fit and proper; and	(a) they must be of sufficient good repute and fit and proper; and	(a) they must be of sufficient good repute and fit and proper; and
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3)(b)			

	Commission Proposal	EP Mandate	Council Mandate
84	(b) they must have sufficient level of trading ability, competence and experience, including knowledge of trading and the functioning of distributed ledger technology (“DLT”).	(b) they must have sufficient level of trading ability, competence and experience, including knowledge of trading and the functioning of distributed ledger technology (“DLT”).	(b) they must have sufficient level of trading ability, competence and experience, including knowledge of trading and the functioning of distributed ledger technology (“DLT”):
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3)(ba)			
84a			(ba) they are not market makers;
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3)(bb)			
84b			(bb) they do not apply a high-frequency algorithmic trading technique;
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3)(bc)			
84c			(bc) they do not provide direct electronic access to a trading venue;
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3)(bd)			
84d			(bd) they do not deal on own account when executing client orders.
Article 6, first paragraph, point (4), amending provision, numbered paragraph (3), first paragraph			

	Commission Proposal	EP Mandate	Council Mandate
85	Where a competent authority grants the exemption referred to in the first subparagraph, it may impose additional investor protection measures for the protection of natural persons admitted as members or participants to the DLT multilateral trading facility. Such measures shall be proportionate to the risk profile of the participants or members.	Where a competent authority grants the exemption referred to in the first subparagraph, it may impose additional investor protection measures for the protection of natural persons admitted as members or participants to the DLT multilateral trading facility. Such measures shall be proportionate to the risk profile of the participants or members.	Where a competent authority grants the exemption referred to in the first subparagraph, it may impose additional investor protection measures compensatory measures that the competent authority may deem appropriate in order to meet the objectives pursued by the provisions from which an exemption is requested for the protection of natural persons admitted as members or participants to the DLT multilateral trading facility. Such measures shall be proportionate to the risk profile of the participants or members."]
Article 6, first paragraph, point (5), introductory part			
86	(5) in Article 47, paragraph 1 is amended as follows:	(5) in Article 47, paragraph 1 is amended as follows:	(5) in Article 47, paragraph 1 is amended as follows:
Article 6, first paragraph, point (5)(a), introductory part			
87	(a) point (b) is replaced by the following:	(a) point (b) is replaced by the following:	(a) point (b) is replaced by the following:
Article 6, first paragraph, point (5)(a), amending provision, first paragraph			
88	(b) to be adequately equipped to manage the risks to which it is exposed, including to manage risks to the ICT systems and tools in accordance with Article 6 of Regulation (EU)	(b) to be adequately equipped to manage the risks to which it is exposed, including to manage risks to the ICT systems and tools ICT risks in accordance with Article 6 Chapter II of	(b) to be adequately equipped to manage the risks to which it is exposed, including to manage risks to the ICT systems and tools in accordance with– Article 6 of Regulation (EU)

	Commission Proposal	EP Mandate	Council Mandate
	2021/xx [DORA]*, to implement appropriate arrangements and systems for identifying all significant risks to its operation, and to put in place effective measures to mitigate those risks.;	Regulation (EU) 2021/xx [DORA]*, to implement appropriate arrangements and systems for identifying all significant risks to its operation, and to put in place effective measures to mitigate those risks.;	2021/xx [DORA]*, to implement appropriate arrangements and systems for identifying all significant risks to its operation, and to put in place effective measures to mitigate those risks.;
Article 6, first paragraph, point (5)(b)			
89	(b) point (c) is deleted;	(b) point (c) is deleted;	(b) point (c) is deleted;
Article 6, first paragraph, point (6), introductory part			
90	(6) Article 48 is amended as follows:	(6) Article 48 is amended as follows:	(6) Article 48 is amended as follows:
Article 6, first paragraph, point (6)(a), introductory part			
91	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:
Article 6, first paragraph, point (6)(a), amending provision, numbered paragraph (1)			
92	1. Member States shall require a regulated market to build its operational resilience in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA] to ensure its trading systems are resilient, have sufficient capacity to deal with peak order and message volumes, are able to ensure orderly trading under conditions of severe market stress,	1. -Member States shall require a regulated market to build its operational resilience in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA] to ensure its trading systems are resilient, have sufficient capacity to deal with peak order and message volumes, are able to ensure orderly trading under conditions of severe market stress,	1. -Member States shall require a regulated market to build its operational resilience in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA] to ensure its trading systems are resilient, have sufficient capacity to deal with peak order and message volumes, are able to ensure orderly trading under conditions of severe market stress,

	Commission Proposal	EP Mandate	Council Mandate
	are fully tested to ensure such conditions are met and are subject to effective business continuity arrangements to ensure continuity of its services if there is any failure of its trading systems].;	are fully tested to ensure such conditions are met and are subject to effective business continuity arrangements, <u>which shall include ICT business continuity policy and disaster recovery plans established in accordance with Regulation (EU) 2021/xx (DORA)</u> , to ensure continuity of its services if there is any failure of its trading systems].;	are fully tested to ensure such conditions are met and are subject to effective business continuity arrangements to ensure continuity of its services if there is any failure of its trading systems].;
Article 6, first paragraph, point (6)(b), introductory part			
93	(b) paragraph 6 is replaced by the following:	(b) paragraph 6 is replaced by the following:	(b) paragraph 6 is replaced by the following:
Article 6, first paragraph, point (6)(b), amending provision, numbered paragraph (6)			
94	6. Member States shall require a regulated market to have in place effective systems, procedures and arrangements, including requiring members or participants to carry out appropriate testing of algorithms and providing environments to facilitate such testing in accordance with the requirements laid down in Chapters II and IV of Regulation (EU) 2021/xx [DORA], to ensure that algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market and to manage any disorderly trading conditions which do arise from such algorithmic trading systems, including systems to limit the ratio of unexecuted orders to transactions that may be	6. Member States shall require a regulated market to have in place effective systems, procedures and arrangements, including requiring members or participants to carry out appropriate testing of algorithms and providing environments to facilitate such testing in accordance with the requirements laid down in Chapters II and IV of Regulation (EU) 2021/xx [DORA], to ensure that algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market and to manage any disorderly trading conditions which do arise from such algorithmic trading systems, including systems to limit the ratio of unexecuted orders to transactions that may be	6. Member States shall require a regulated market to have in place effective systems, procedures and arrangements, including requiring members or participants to carry out appropriate testing of algorithms and providing environments to facilitate such testing in accordance with the requirements laid down in Chapters II and IV of Regulation (EU) 2021/xx [DORA], to ensure that algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market and to manage any disorderly trading conditions which do arise from such algorithmic trading systems, including systems to limit the ratio of unexecuted orders to transactions that may be

	Commission Proposal	EP Mandate	Council Mandate
	entered into the system by a member or participant, to be able to slow down the flow of orders if there is a risk of its system capacity being reached and to limit and enforce the minimum tick size that may be executed on the market.;	entered into the system by a member or participant, to be able to slow down the flow of orders if there is a risk of its system capacity being reached and to limit and enforce the minimum tick size that may be executed on the market.;	entered into the system by a member or participant, to be able to slow down the flow of orders if there is a risk of its system capacity being reached and to limit and enforce the minimum tick size that may be executed on the market.;
Article 6, first paragraph, point (6)(c), introductory part			
95	(c) paragraph 12 is amended as follows:	(c) paragraph 12 is amended as follows:	(c) paragraph 12 is amended as follows:
Article 6, first paragraph, point (6)(c)(i), introductory part			
96	(i) point (a) is replaced by the following	(i) point (a) is replaced by the following	(i) point (a) is replaced by the following
Article 6, first paragraph, point (6)(c)(i), amending provision, first paragraph			
97	(a) the requirements to ensure trading systems of regulated markets are resilient and have adequate capacity, except the requirements related to digital operational resilience;;	(a) the requirements to ensure trading systems of regulated markets are resilient and have adequate capacity, except the requirements related to digital operational resilience;;	(a) the requirements to ensure trading systems of regulated markets are resilient and have adequate capacity, except the requirements related to digital operational resilience;;
Article 6, first paragraph, point (6)(c)(ii), introductory part			
98	(ii) point (g) is replaced by the following:	(ii) point (g) is replaced by the following:	(ii) point (g) is replaced by the following:

	Commission Proposal	EP Mandate	Council Mandate
Article 6, first paragraph, point (6)(c)(ii), amending provision, first paragraph			
99	(g) the requirements to ensure appropriate testing of algorithms, other than digital operational resilience testing, so as to ensure that algorithmic trading systems including high-frequency algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market.;	(g) the requirements to ensure appropriate testing of algorithms, other than digital operational resilience testing, so as to ensure that algorithmic trading systems including high-frequency algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market.;	(g) the requirements to ensure appropriate testing of algorithms, other than digital operational resilience testing, so as to ensure that algorithmic trading systems including high-frequency algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market.;
Article 6a			
99a		<u>Article 6a</u> <u>Amendments to Directive (EU) 2015/849</u>	
Article 6a, first paragraph, introductory part			
99b		<u>Directive (EU) 2015/849 is amended as follows:</u>	
Article 6a, first paragraph, point 1, subparagraph 1			
99c		<u>(1) in Article 7(4), the following point is added:</u>	
Article 6a, first paragraph, point (1), subparagraph 2			
99d			

	Commission Proposal	EP Mandate	Council Mandate
		<u>'(h) take appropriate steps to support procedures in accordance with Chapter II of Regulation (EU) 2021/xx [DORA] in relation to mitigating ICT-related risks, where applicable.'</u>	
Article 6a, first paragraph, point 2, subparagraph 1			
99e		<u>(2) in Article 8(4), the following point is added:</u>	
Article 6a, first paragraph, point 2, subparagraph 2			
99f		<u>(c) where applicable, the requirements concerning the security of network and information systems supporting the policies, controls and procedures referred to in point (a) of this paragraph, that are set up and managed in accordance with the requirements laid down in Chapter II of Regulation (EU) 2021/xx [DORA].'</u>	
Article 7			
100	Article 7 Amendments to Directive (EU) 2015/2366	Article 7 Amendments to Directive (EU) 2015/2366	Article 7 Amendments to Directive (EU) 2015/2366
Article 7, first paragraph, introductory part			
101	Directive (EU) 2015/2366 is amended as follows:	Directive (EU) 2015/2366 is amended as follows:	Directive (EU) 2015/2366 is amended as follows:

	Commission Proposal	EP Mandate	Council Mandate
Article 7, paragraph (1), point (-1a), introductory part			
101a		<u><i>(-1a) in Article 5(1), the first subparagraph is amended as follows:</i></u>	
Article 7, paragraph (1), point (-1a), point (a), subparagraph 1			
101b		" <u><i>(a) point (e) is replaced by the following:</i></u>	
Article 7, paragraph (1), point (-1a), point (a), subparagraph 2			
101c		<u><i>‘(e) a description of the applicant’s governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures as well as arrangements for the use of ICT services in accordance with Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA], which demonstrates that those governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;’;</i></u>	
Article 7, paragraph (1), point (-1a), point (b), subparagraph 1			
101d		<u><i>(b) point (f) is replaced by the following:</i></u>	
Article 7, paragraph (1), point (-1a), point (b),			

	Commission Proposal	EP Mandate	Council Mandate
subparagraph 2			
101e		<u><i>'(f) a description of the procedure in place to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism which takes account of the notification obligations of the payment institution laid down in Chapter III of Regulation (EU) 2021/xx of the European Parliament and of the Council *[/DORA];';</i></u>	
Article 7, paragraph (1), point (-1a), point (c), subparagraph 1			
101f		<u><i>(c) point (h) is replaced by the following:</i></u>	
Article 7, paragraph (1), point (-1a), point (c), subparagraph 2			
101g		<u><i>'(h) a description of business continuity arrangements including a clear identification of the critical operations, effective ICT business continuity policy and disaster recovery plans and a procedure to regularly test and review the adequacy and efficiency of such plans in accordance with Regulation (EU) 2021/xx [DORA];';</i></u>	
Article 7, first paragraph, point (1), introductory part			
102			

	Commission Proposal	EP Mandate	Council Mandate
	(1) In Article 5(1), in the third subparagraph, the first sentence is replaced by the following:	(1) In Article 5(1), in the third subparagraph, the first sentence is replaced by the following:	(1) In Article 5(1), in the third subparagraph, the first sentence is replaced by the following:
Article 7, first paragraph, point (1), amending provision, first paragraph			
103	<p>The security control and mitigation measures referred to in point (j) of the first subparagraph shall indicate how they ensure a high level of technical security and data protection, including for the software and IT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations, in accordance with Chapter II of Regulation (EU) 2021/xx of the European Parliament and of the Council * [DORA]. Those measures shall also include the security measures laid down in Article 95(1). Those measures shall take into account EBA’s guidelines on security measures as referred to in Article 95(3) when in place.’;</p> <p>_____</p>	<p>The security control and mitigation measures referred to in point (j) of the first subparagraph shall indicate how they ensure a high level of technical security and data protection, including for the software and IT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations, in accordance with Chapter II of Regulation (EU) 2021/xx of the European Parliament and of the Council * [DORA]. Those measures shall also include the security measures laid down in Article 95(1). Those measures shall take into account EBA’s guidelines on security measures as referred to in Article 95(3) when in place.’;</p> <p>_____</p>	<p>The security control and mitigation measures referred to in point (j) of the first subparagraph shall indicate how they ensure a high level of technical security and data protection, including for the software and IT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations, in accordance with Chapter II of Regulation (EU) 2021/xx of the European Parliament and of the Council * [DORA]. Those measures shall also include the security measures laid down in Article 95(1). Those measures shall take into account EBA’s guidelines on security measures as referred to in Article 95(3) when in place.’;</p> <p>_____</p>
Article 7, first paragraph, point (1), amending provision, second paragraph			
104	* [full title] (OJ L [...], [...], p. [...]).	* [full title] (OJ L [...], [...], p. [...]).	* _____ [full title] (OJ L [...], [...], p. [...]).
Article 7, paragraph (1), point (1a), subparagraph 1			
104a		<u>(1a) in Article 20, paragraph 1 is replaced by</u>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>the following:</i></u>	
Article 7, paragraph (1), point (1a), subparagraph 2			
104b		<p>"</p> <p><u><i>'1. Member States shall ensure that, where payment institutions rely on third parties for the performance of operational functions or activities, those payment institutions take reasonable steps to ensure that the requirements of this Directive and of Chapter V of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA] are complied with.'</i></u></p>	
Article 7, paragraph (1), point (1b), subparagraph 1			
104c		<p><u><i>(1b) in Article 22, paragraph 1 is replaced by the following:</i></u></p> <p>"</p>	
Article 7, paragraph (1), point (1b), subparagraph 2			
104d		<p><u><i>'1. Member States shall designate as the competent authorities responsible for the authorisation and prudential supervision of payment institutions which are to carry out the duties provided for under this Title and in accordance with Regulation (EU) 2021/xx of the European Parliament and of the Council [DORA] either public authorities, or bodies recognised by national law or by public</i></u></p>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><i>authorities expressly empowered for that purpose by national law, including national central banks.</i></u> ;	
Article 7, first paragraph, point (2), introductory part			
105	(2) Article 95 is amended as follows:	(2) Article 95 is amended as follows:	(2) Article 95 is amended as follows:
Article 7, first paragraph, point (2)(a), introductory part			
106	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:
Article 7, first paragraph, point (2)(a), amending provision, numbered paragraph (1)			
107	<p>1. Member States shall ensure that payment service providers establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the payment services they provide and, as part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents, while addressing risks to information communication technology in accordance with Chapter II of Regulation (EU) 2021/xx [DORA].;</p>	<p>1. Member States shall ensure that payment service providers establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the payment services they provide and, as part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents, while addressing risks to information communication technology, <u><i>where applicable,</i></u> in accordance with Chapter II of Regulation (EU) 2021/xx [DORA].;</p>	<p>1. Without prejudice to the application of Chapter II of Regulation (EU) 2021/xx [DORA] to payment service providers referred to in points (a), (b) and (d) of Article 1(1), account information service providers as referred to in Article 33(1), payment institutions referred to in Article 32 (1) and electronic money institutions referred to in Article 9 of Directive 2009/110/EC, Member States shall ensure that payment service providers establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the payment services they provide and, as part of that framework, payment service providers shall establish and</p>

	Commission Proposal	EP Mandate	Council Mandate
			maintain effective incident management procedures, including for the detection and classification of major operational and security incidents, while addressing risks to information communication technology in accordance with Chapter II of Regulation (EU) 2021/xx [DORA].’;
Article 7, first paragraph, point (2)(b)			
108	(b) paragraph 4 is deleted;	(b) paragraph 4 is deleted;	(b) paragraph 4 is deleted;
Article 7, first paragraph, point (2)(c), introductory part			
109	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:
Article 7, first paragraph, point (2)(c), amending provision, numbered paragraph (5)			
110	‘ 5. EBA shall promote cooperation, including the sharing of information, in the area of operational risks associated with payment services among the competent authorities, and between the competent authorities and the ECB.’;	‘ 5. — EBA shall promote cooperation, including the sharing of information, in the area of operational risks associated with payment services among the competent authorities, and between the competent authorities, <u>ENISA</u> and the ECB.’;	‘ 5. — EBA shall promote cooperation, including the sharing of information, in the area of operational risks associated with payment services among the competent authorities, and between the competent authorities and the ECB.’;
Article 7, first paragraph, point (3), introductory part			
111			

	Commission Proposal	EP Mandate	Council Mandate
	(3) Article 96 is amended as follows:	(3) Article 96 – is amended as follows:	(3) Article 96 – is amended as follows:
Article 7, first paragraph, point (3)(a), introductory part			
112	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:
Article 7, first paragraph, point (3)(a), amending provision, numbered paragraph (1)			
113	‘ 1. In case of a major operational or security incident that is not an ICT-related incident as defined in Article 3(6) of Regulation (EU) xx/20xx [DORA], the payment service provider shall, without undue delay, notify the competent authority in its home Member State.; ’	‘ 1. In case of a major operational or security incident that is not an ICT-related incident as defined in Article 3(6) of Regulation (EU) xx/20xx [DORA], the payment service provider shall, without undue delay, notify the competent authority in its home Member State.; ’	‘ 1. In case of a major operational or security incident that is not an ICT-related incident as defined in Article 3(6) of Regulation (EU) xx/20xx [DORA], the payment service provider shall, without undue delay, notify the competent authority in its home Member State.; ’
Article 7, point (3aa), subparagraph 1			
113a		<u>(aa) the following paragraph is inserted:</u>	
Article 7, point (3aa), subparagraph 2			
113b		<u>‘(2a) Paragraphs 1 and 2 of this Article shall not apply to the payment service providers referred to in points (a), (b) and (d) of Article I(1), which are subject to the reporting obligations of Chapter III of Regulation (EU) 2021/xx [DORA].’;</u>	

	Commission Proposal	EP Mandate	Council Mandate
Article 7, first paragraph, point (3)(b)			
114	(b) paragraph 5 is deleted;	(b) paragraph 5 is deleted;	(b) paragraph 5 is deleted;
Article 7, first paragraph, point (3)(ba)			
114a			(ba) paragraph 6a is added as follows:
Article 7, first paragraph, point (6a)			
114b			(6a) Member States shall exempt payment service providers referred to in points (a), (b) and (d) of Article 1 (1) account information service providers as referred to in Article 33(1), payment institutions as referred to in Article 32 (1) and electronic money institutions as referred to in Article 9 of Directive 2009/110/EC, that report operational or security payment-related incidents under Chapter III of Regulation (EU) 2021/xx [DORA], from the application of paragraphs 1 to 5 of this Article.
Article 7, first paragraph, point (4), introductory part			
115	(4) in Article 98, paragraph 5 is replaced by the following:	(4) in Article 98, paragraph 5 is replaced by the following:	(4) in– Article 98, paragraph 5 is replaced by the following:
Article 7, first paragraph, point (4), amending provision, numbered paragraph (5)			
116			

	Commission Proposal	EP Mandate	Council Mandate
	‘ 5. In accordance with Article 10 of Regulation (EU) No 1093/2010, EBA shall review and, if appropriate, update the regulatory technical standards on a regular basis in order, inter alia, to take account of innovation and technological developments, and of the provisions of Chapter II of Regulation (EU) 2021/xx [DORA].’	‘ 5. In accordance with Article 10 of Regulation (EU) No 1093/2010, EBA shall review and, if appropriate, update the regulatory technical standards on a regular basis in order, inter alia, to take account of innovation and technological developments, and of the provisions of Chapter II of Regulation (EU) 2021/xx [DORA].’	‘ 5. In accordance with Article 10 of Regulation (EU) No 1093/2010, EBA shall review and, if appropriate, update the regulatory technical standards on a regular basis in order, inter alia, to take account of innovation and technological developments, and of the provisions of Chapter II of Regulation (EU) 2021/xx [DORA].’
Article 8			
117	Article 8 Amendment to Directive (EU) 2016/2341	Article 8 Amendment to Directive (EU) 2016/2341	Article 8 Amendment to Directive (EU) 2016/2341
Article 8, first paragraph, introductory part			
118	In Article 21(5) of Directive (EU) 2016/2341, the second sentence is replaced by the following:	In Article 21(5) of Directive (EU) 2016/2341, the second sentence is replaced by the following:	In Article 21(5) of Directive (EU) 2016/2341, the second sentence is replaced by the following:
Article 8, first paragraph, amending provision, first paragraph			
119	‘ To that end, IORPs shall employ appropriate and proportionate systems, resources and procedures and shall set up ICT systems and tools and manage them in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA].’	‘ To that end, IORPs shall employ appropriate and proportionate systems, resources and procedures, in particular network and information and shall set up ICT systems and tools , and manage them in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council*’	‘ ‘To that end, IORPs shall employ appropriate and proportionate systems, resources and procedures and shall set up ICT systems and tools and manage them in accordance with Article 6 of Regulation (EU) 2021/xx of the European Parliament and of the Council* [DORA].’

	Commission Proposal	EP Mandate	Council Mandate
		[DORA], where applicable .	
Article 8, first paragraph, amending provision, second paragraph			
120	_____	_____	_____
Article 8, first paragraph, amending provision, third paragraph			
121	* [full title] (OJ L [...], [...], p. [...])..	* [full title] (OJ L [...], [...], p. [...])..	* [full title] (OJ L [...], [...], p. [...]).?.
Article 9			
122	Article 9 Transposition	Article 9 Transposition	Article 9 —Transposition
Article 9(1), introductory part			
123	1. Member States shall adopt and publish, by [one year after adoption] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by [one year after adoption] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by one year 24 months after adoption} at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive, except points 1 and 4 of Article 6 . They shall forthwith communicate to the Commission the text of those provisions.
Article 9(1), first paragraph			
124			

	Commission Proposal	EP Mandate	Council Mandate
	They shall apply those provisions from [date of entry into force of DORA/its date of application, if different].	They shall apply those provisions from [date of entry into force of DORA/its date of application, if different].	They shall apply those provisions from [date of entry into force of DORA/its date of application, if different].
Article 9(1), second paragraph			
125	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
Article 9(1a)			
125a			1a. [Member States shall adopt and publish, by [9 months after adoption] at the latest, the laws, regulations and administrative provisions necessary to comply with points 1 and 4 of Article 6. They shall forthwith communicate to the Commission the text of those provisions. They shall apply those relevant provisions from [9 months after adoption].]
Article 9(1aa)			
125b			1aa. [By way of derogation from paragraph 1a, Member States that encounter particular difficulties in implementing this Directive shall be able to benefit from an extension of a

	Commission Proposal	EP Mandate	Council Mandate
			maximum of one year of the implementation period provided for in paragraph 1a. Member States shall notify to the Commission the need to make use of this option to extend the implementation period by from [9 months after adoption].]
Article 9(1b)			
125c			1b. [When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.]
Article 9(2)			
126	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
Article 10			
127	Article 10 Entry into force	Article 10 Entry into force	Article 10 Entry into force
Article 10, first paragraph			
128	This Directive shall enter into force on the twentieth day following that of its publication in	This Directive shall enter into force on the twentieth day following that of its publication in	This Directive shall enter into force on the twentieth day following that of its publication in

	Commission Proposal	EP Mandate	Council Mandate
	the Official Journal of the European Union.	the Official Journal of the European Union.	the Official Journal of the European Union.
Article 11			
129	Article 11 Addressees	Article 11 Addressees	Article 11 Addressees
Article 11, first paragraph			
130	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.
Formula			
131	Done at Brussels,	Done at Brussels,	Done at Brussels,
Formula			
132	For the European Parliament	For the European Parliament	For the European Parliament
Formula			
133	The President	The President	The President
Formula			
134	For the Council	For the Council	For the Council
Formula			

	Commission Proposal	EP Mandate	Council Mandate
135	The President	The President	The President