

**TECHNICAL STANDARDS (SECURITIES FINANCING TRANSACTIONS  
REGULATION) (EU EXIT) (No 1) INSTRUMENT 2020**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Revocation**

- F. The following EU Regulation is revoked:

Commission Implementing Regulation (EU) 2019/365 of 13 December 2018 laying down implementing technical standards with regard to the procedures and forms for exchange of information on sanctions, measures and investigations in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council.

**Modifications**

- G. The following EU Regulations are amended in accordance with Annex A to D of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2019/357 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on access to details of securities financing transactions (SFTs) held in trade repositories	Annex A
Commission Delegated Regulation (EU) 2019/358 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on the collection, verification, aggregation, comparison and publication of data on securities financing transactions (SFTs) by trade repositories	Annex B
Commission Delegated Regulation (EU) 2019/359 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the application for registration and extension of registration as a trade repository	Annex C
Commission Delegated Regulation (EU) 2019/364 of 13 December 2018 laying down implementing technical standards with regard to the format of applications for registration and extension of registration of trade repositories in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council	Annex D

### Commencement

- H. This instrument comes into force on IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020.

### Citation

- I. This instrument may be cited as the Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 1) Instrument 2020.

By order of the Board  
22 October 2020

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### COMMISSION DELEGATED REGULATION (EU) 2019/357 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on access to details of securities financing transactions (SFTs) held in trade repositories

(Text with EEA relevance)

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#### Article -1

##### **Interpretation**

Where a term is defined in Regulation 2015/2365/EU, as amended by The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019, that definition shall apply for the purposes of this Regulation.

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#### Article 2

##### **Single access**

A trade repository shall provide the entities that have several responsibilities or mandates under Article 12(2) of Regulation (EU) 2015/2365 with a single access to the details of all SFTs covered by those responsibilities and mandates.

#### Article 3

##### **Access to details of SFTs in accordance with the mandate and specific needs of each authority concerned**

1. A trade repository shall provide ~~ESMA~~ the FCA with access to all details of all SFTs to exercise its supervisory competences in accordance with its responsibilities and mandates.
2. A trade repository shall provide the ~~EBA, EIOPA and ESRB~~ Prudential Regulation Authority, the Pensions Regulator and the Bank of England with access to all details of all SFTs.
3. ~~A trade repository shall provide an authority supervising trading venues with access to the details of all SFTs executed on those trading venues. [deleted]~~
4. ~~A trade repository shall provide a member of the ESCB whose Member State's currency is the euro and the ECB with access to the details of all SFTs:~~
  - (a) ~~where the securities lent or borrowed or provided as collateral were issued by or offered on behalf of an entity established within a Member State whose currency is the euro;~~

- (b) ~~where the securities lent or borrowed or provided as collateral are sovereign debt of a Member State whose currency is the euro; [deleted]~~
- (c) ~~where the currency lent or borrowed or provided as collateral is the euro.~~
5. ~~A trade repository shall provide a member of the ESCB whose Member State's currency is not the euro with access to the details of all SFTs:~~
- (a) ~~where the securities lent or borrowed or provided as collateral were issued by or offered on behalf of an entity established within the Member State of that ESCB member;~~
- (b) ~~where the securities lent or borrowed or provided as collateral are sovereign debt of the Member State of that ESCB member;~~
- (c) ~~where the currency lent or borrowed or provided as collateral is the currency issued by that ESCB member. [deleted]~~
6. ~~A trade repository shall provide an authority listed in Article 12(2) of Regulation (EU) 2015/2365, that monitors systemic risks to financial stability in the euro area, with access to the details of all SFTs concluded on trading venues, or by counterparties that fall under the responsibilities and mandates of that authority when monitoring systemic risks to financial stability in the euro area. A trade repository shall also provide that authority with access to the details of the SFTs of all branches of counterparties established in a third country that operate in a Member State whose currency is the euro. [deleted]~~
7. ~~A trade repository shall provide an authority listed in Article 12(2) of Regulation (EU) 2015/2365, that monitors systemic risks to financial stability and whose Member State's currency is not the euro, with access to the details of all SFTs concluded on trading venues, or by counterparties that fall under the responsibilities and mandates of that authority when monitoring systemic risks to financial stability in a Member State whose currency is not the euro. A trade repository shall also provide that authority with access to the details of all SFTs of all branches of counterparties established in a third country that operate in that authority's Member State. [deleted]~~
8. ~~A trade repository shall provide the ECB, in carrying out its tasks within the single supervisory mechanism under Council Regulation (EU) No 1024/2013, with access to the details of all SFTs concluded by any counterparty which, within the single supervisory mechanism, is subject to the ECB's supervision pursuant to Regulation (EU) No 1024/2013. [deleted]~~
9. A trade repository shall provide an authority of a third country in respect of which ~~an~~ implementing act pursuant to Article 19(1) of Regulation (EU) 2015/2365 has been adopted regulations pursuant to Article 19(1) have been prescribed by the Treasury with access to the details of all SFTs under the third country authority's mandate and responsibilities in line with the provisions of the aforementioned ~~implementing act~~ regulations.
10. A trade repository shall provide ~~an authority designated pursuant to Article 4 of Directive 2004/25/EC of the European Parliament and of the Council~~ the Panel on Takeovers and Mergers with access to the details of all SFTs for which the security lent or borrowed or provided as collateral is a security issued by a company that meets one or more of the following conditions:

- ~~(a) the company is admitted to trading on a regulated market established within the Member State of that authority and the takeover bids on the securities of that company fall under that authority's supervisory responsibilities and mandates; [deleted]~~
- (b) the company has its registered office or head office in the ~~Member State of that authority~~ United Kingdom and the takeover bids on the securities of that company fall under that authority's supervisory responsibilities and mandates;
- (c) the company is an offeror as ~~defined in Article 2(1)(c) of Directive 2004/25/EC~~ for the companies referred to in ~~points point (a) or (b)~~ point (a) or (b) and the consideration it offers includes securities.

For the purposes of this provision, "company" has the meaning set out in paragraph 21(1) of Schedule 1C to the Companies Act 2006 and the terms "takeover bid" and "offeror" have the meanings defined in paragraph 20 of that Schedule.

- ~~11. A trade repository shall provide an authority as referred to in Article 12(2)(i) of Regulation (EU) 2015/2365 with access to the details of all SFTs representing transactions, or relating to markets, securities lent or borrowed or provided as collateral, benchmarks used as references and counterparties that fall under the supervisory responsibilities and mandates of that authority. A trade repository shall also provide that authority with access to the details of the SFTs of all branches of counterparties established in a third country that operate in the authority's Member State.~~
- ~~12. A trade repository shall provide the Agency for the Cooperation of Energy Regulators (ACER) with access to the details of all SFTs where the commodity lent or borrowed or provided as collateral is energy.~~
- ~~13. A trade repository shall provide a resolution authority as referred to in Article 12(2)(k) of Regulation (EU) 2015/2365 with access to the details of all SFTs concluded by:
 
  - ~~(a) a counterparty that falls under the responsibilities and mandates of that authority;~~
  - ~~(b) a branch of a counterparty established in a third country that operates in the Member State of that resolution authority and falls under its responsibilities and mandates.~~~~
- ~~14. A trade repository shall provide the Single Resolution Board with access to the details of all SFTs concluded by any counterparty that falls under the scope of Regulation (EU) No 806/2014.~~
- ~~15. A trade repository shall provide a competent authority listed in Article 12(2)(m) of Regulation (EU) 2015/2365 with access to the details of all SFTs concluded by:
 
  - ~~(a) a counterparty that falls under the responsibilities and mandates of that authority;~~
  - ~~(b) a branch of a counterparty established in a third country that operates in the Member State of that competent authority and falls under its responsibilities and mandates.~~~~
- ~~16. A trade repository shall provide an authority supervising a central counterparty (CCP) and the member of the ESCB overseeing that CCP with access to the details of all SFTs cleared or concluded by that CCP.~~

## Article 4

**Setting up of the access to details of SFTs**

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2. A trade repository shall prepare a form to be used by the entities listed in Article 12(2) of Regulation (EU) 2015/2365 when submitting a request for setting up access to details of SFT details. That form shall contain the following entries:

- (a) the name of the entity;
- (b) the contact person at the entity;
- ~~(c) the entity's legal responsibilities and mandates; [deleted]~~
- (d) a list of authorised users of the requested details of SFTs;
- (e) credentials for a secure SSH FTP connection;
- (f) any other technical information relevant to the entity's access to details of SFTs;
- ~~(g) whether the entity is competent for counterparties in its Member State, the euro area or the Union;~~
- ~~(h) the types of counterparties for which the entity is competent as per the classification in Table 1 of Annex I to Implementing Regulation (EU) 2019/363;~~
- ~~(i) the types of SFT that are supervised by the entity;~~
- ~~(j) all Member States where the issuer of securities that were borrowed or lent or provided as collateral is supervised by the entity, if any;~~
- ~~(k) all Member States where the commodities that were borrowed or lent or provided as collateral are supervised by the entity, if any;~~
- ~~(l) the trading venues that are supervised by the entity, if any;~~
- ~~(m) the CCPs that are supervised or overseen by the entity, if any;~~
- ~~(n) the currency that is issued by the entity, if any;~~
- ~~(o) the benchmarks used in the Union, the administrator of which the entity is competent for, if any.~~

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## Article 6

**Entry into force**

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~~It shall be binding in its entirety and directly applicable in all Member States.~~

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**Annex B**

**COMMISSION DELEGATED REGULATION (EU) 2019/358 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on the collection, verification, aggregation, comparison and publication of data on securities financing transactions (SFTs) by trade repositories**

~~(Text with EEA relevance)~~

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Article -1

**Interpretation**

Where a term is defined in Regulation 2015/2365/EU, as amended by The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019, that definition shall apply for the purposes of this Regulation.

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Article 8

**Entry into force**

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~~It shall be binding in its entirety and directly applicable in all Member States.~~

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## Annex II

Table 1

## Public data

Table A. Aggregation

Date	TR	Aggregation Type	Venue type	Location of reporting counterparty	Location of the other counterparty	Reconciliation	Type of SFT	Cleared	Collateral transfer method	Index used as reference	Aggregate amount lent	Aggregate Number of transactions	Aggregate value of collateral
20161007	<del>EU</del> <del>UK</del> TR	Reported	XXXX	<del>EEA</del> UK	<del>EEA</del> UK	Dual-sided, loan reconciled, collateral not reconciled	Repo	Yes	TTCA		...		...
...	...	Outstanding	XOFF	Non- <del>EEA</del> UK	Non- <del>EEA</del> UK	Dual-sided, loan reconciled, collateral reconciled	BSB/SBB	No	SICA		...		...
...	...	...	EEA MIC	...	...	Single-sided EEA, loan reconciled, collateral reconciled	Securities or commodities lending and borrowing	...	SIUR		...		...
...	...	...	Non-EEA MIC	...	...	...	Margin lending	...			...		...
...	...	...	...	...	...	...	...	...	...		...		...



## Annex C

**COMMISSION DELEGATED REGULATION (EU) 2019/359 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the application for registration and extension of registration as a trade repository**

**(Text with EEA relevance)**

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Article -1

**Interpretation**

Where a term is defined in Regulation 2015/2365/EU, as amended by The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019, that definition shall apply for the purposes of this Regulation.

Article 1

**Identification, legal status and types of securities financing transactions**

1. For the purposes of Article 5(5)(a) of Regulation (EU) 2015/2365, the application for registration as a trade repository shall contain the following information:
  - (a) the corporate name of the applicant and legal address within the ~~Union~~ United Kingdom;
  - (b) an excerpt from the relevant commercial or court register, or other forms of certified evidence of the place of incorporation and scope of business activity of the applicant, valid at the application date;
  - (c) information on the types of securities financing transactions for which the applicant wishes to be registered;
  - (d) information on whether the applicant is authorised or registered by a competent authority in the ~~Member State where it is established~~ United Kingdom, and in such case, the name of the authority and any reference number related to the authorisation or registration;
  - (e) the articles of incorporation and, where relevant, other statutory documentation stating that the applicant is to conduct trade repository services;
  - (f) the minutes from the meeting where the applicant's Board approved the application;
  - (g) the name and contact details of the person(s) responsible for compliance, or any other staff involved in compliance assessments for the applicant;
  - (h) the programme of operations, including indications of the location of the main business activities;
  - (i) the identification of any subsidiaries and, where relevant, the group structure;

- (j) any service, other than the trade repository function, that the applicant provides or intends to provide; and
  - (k) any information on any pending judicial, administrative, arbitration or any other litigation proceedings irrespective of their type, that the applicant may be party to, particularly as regards tax and insolvency matters and where significant financial or reputational costs may be incurred, or any non-pending proceedings, that may still have any material impact on trade repository costs.
2. Upon request by ~~ESMA~~ the FCA, the applicants shall also provide additional information during the examination of the application for registration where such information is needed for the assessment of the applicants' capacity to comply with the requirements set out in Chapter III of Regulation (EU) 2015/2365 and for ~~ESMA~~ the FCA to duly interpret and analyse the documentation to be submitted or already submitted.
  3. Where an applicant considers that a requirement of this Regulation is not applicable to it, it shall clearly indicate that requirement in its application and also provide an explanation why such requirement does not apply.

## Article 2

### **Policies and procedures**

Where information regarding policies and procedures is provided as part of an application, an applicant shall ensure that the application contains the following items:

- (a) an indication that the Board approves the policies, that the senior management approves the procedures and that the senior management is responsible for the implementation and maintenance of the policies and procedures;
- (b) a description of how the communication of policies and procedures within the applicant is organised, how compliance with the policies is ensured and monitored on a day to day basis, and the person or persons responsible for compliance in that regard;
- (c) any records indicating that employed and dedicated staff are aware of the policies and procedures;
- (d) a description of the measures to adopt in the event of a breach of policies and procedures; and
- (e) an indication of the procedure for reporting to ~~ESMA~~ the FCA any material breach of policies or procedures which may result in a breach of the conditions for initial registration.

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## Article 9

### **Senior management and members of the Board**

An application for registration as a trade repository shall contain the following information in respect of each member of the senior management and each member of the Board:

- (a) a copy of the curriculum vitae;

- (b) detailed information on the knowledge and experience in IT management, operations and development;
  - (c) details regarding any criminal convictions in connection with the provision of financial or data services or in relation to acts of fraud or embezzlement, in particular in the form of an official certificate if available ~~within the relevant Member State~~;
  - (d) a self-declaration of good repute in relation to the provision of a financial or data service, where each member of the senior management and the Board states whether they:
    - (i) have been convicted of any criminal offence in connection with the provision of financial or data services or in relation to acts of fraud or embezzlement;
    - (ii) have been subject to an adverse decision in any proceedings of a disciplinary nature brought by a regulatory authority or government bodies or agencies or are the subject of any such proceedings which are not concluded;
    - (iii) have been subject to an adverse judicial finding in civil proceedings before a court in connection with the provision of financial or data services, or for impropriety or fraud in the management of a business;
    - (iv) have been part of the board or senior management of an undertaking whose registration or authorisation was withdrawn by a regulatory body;
    - (v) have been refused the right to carry on activities which require registration or authorisation by a regulatory body;
    - (vi) have been part of the board or senior management of an undertaking which has gone into insolvency or liquidation while this person was connected to the undertaking or within a year of the person ceasing to be connected to the undertaking;
    - (vii) have been part of the board or senior management of an undertaking which was subject to an adverse decision or penalty by a regulatory body;
    - (viii) have been otherwise fined, suspended, disqualified, or been subject to any other sanction in relation to fraud, embezzlement or in connection with the provision of financial or data services, by a government, regulatory or professional body;
    - (ix) have been disqualified from acting as a director, disqualified from acting in any managerial capacity, dismissed from employment or other appointment in an undertaking as a consequence of misconduct or malpractice;
  - (e) a declaration of any potential conflicts of interests that the senior management and the members of the board may have in performing their duties and how these conflicts are managed.
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## Article 12

### **Financial reports and business plans**

1. An application for registration as a trade repository shall contain the following financial and business information about the applicant:
  - (a) a complete set of financial statements, prepared in conformity with UK-adopted international accounting standards ~~adopted in accordance with Article 3 of~~

~~Regulation (EC) No 1606/2002 of the European Parliament and of the Council as defined in section 474(1) of the Companies Act 2006;~~

- (b) where the financial statements of the applicant are subject to statutory audit within the meaning given in ~~Article 2(1) of the Directive 2006/43/EC of the European Parliament and of the Council at section 1210 of the Companies Act 2006~~, the financial reports shall include the audit report on the annual and consolidated financial statements;
  - (c) if the applicant is audited, the name and the national registration number of the external auditor.
2. An application for registration as a trade repository shall contain a financial business plan contemplating different business scenarios for the trade repository services over a minimum three years' reference period and including the following additional information:
- (a) the expected level of reporting activity in number of transactions;
  - (b) the relevant fixed and variable costs identified with respect to the provision of repository services under Regulation (EU) 2015/2365;
  - (c) positive and negative variations of at least 20 % from the base activity scenario identified.
3. Where the historical financial information referred to in paragraph 1 is not available, an application for registration as a trade repository shall contain the following information about the applicant:
- (a) the pro-forma statement demonstrating proper resources and expected business status in six months after registration is granted;
  - (b) an interim financial report where the financial statements are not yet available for the requested period of time;
  - (c) a statement of financial position, such as a balance sheet, income statement, changes in equity and of cash flows and notes comprising a summary of accounting policies and other explanatory notes.
4. An application for registration as a trade repository shall contain the audited annual financial statements of any parent undertaking for the three financial years preceding the date of the application.
5. An application for registration as a trade repository shall also contain the following financial information about the applicant:
- (a) an indication of any future plans for the establishment of subsidiaries and their location;
  - (b) a description of the business activities which the applicant plans to carry out, specifying the activities of any subsidiaries or branches.

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### **Confidentiality**

1. An application for registration as a trade repository shall contain the internal policies, procedures and mechanisms preventing any use of information maintained in the prospective trade repository:
  - (a) for illegitimate purposes;
  - (b) for disclosure of confidential information;
  - (c) not permitted for commercial use.
2. The internal policies, procedures and mechanisms shall include the internal procedures on the staff permissions for using passwords to access the data, specifying the staff purpose, the scope of data being viewed and any restrictions on the use of data, as well as detailed information on any mechanisms and controls in place to effectively manage potential cyber-risks and to protect the data maintained from cyber-attacks.
3. Applicants shall provide ~~ESMA~~ the FCA with information on the processes to keep a log identifying each staff member accessing the data, the time of access, the nature of data accessed and the purpose.

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### Article 25

#### **Payment of fees**

An application for registration as a trade repository shall include proof of payment of the relevant registration fees ~~established in Commission Delegated Regulation (EU) 2019/360~~.

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### Article 27

#### **Verification of the accuracy and completeness of the application**

1. Any information submitted to ~~ESMA~~ the FCA during the registration process shall be accompanied by a letter signed by a member of the Board of the trade repository and of the senior management, attesting that the submitted information is accurate and complete to the best of their knowledge, as of the date of that submission.
2. The information shall also be accompanied, where relevant, with the relevant corporate legal documentation certifying the accuracy of the data.

### Article 28

#### **Entry into force**

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

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## Annex D

### COMMISSION IMPLEMENTING REGULATION (EU) 2019/364 of 13 December 2018 laying down implementing technical standards with regard to the format of applications for registration and extension of registration of trade repositories in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council

~~(Text with EEA relevance)~~

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#### Article -1

#### **Interpretation**

Where a term is defined in Regulation 2015/2365/EU, as amended by The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019, that definition shall apply for the purposes of this Regulation.

#### Article 1

#### **Format of the application for registration and extension of registration**

1. An application for registration or extension of registration shall be submitted in the format set out in the Annex.
2. The trade repository shall give a unique reference number to each document it submits and shall clearly identify which specific requirement in Delegated Regulation (EU) 2019/359 the document refers to.
3. An application for registration or extension of registration shall clearly indicate the reasons why information referring to a certain requirement is not submitted.
4. An application for registration or extension of registration shall be submitted in a durable medium as defined in Article 2(1)(m) of Directive 2009/65/EC, meaning paper or any instrument which enables the recipient to store information addressed personally to him or her in a way accessible for future reference and for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored. In particular, this covers floppy disks, CD-ROMs, DVDs and hard drives of personal computers on which electronic mail is stored, but it excludes internet sites, unless such sites meet the criteria specified in the first sentence of this paragraph. For the purposes of this term, the provision of information by means of electronic communications shall be treated as appropriate to the context in which the business between the firm and the client is, or is to be, carried on if there is evidence that the client has regular access to the internet. The provision by the client of an e-mail address for the purposes of the carrying on of that business is sufficient.

#### Article 2

#### **Entry into force**

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

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