



2024/2494

25.9.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/2494

of 24 September 2024

laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and EBA and ESMA

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ⁽¹⁾, and in particular Article 96(3), third subparagraph, thereof,

Whereas:

- (1) Article 96(1) of Regulation (EU) 2023/1114 requires the competent authorities to cooperate closely with the European Securities and Markets Authority (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾, and with the European Banking Authority (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽³⁾.
- (2) Article 96(2) of Regulation (EU) 2023/1114 requires competent authorities to provide ESMA and EBA with all necessary information to carry out their duties, in accordance with Article 35 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council and with Article 35 of Regulation (EU) No 1093/2010 respectively.
- (3) Information should normally be exchanged in writing. However, oral communications should be possible in appropriate cases, including, in particular, before a written request for cooperation or exchange of information is sent, to provide information on an upcoming request for cooperation or exchange of information, or to discuss any issues that might make it difficult to comply with that request. In urgent cases, it should also be possible to orally communicate a request for cooperation or exchange of information, provided that such urgency is not due to a delay on the part of the submitting party.
- (4) Information that is not the subject of a specific request should be transmitted in accordance with Regulation (EU) 2023/1114, including on a voluntary basis, when the submitting body considers that information in its possession may be of use to another body. When transmitting unsolicited information, the submitting body should indicate the provision of Regulation (EU) 2023/1114 under which it transmits that information in the form set out in the relevant Annex.
- (5) A request should contain sufficient information about the subject matter of the cooperation or exchange of information and include the reasons for the request and its context, to enable the receiving body to easily and efficiently process the request. It should not be necessary for a submitting body to indicate the facts giving rise to the suspicion of infringement of Regulation (EU) 2023/1114 that prompted the request where the requested information is necessary for that body to fulfil its duties.

⁽¹⁾ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

⁽³⁾ 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, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

- (6) The procedure as well as the forms and templates used for the exchange of information and the provision of cooperation should ensure that any information exchanged or transmitted is kept confidential, and that rules with regard to the processing of personal data and the free movement of personal data are complied with.
- (7) This Regulation is based on the draft implementing technical standards developed by ESMA in close cooperation with EBA and submitted to the Commission.
- (8) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,
- (9) ESMA has not conducted open public consultations on the draft implementing technical standards on which this Regulation is based, nor has it analysed the potential related costs and benefits of introducing such standards, as to have done so would have been highly disproportionate in relation to the scope and impact of those standards, taking into account that this Regulation would only affect those authorities and entities and would not affect market participants,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means that ensure that the completeness, integrity and confidentiality of the information are maintained during the transmission;
- (2) 'submitting body' means the body submitting a notification, a request for information or cooperation, or providing unsolicited information;
- (3) 'receiving body' means the body receiving a notification, a request for information or cooperation, or unsolicited information.

Article 2

Contact points

1. Each competent authority shall designate a contact point for the purposes of cooperating and exchanging information pursuant to Article 96 of Regulation (EU) 2023/1114.
2. Competent authorities shall communicate the details of their contact points to ESMA and EBA by 27 November 2024 and keep EBA and ESMA informed of any changes to those details.
3. ESMA and EBA shall maintain and keep up-to-date a list of the contact points designated in accordance with paragraph 1.

Article 3

Means of communication

1. For the purposes of cooperation and exchange of information in accordance with Article 96(1) of Regulation (EU) 2023/1114, competent authorities and ESMA and EBA shall communicate in writing either by post or by electronic means, unless otherwise provided for in this Regulation.

2. When determining the most appropriate means of communication in any particular case, competent authorities, ESMA and EBA shall take due account of the following:

- (a) confidentiality considerations;
- (b) the time necessary for correspondence;
- (c) the volume of material to be communicated;
- (d) the ease of access to the information that is being exchanged.

3. The means of communication referred to in paragraph 1 shall ensure the completeness, integrity and confidentiality of the information during the transmission thereof.

Article 4

Notifications and requests for information or cooperation

1. Notifications and requests for information or cooperation shall be submitted in writing by post or by electronic means, using the form set out in Annex I. When a competent authority, ESMA or EBA makes a request for information or cooperation pursuant to Article 96 of Regulation (EU) 2023/1114, they shall use the standard form set out in Annex I to this Regulation. The submitting body shall send the notification or request to the contact point designated pursuant to Article 2.

2. When making a request for information or cooperation, the submitting body:

- (a) may attach to the request any document or supporting material deemed necessary to support that request;
- (b) may, in urgent cases, make the request orally, but that oral request shall subsequently be confirmed in writing without undue delay.

Article 5

Acknowledgement of receipt of notifications and requests

1. The receiving body shall send an acknowledgement of receipt to the submitting body as soon as possible and in any case within 5 working days of receipt of a notification or request made pursuant to Article 4, using the form set out in Annex II, and, where possible, indicate an estimated date of response.

2. Whenever it is not possible to indicate an estimated date of response, the receiving body shall indicate the frequency with which it will update the submitting body.

Article 6

Procedures for sending, processing and replying to a request for cooperation and exchange of information

1. The submitting body and the receiving body shall ensure that a request for cooperation or exchange of information is dealt with as soon as possible. They shall cooperate to resolve any difficulties that may arise in executing a request.

2. Where the submitting body attaches to the request for cooperation and exchange of information any document or supporting material in accordance with Article 4(2), point (a), and where such document or supporting material is not in an official language of the Member State of the receiving body, the submitting body shall also provide a translation of such document or supporting material, or a summary of such document or supporting material in a language customary in the sphere of international finance.

3. If the receiving body requests any clarification about a notification or request submitted in accordance with Article 4, it shall request further clarification promptly by any means.

4. The submitting body shall respond promptly to any request for clarification from the receiving body.
5. When replying to a request made in accordance with Article 4, the receiving body shall:
 - (a) use the form set out in Annex III;
 - (b) take all reasonable steps to provide the requested cooperation or information
 - (c) act without delay and in a manner which ensures that any necessary regulatory action can proceed expediently taking into account the complexity of the request concerned and whether it is necessary to involve third parties.
6. Where appropriate, the receiving body shall provide the submitting body with regular updates on the progress of a pending request, including updates on the revised estimated date of reply.
7. Where the receiving body becomes aware of circumstances that may lead to a delay in meeting the estimated date or a timeframe of reply, referred to in Article 5(1), by more than 10 working days, it shall inform the submitting body without undue delay.
8. Where the request justifies closer cooperation between the submitting and the receiving body or where the request has been marked as urgent, the bodies shall agree on the frequency and means of the closer cooperation.

Article 7

Unsolicited cooperation and exchange of information

For the purposes of any cooperation and exchange of information that is not the subject of a specific request, including any subsequent communications relating to it, the submitting body shall use the form set out in Annex IV.

Article 8

Cooperation procedures

1. Where ESMA or EBA are requested under Article 95(5) of Regulation (EU) 2023/1114 to coordinate an investigation or inspection with cross-border effect, ESMA or EBA may establish a temporary group on an ad hoc basis to include the competent authorities of the Member States affected by that investigation or inspection.
2. When participating in temporary groups referred to in paragraph 1, ESMA and EBA shall consult each other regularly.

Article 9

Referral to ESMA or to EBA

Referral to ESMA pursuant to Article 95(6) of Regulation (EU) 2023/1114 or to EBA pursuant to Article 95(7) of that Regulation of a rejection or absence of action within a reasonable timeframe shall be made in writing using the form set out in Annex I and shall include:

- (a) a copy of the request for cooperation and exchange of information and any reply received;
- (b) the reasons for referring to ESMA or to EBA the rejection or absence of action.

*Article 10***Restrictions and permissible uses of information**

1. The receiving body shall not disclose the existence and content of a request for cooperation or exchange of information pursuant to Article 96 of Regulation (EU) 2023/1114 unless the submitting body has given its express consent to such disclosure. Where such consent is not given and where it is not reasonably practicable to comply with the request without disclosing its existence or content, the submitting body shall withdraw or suspend its request until it is able to provide such consent to disclosure.
2. The submitting body that received information within the scope of this Regulation shall use it solely for the performance of its duties and the exercise of its functions or for the purposes of securing compliance with or enforcement of Regulation (EU) 2023/1114, including initiating, conducting, or assisting in, criminal, administrative, civil or disciplinary proceedings resulting from a breach of that Regulation.

*Article 11***Entry into force**

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

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

Done at Brussels, 24 September 2024.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Form for a request for cooperation or exchange of information

Request for cooperation and exchange of information

Reference number:

Date:

General information**FROM:**

Member State:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Receiving Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

In accordance with Article 4 of Implementing Regulation (EU) 2024/2494 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and EBA and ESMA, your cooperation is sought in relation to the matter(s) specified below.

Type of request or notification*Please tick the appropriate box(es)*

- notification to ESMA and EBA about requests of assistance between national competent authorities with regard to on-site inspections or investigations pursuant to Article 95(4) of Regulation (EU) 2023/1114;
- request to ESMA and EBA to coordinate the investigation or inspection pursuant to Article 95(5) of Regulation (EU) 2023/1114;
- communication to ESMA of situations of rejected or not acted upon requests for cooperation or exchange of information, pursuant to Article 95(6) of Regulation (EU) 2023/1114;

- communication to EBA of situations of rejected or not acted upon requests for cooperation or exchange of information, pursuant to Article 95(7) of Regulation (EU) 2023/1114;
- notification to ESMA or to EBA of precautionary measures pursuant to Article 102 of Regulation (EU) 2023/1114;
- notification to ESMA of product intervention measures pursuant to Article 105(3) and (4) of Regulation (EU) 2023/1114, for crypto-asset;
- notification to EBA of product intervention measures pursuant to Article 105(3) of Regulation (EU) 2023/1114, for asset-referenced tokens and e-money tokens;
- communication to ESMA and EBA of information on the complaints-handling procedures pursuant to Article 108(2) of Regulation (EU) 2023/1114;
- communication to ESMA of data and information to compile the Register of crypto-asset white papers, of issuers of asset-referenced tokens and e-money tokens, and of crypto-asset service providers, pursuant to Article 109(1) of Regulation (EU) 2023/1114;
- notifications to ESMA of the measures listed in Article 94(1), point (b), (c), (f), (l), (m), (n), (o) or (t), and of any public precautionary measures taken pursuant to Article 102, in accordance with Article 109(6) of Regulation (EU) 2023/1114;
- communication to ESMA for the establishment of the ESMA Register on non-compliant entities providing crypto asset services, pursuant to Article 110 of Regulation (EU) 2023/1114;
- reporting of administrative penalties and other administrative measures by competent authorities to ESMA and EBA, pursuant to Article 115 of Regulation (EU) 2023/1114;
- Any other notification, provision of information or request for information relevant in accordance with Article 96 of Regulation (EU) 2023/1114.

Information on the notification or reasons for the request

The notification/request concerns [choose 'notification' or 'request' according to the selection made above]

.....
.....
.....

[insert the description of the subject matter of the notification or request, the purpose for which the cooperation or exchange of information is sought or facts underlying the request for coordinating an investigation and explanation for its helpfulness]

Further to

.....
.....
.....

[if applicable, insert details of the previous notification or request in order to enable it to be identified]

The information included in this notification/request [choose the correct option] shall be kept confidential in accordance with Article 10 of Implementing Regulation (EU) 2024/2494 and shall be subject to the requirements of professional secrecy in accordance with Article 100 of Regulation (EU) 2023/1114.

Any personal data provided shall be processed by ESMA or EBA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, ESMA, EBA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of those Regulations.

Yours sincerely,

[signature]

ANNEX II

Form for the acknowledgement of receipt of a notification or request for cooperation or exchange of information

Acknowledgement of receipt of a notification or request for cooperation or exchange of information

Reference number:

Date:

FROM:
Receiving Body
Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:
Telephone:
Email:

TO:
Member State:
Submitting Body:
Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:
Telephone:
Email:

Dear [insert appropriate name]

Following your notification/request [insert reference to notification/request], we hereby acknowledge receipt of your notification / request for cooperation / request for information [choose the right option] on [insert date]

The [receiving body] intends to respond on the/within [insert estimated date or timeframe by when a response is expected to be provided]

The [receiving body] intends to provide updates on the pending request [insert periodicity of the updates to be given]

[In case it is not possible for the receiving body to indicate an estimated date or timeframe for the response, please indicate the frequency with which the receiving body will update the submitting body]

The [receiving body] will not be capable of responding within the deadlines set out by the [submitting body] for the following reasons [please, specify which exception/s is/are applicable in your situation]:

.....
.....
.....

[In case the receiving body is not capable of responding within the deadlines set out in Article 5 of Implementing Regulation (EU) 2024/2494, please provide reasons and the estimated date of response]

Any personal data provided shall be processed by ESMA or EBA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, ESMA, EBA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX III

Form for the reply to a request for cooperation or exchange of information

Reply to a request for cooperation or exchange of information

Reference number:

Date:

FROM:

Member State:

Receiving body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear [insert appropriate name]

Following your request [insert reference to request], we hereby acknowledge receipt of your request for cooperation or request for information on [insert date].

Information gathered

.....

.....

.....

[If the information has been gathered, please set out the information here or provide an explanation of how it will be provided]

The information provided is confidential and is disclosed to [Insert name of the submitting body] pursuant to [Insert provision of the applicable sectoral legislation] and on the basis that the information shall remain confidential in accordance with Article 10 of Implementing Regulation (EU) 2024/2494 and Article 100 of Regulation (EU) 2023/1114.

The [Insert name of the submitting body] shall observe the requirements of Article 10 of Implementing Regulation (EU) 2024/2494 with respect to the permissible uses of that information.

Where the *[Insert name of the submitting body]* intends to use or disclose information provided in this reply for purposes other than those stated in the request but relating to the its tasks in accordance with Regulation (EU) 2023/1114, *[Insert name of the submitting body]* shall notify *[Insert name of the receiving body]* which has 10 working days to object to such use or disclosure, or where necessary to indicate a precise time limit by which it will be able to provide such feedback.

Where the *[Insert name of the submitting body]* intends to use or disclose information provided in this reply for purposes outside the scope of Regulation (EU) 2023/1114, it shall notify *[Insert name of the receiving body]* and unless the exception referred to in Article 100(2) of Regulation (EU) 2023/1114 applies, shall obtain the prior consent of *[Insert name of the receiving body]*. Where *[Insert name of the receiving body]* consents to such use or disclosure of the information, it may subject it to certain conditions.

Any personal data provided shall be processed by ESMA and EBA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, ESMA, EBA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX IV

Form for provision of unsolicited exchange of information

Unsolicited exchange of information

Reference number:

Date:

FROM:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Receiving Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear [insert appropriate name]

In accordance with Article 9 of Implementing Regulation (EU) 2024/2494, we are providing the following information we believe may be of assistance in carrying out your duties.

Information provided

.....
.....
.....

[Please set out the details of the information provided, including if relevant a description of any supporting documents or material attached.]

The information provided is confidential and is disclosed to [Insert name of the submitting body] pursuant to [Insert provision of the applicable sectoral legislation] and on the basis that the information shall remain confidential in accordance with Article 10 of Implementing Regulation (EU) 2024/2494 and Article 100 of Regulation (EU) 2023/1114.

The [Insert name of the receiving body] shall observe the requirements of Article 10 of Implementing Regulation (EU) 2024/2494 with respect to the permissible uses of that information, and of Article 101 of Regulation (EU) 2023/1114 with respect to the processing and transfer of personal data.

Yours sincerely,

[signature]