

# FS-ISAC Affiliate Agreement

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## FS-ISAC AFFILIATE AGREEMENT

### GENERAL TERMS AND CONDITIONS

By signing this agreement, you ("Affiliate"), agree to become an Affiliate to, and to participate in, the Financial Services Information Sharing and Analysis Center ("FS-ISAC"). Affiliation in FS-ISAC is contingent upon approval by FS-ISAC, Inc., and payment of applicable fees. Affiliate agrees to the terms and conditions of this Agreement and the FS-ISAC Operating Rules (the "Rules"), which are incorporated into this Agreement by this reference and which are available at [www.fsisac.com](http://www.fsisac.com) under the "About FS-ISAC" tab. FS-ISAC will provide written or electronic notice of any changes to the Rules.

#### 1. Background.

FS-ISAC is a system of information exchange among entities in the financial services sector for the purposes of providing members with timely, accurate, and actionable warnings of physical, operational, and cyber threats or attacks on the financial services infrastructure or individual firms, and for collecting and providing information on potential vulnerabilities in the financial services infrastructure.

#### 2. Affiliation.

(a) The FS-ISAC Affiliate application process attempts to verify the accuracy and legitimacy of all applicant companies and company representatives requesting access to the FS-ISAC. Security of the FS-ISAC is a paramount concern and information and vetting resources ranging from industry to government will be used when necessary. In order to become an Affiliate of FS-ISAC, an entity must be approved for membership by the FS-ISAC.

(b) Affiliate agrees to be contacted by the FS-ISAC for the purpose of verifying (1) the existence of the company; (2) accuracy of address and physical location; (3) the applying individual is a valid employee of the applicant company with authority to bind the Affiliate; and (4) the applicant company is in good standing with the FS-ISAC Board of Directors.

(c) Affiliate agrees to promptly, but in no event more than five business days after the occurrence, notify the FS-ISAC if Affiliate becomes aware that its eligibility status has changed.

(d) Each Affiliate will receive login IDs and benefits based upon membership level. The membership level will establish the number and type of certification for each Affiliate. Additional login IDs may be provided by the FS-ISAC for a fee to be determined by the FS-ISAC. Affiliate benefits are itemized in Addendum 1.

#### 3. Term and Termination.

(a) This Agreement is effective from the date of acceptance of this Agreement by FS-ISAC and shall automatically renew annually unless terminated by either party. Notwithstanding anything to the

# FS-ISAC Affiliate Agreement

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contrary contained herein, Affiliate may terminate this Agreement without cause at any time. In addition, this Agreement shall terminate (i) if Affiliate is no longer an Affiliate in good standing of the FS-ISAC; (ii) if Affiliate no longer satisfies all of the criteria for participation in the FS-ISAC; (iii) if the operation of FS-ISAC is terminated; or (iv) if the FS-ISAC Board of Directors votes by two-thirds majority to terminate the Affiliate, the Affiliate Program, or existing Affiliate Agreements. Neither FS-ISAC nor its employees, agents, contractors, subcontractors, information providers, or other FS-ISAC Subscribers shall be liable to Affiliate for any costs, expenses or damages whatsoever for terminating this Agreement based on (i) through (iv) above.

## 4. Use of Information

(a) Affiliate understands and agrees that FS-ISAC, pursuant to subpoena or other appropriate legal order, has authority to provide any information from FS-ISAC to the requesting law enforcement or government authority, including information provided by the Affiliate. To the extent allowed by law, FS-ISAC will use its best efforts to provide Affiliate with advance notice of such disclosure to allow Affiliate to seek an appropriate protective order or other relief to prohibit or limit such disclosure.

(b) Notwithstanding anything to the contrary herein, Affiliate hereby grants to the FS-ISAC a non-exclusive, non-assignable, non-transferable, royalty-free, revocable, worldwide, license to use information provided by Affiliate, including information provided via an FS-ISAC email list server or the FS-ISAC Secure Portal submission process, ("Affiliate Information"), solely for the purpose contemplated herein. FS-ISAC shall not identify Affiliate as the source of Affiliate Information except as provided in this Section 4. Nothing contained herein shall be deemed as granting, whether express or implied, any other license, right, title or interest in and to any other information provided or made available by Affiliate.

Such license shall include (i) a right for FS-ISAC to disseminate such information to Subscribers or partners, subject to and solely in accordance with the terms and conditions set forth in this Agreement and the Operating Rules; (ii) such other sublicense rights granted to FS-ISAC, provided, however, that FS-ISAC and/or Subscribers shall be prohibited from using Affiliate's Information in a manner which attributes it to the Affiliate, unless permitted by the Affiliate, either expressly or implicitly in accordance with the Operating Rules and the Traffic Light Protocol.

(c) Notwithstanding anything to the contrary herein, FS-ISAC, Inc. hereby grants to Affiliate, its employees, and those agents of Affiliate which are (i) providing technology or security services that are directly related to the services and information provided by the FS-ISAC and (ii) are responsible for acting upon the information provided by the FS-ISAC to secure or maintain the Affiliate's technology infrastructure or facilities or mitigate a specific threat, a non-exclusive, non-assignable, non-transferable, royalty-free, revocable, worldwide, perpetual license to use the FS-ISAC information distributed to Affiliate under this Agreement solely for Affiliate's own use and not for further transfer or dissemination, except in a manner consistent with this Agreement and in accordance with the Operating Rules and the Traffic Light Protocol.

(d) FS-ISAC information, regardless of medium, must only be given to staff with security, fraud, or critical infrastructure protection responsibilities on a need-to-know basis and strictly in accordance with the Traffic Light Protocol and the Rules. Specifically, Affiliate shall not disseminate or provide access to FS-ISAC

# FS-ISAC Affiliate Agreement

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information to regulatory examiners; people responsible for formulating or informing public policy, marketing activities, business development; or any other people who do not have a direct need to have and use the information to protect the Affiliate's data, network, systems, people, or facilities.

## 5. Representations and Warranties.

(a) Affiliate represents, warrants and covenants that it is duly formed and existing and in good standing under the laws of the State or Country of its incorporation, if a corporation, or formation otherwise.

(b) The FS-ISAC represents, warrants and covenants that it is a duly formed corporation and existing in good standing under the laws of the State of Delaware.

(c) FS-ISAC warrants that it has resources sufficient to render the Subscription and the related services in a timely and professional manner.

(d) FS-ISAC represents and warrants that it has the right to disseminate and Affiliate has the right to use the information provided by Subscribers.

(e) FS-ISAC represents and warrants that (i) the products and services provided hereunder shall be as set forth herein and in any other documentation provided by FS-ISAC, (ii) the products and services shall at all times be in compliance with all applicable laws and regulations, and (iii) FS-ISAC shall not engage in any unfair, deceptive or abusive acts or practices.

(f) Affiliate understands that FS-ISAC will have periodic downtime, although FS-ISAC will use best efforts to minimize downtime and the duration of each instance of downtime. FS-ISAC makes no warranty that it will always accomplish this goal and FS-ISAC services are offered:

WITHOUT WARRANTY, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE, AND AS TO THE AVAILABILITY, ACCURACY, OR CONTENT OF INFORMATION, PRODUCTS, OR SERVICES.

(g) All information provided by FS-ISAC is provided "as is." Except as provided herein, there is no warranty, express or implied, that any information accessible on or through FS-ISAC will fulfill any of Affiliate's particular purposes or needs. All information accessible on or through FS-ISAC is provided with all faults, and the entire risk as to satisfactory quality, performance, accuracy and effort is with the user.

(h) All information provided by Affiliate is provided "as is." Except as provided herein, there is no warranty, express or implied, that any information provided by Affiliate will fulfill any of FS-ISAC's or its Subscribers' particular purposes or needs. All information provided by Affiliate is provided with all faults, and the entire risk as to satisfactory quality, performance, accuracy and effort is with the recipient.

## 6. Indemnification.

# FS-ISAC Affiliate Agreement

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(a) Each Party shall indemnify, defend and hold harmless the other Party and its respective directors, officers, employees and agents, from and against any claims, losses, damages or expenses (including reasonable attorney fees, expenses and disbursements) by third parties pertaining to the actual or alleged infringement of any intellectual property right, including, without limitation, patents, copyrights, trademarks, service marks, or misappropriation of trade secrets or any similar property rights, arising from the indemnified Party accessing, using or distributing information provided by the indemnifying Party, while in accordance with the terms and conditions of this Agreement.

(a) In the event of any claim or suit relating to any matter for which one party has agreed to provide indemnification under this Agreement, the indemnified party shall promptly provide notice of such claim or suit to the indemnifying party. The indemnifying party shall then have the sole right to control the conduct of the claim or suit and the indemnified party shall reasonably cooperate in the conduct of such claim or suit at the expense of the indemnifying party. In no event, however, may there be a settlement of any such claim or suit without the written consent of the indemnified party, which consent shall not be unreasonably conditioned, delayed or withheld.

## 7. Limitation of Liability.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY SUBSCRIBER FOR INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS) ARISING FROM ACTS UNDER THIS AGREEMENT EVEN IF SUCH PARTY OR SUBSCRIBER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NO LIMITATION OF EITHER PARTY'S OR ANY SUBSCRIBER'S LIABILITY SHALL APPLY WITH RESPECT TO ANY CLAIMS BASED ON SUCH PARTY'S FRAUD, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, INDEMNIFICATION OBLIGATIONS, OR BREACHES OF CONFIDENTIALITY.

## 8. Confidentiality.

Each party shall hold in strict confidence, and will not use or disclose to any third party, other than on a confidential basis to its and its affiliate's directors, officers, employees, consultants, agents and representatives with a need to know such information and who are subject to obligations of confidentiality at least as stringent as those set forth herein (but in no case less than those reasonably employed to protect a company's confidential information) to effectuate the parties' mutual intent hereunder, any confidential or proprietary data or information obtained from the disclosing party, or to which the receiving party has access, including with respect to the disclosing party's business or financial condition or otherwise, except as provided for in Section 4 (collectively, the "Confidential Information"). Information generally known in the industry or otherwise publicly available at the time of disclosure, information that a party can demonstrate was lawfully in its possession prior to the date of disclosure, information which has been disclosed by third parties which have a right to do so, or information developed independently by the receiving party without reference to or use of the Confidential Information, shall not be deemed Confidential Information for purposes of this Section 8. Each party's obligations pursuant to this Section 8 shall survive the termination of this Agreement for any reason.

Each party shall have adequate and appropriate physical measures, policies and procedures to (i) ensure the security and confidentiality of the Confidential Information, (ii) protect against any anticipated threats or

# FS-ISAC Affiliate Agreement

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hazards to the security or integrity of such Confidential Information, (iii) protect against unauthorized access to or use of such Confidential Information that could result in harm or inconvenience to the disclosing party or its customers and (iv) where possible, ensure the complete, secure and permanent disposal of such Confidential Information, except Subscriber Information shared in accordance with Section 4(b), as may be directed by Subscriber or required by applicable law. Each party shall notify the disclosing party promptly if there is any actual or reasonably suspected (a) unauthorized or unlawful access to or disclosure of any Confidential Information, or (b) unauthorized access to any facility, computer network or system containing any Confidential Information (collectively, "Security Incidents"). Where a Security Incident has occurred, the breached party shall promptly take all steps necessary to mitigate the damages caused by the Security Incident.

FS-ISAC represents and warrants that all Subscribers, staff, contractors and consultants are bound by substantially similar obligations of confidentiality and restrictions regarding use of information as those set forth herein.

The parties acknowledge that improper disclosure of Confidential Information may cause irreparable injury to the disclosing party, and that remedies at law for any such breach could be inadequate. In the event of a breach or threatened breach, the disclosing party has the right to seek injunctive relief (in addition to any and all other remedies available at law or equity) without the need to post a bond or other security, or demonstrate the confidential nature of its Confidential Information.

## 9. Press Releases and Marketing.

FS-ISAC may only issue a press release or publish other marketing materials that identify Affiliate upon receiving Affiliate's written consent, such consent to be granted in Affiliate's sole discretion.

Affiliate may only issue press releases related to the FS-ISAC upon receiving FS-ISAC's written consent, such consent to be granted in FS-ISAC's sole discretion; provided, however, Affiliate may issue a press release to announce its affiliation with the FS-ISAC without the written consent of FS-ISAC.

## 10. Force Majeure.

Neither party shall be held financially or otherwise responsible for any delay or failure in performance under this Agreement, which is caused by the unavailability of third party communications facilities, fires, strikes, embargoes, government requirements, civil or military authorities, acts of God, acts by terrorists or terrorist organizations or by the public enemy or other similar causes beyond the reasonable control and without the fault or negligence of such party.

## 11. Assignment.

Neither party may assign this Agreement, or its rights and obligations hereunder, without the prior written consent of the other party except that Affiliate may assign this Agreement to a parent, subsidiary or upon notice to FS-ISAC. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns.

# FS-ISAC Affiliate Agreement

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## 12. Rights and Remedies.

The remedies afforded to the parties in this Agreement are not intended to be exclusive, and each remedy shall be cumulative and shall be in addition to all other remedies available to the parties at law or in equity. This Agreement shall not be construed to confer any rights or remedies upon any person or entity, except FS-ISAC and Affiliate. No delay or omission by any party in exercising any rights or remedies under this Agreement or applicable law shall impair such right or remedy or be construed as a waiver of any such right or remedy.

## 13. Notice.

Any notice required or permitted to be given under this Agreement shall be given in writing and shall be hand delivered, telecopied (provided that another method set forth in this Section 13 is also used), sent by e-mail, sent by certified or registered mail or sent by overnight courier service to the (a) Affiliate as set forth on the Affiliate Application, or at such address or e-mail address as it may have specified in writing to the FS-ISAC, and (b) to FS-ISAC at the below address or at such location as FS-ISAC shall have specified in writing to Affiliate as its principal office.

FS-ISAC, Inc.  
ATTN: Admin  
12020 Sunrise Valley Drive Ste. 230  
Reston, VA 20191  
Email: [admin@fsisac.us](mailto:admin@fsisac.us)

## 14. Governing Law; Interpretation.

This Agreement will be interpreted and construed in accordance with the laws of the State of Delaware, without regard to its principles of conflict of law or choice of laws.

Any unsettled controversy or claim between the parties arising out of or relating to this Agreement or any breach thereof shall be settled by binding arbitration in Washington, D.C. pursuant to the rules then in effect of the American Arbitration Association and in accordance with the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement. The headings of the Sections contained in this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

## 15. Severability.

If any provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties

## FS-ISAC Affiliate Agreement

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shall endeavor in good faith to amend this Agreement to preserve its intention. If the parties fail to agree on such an amendment, such invalid provision will be enforced to the maximum extent permitted by law or, if not enforceable, will be severed from the remaining terms, conditions and provisions, which will remain in full force and effect.

### 16. Waiver.

No waiver of any of the provisions of this Agreement by one party shall be binding unless made in writing and signed by the party against whom the waiver is sought. No failure on the part of a party to exercise, or delay in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy by such party preclude any other or further exercise thereof or the exercise of any other right or remedy. A waiver on one occasion shall not constitute a waiver on any further occasion.

### 17. FS-ISAC Amendment Authority.

Affiliate agrees that FS-ISAC is authorized to amend this Agreement subject however to the following provisions, and further provided that such Amendment does not impose any material obligations upon Affiliate or diminish any protections presently granted to Affiliate. No amendment of any of the provisions of this Agreement shall be binding unless made in writing and signed by the parties. However, F-ISAC may make reasonable amendments to this Agreement to comply with applicable law or regulation, as supported by written/electronic opinion of its counsel, upon written/electronic notice to Affiliate, in which case Affiliate shall have thirty (30) days thereafter to either give written/electronic notice to FS-ISAC of its option to terminate the Agreement without prejudice, or if no such notice is given within such timeframe, then such right of termination shall be waived. Affiliate shall be entitled to a pro rata refund of all unearned fees paid to FS-ISAC by Affiliate if Affiliate elects to not accept said amendment and terminates this agreement.

### 18. Entire Agreement.

The provisions of this Agreement and all Exhibits and Schedules hereto, including all documents incorporated herein by reference, constitute the entire agreement between the parties and supersede all prior agreements and understandings relating to the subject matter hereof.

### 19. Survival.

The provisions of Sections 4, 5, 6, 7, 8, 9, 12, 14, and 19 shall survive the expiration or earlier termination of this Agreement or any portion thereof.

### 20. Counterparts.

This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had

## FS-ISAC Affiliate Agreement

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signed the same document. All counterparts shall be construed together and shall constitute one instrument.

### 21. Further Assurances.

Each of the parties to this Agreement covenants to execute upon request of the other party any further documents that the requesting party reasonably deems necessary to effectuate the terms, conditions or intent of this Agreement.



# FS-ISAC Affiliate Agreement

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## ADDENDUM 1

### Affiliate Participation Benefits

The Affiliate is participating as a Participant and agrees to the FS-ISAC Affiliate Agreement GENERAL TERMS AND CONDITIONS. The effective date of participation will begin upon full execution of this Agreement by both parties or on the date requested by the Affiliate. The Affiliate will have benefits as outlined in the Agreement and this Addendum:

#### Level Benefits:

- **FS-ISAC will promote One of Affiliate's events, webinars or content** by listing on our website and in our regular newsletter or Bi-Weekly event digest to 15k contacts across more than 6000 financial institutions.
- **Member Education** - Affiliates may submit relevant data, insights, and white papers addressing critical security threats, best practices, or mitigation strategies to be distributed to members (subject to approval). You may also participate in joint research initiatives and other projects as they become available.
- **Member Discounts** - Promote discounts or special offers to FS-ISAC members on the FS-ISAC website, increasing visibility and reach into FS-ISAC membership while demonstrating Affiliate's commitment to FS-ISAC membership.
- **Prominent promotion at Summits** - Your Affiliation with the FS-ISAC will be highlighted via the on-site handbook (whether present at current Summit, or not).
- **Priority booth selection for the four (4) FS-ISAC Summits** (Annual Summit, APAC Summit, Fall Summit, EMEA Summit).
- **Early open date** for Bronze and Additional Sponsorship packages at four (4) Summits.
- **FS-ISAC Affiliate logo** - Promote your thought leadership by using the unique Affiliate logo in all your marketing materials.
- **Branding on FS-ISAC Website** - Your company name and logo will be prominently featured on our website.
- **Full Day, Half Day and Regional Payment Workshops are only available to Affiliates** - speaking/sponsorship, presentation approval required, additional cost. View more information at: <http://www.fsisac.com/partners/event-sponsorship> and <http://www.fsisac.com/regional-payment-event-sponsorship>
- **Annual Conference Call** with FS-ISAC Executive on strategic goals and priorities of the FS-ISAC.
- **FS-ISAC Alerts** - Affiliate will receive from FS-ISAC exclusive financial services sector information pertaining to timely, relevant and actionable information and analysis of physical and cyber security threats, vulnerabilities and alerts, which is gathered by FS-ISAC from members, federal, state and local government agencies, law enforcement, financial services providers, commercial security firms, and other trusted resources. Please note members have the ability to request that a submission is shared only with peer financial institutions so exclusions apply.
- **Online Portal** - Six (6) User IDs to access FS-ISAC membership portal: Get up to date information including prioritized security alerts and access to timely reports on industry trends and best practices.

# FS-ISAC Affiliate Agreement

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In accordance with Section 13, notices to Affiliate shall be provided at the following addresses:

Affiliate Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Attention of: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

By signing the FS-ISAC Affiliate Agreement, you ("Affiliate") agree to become an Affiliate to, and to participate in, the Financial Services Information Sharing and Analysis Center ("FS-ISAC") as an Affiliate, and will receive the benefit itemized above, and you further accept and agree to the FS-ISAC Affiliate Agreement General Terms and Conditions. The cost for this subscription is \$10,000.00 annually, payable within 30 days of receipt of invoice.

By:

Affiliate:	_____	FS-ISAC
Signature	_____	Signature _____
Name	_____	Name _____
Title	_____	Title _____
Date	_____	Date _____