



Brussels, 23rd June 2023

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**EACB comments on
Joint ESAs Discussion Paper on advice to the European Commission on two
delegated acts specifying further criteria for critical ICT third-party service providers
(CTPPs) and determining oversight fees levied on such providers under DORA
(JC SC DOR-23-54)**

General comments

The EACB welcomes the opportunity to comment on the ESAs Discussion Paper aiming to feed the reflections for the technical advice to further specify the criteria for critical ICT third-party service providers (CTPPs) and determine the fees levied on such providers under the Regulation on Digital Operational Resilience for the Financial Sector (DORA).

We appreciate the ESAs' efforts to involve market participants in a transparent manner for the development of the technical advice to the European Commission, however we regret that the consultation period was too short to develop feedback with respect to certain elements of the Discussion Paper, particularly on the identification of further metrics and information sources.

We would also like to warn against cost hikes for ICT TPPs that could be derive from the elements of the new framework to be specified: we recommend to carefully balance costs and benefits of new requirements/financial overheads. Any increase without objective justification or actually leading to improved resilience should be avoided.

Answers to selected questions

Q1: Do you have any comments about the related issues listed above?

We believe that the indicative process for criticality assessment is appropriate, we particularly agree with the aim to ensure that the list of designated CTPPs is be stable over time in order to manage threshold effects.

Q2: Do you think there are additional issues that should be included? If yes, please elaborate on which additional issues you see and why you do so.

We do not see further issues to be included.

Q3: What do you perceive as the key obstacles and practical challenges to implement the proposed set of indicators listed below?

At this stage, we have not identified key obstacles or practical challenges.

Q4: For an already designated CTPP, what could be the minimum turnover time (lifecycle duration) in the CTPP list in case the minimum relevance thresholds specified below are not met for a consecutive number of years?

The voice of 2.700 local and retail banks, 89 million members, 227 million customers in EU

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We believe that a period of 3 consecutive years under the minimum relevance thresholds should lead to dropping the CTPP from the list. A 3 year cycle would be sufficient to ensure stability of the list of CTPPs that are near threshold values and, at the same time, be prudent.

Q5: Do you consider the indicators identified are relevant and complete in the case of opt-in requests according to Article 31(11) of the DORA? Please explain if you think they are not relevant and complete in such cases.

The indicators seem relevant and complete.

Q6: Do you agree with the list of step 1 indicators proposed to cover criterion 1 referred to in Article 31(2) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

The list is comprehensive.

Q7: Do you have any comments on the proposed minimum relevance thresholds?

We believe that the 10% thresholds would be adequate to identify CTPPs, at the same time we believe that a threshold breach should be complemented by qualitative considerations.

Q8: With regard to indicators 1.2 and 1.3, please provide any equivalent metrics (in relation to the total value of their assets) you may consider appropriate to measure the pan-European footprint of the various financial entities subject to the DORA, that you would deem to be better adapted.

No relevant equivalent metrics are available at the moment.

Q9: Do you agree with the list of step 2 indicators proposed to cover criterion 1 referred to in Article 31(2) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

We generally agree. However, indicator 1.3 may need some elaboration on what a substantial negative impact means, in addition to comments in the Notes section referring to the activation of business continuity plans.

Q10: Do you have any comments in relation to the information provided in the "Notes" section under each of the indicators?

We deem it adequate that the indicators consider direct or indirect critical sub-contractors and take into account the supply chain, i.e. *"if sub-contractors belong to a group, the group will be assessed as a whole."*

Q11: Which key data sources would you propose to use for the indicators under criterion 1? Please explain.

NA



Q12: Do you agree with the list of step 1 indicators proposed to cover criterion 2 referred to in Article 31(2)(b) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

NA

Q13: Do you have any comments on the proposed minimum relevance thresholds?

NA

Q14: Do you agree with the list of step 2 indicators proposed to cover criterion 2 referred to in Article 31(2)(b) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

NA

Q15: Do you have any comments in relation to information provided in the “Notes” section under each of the indicators?

See answer under Q10.

Q16: Which key data sources would you propose to use for the indicators under criterion 2? Please explain.

We have no proposal in this regard for the time being.

Q17: Do you have any views about indicator 2.3 “Interdependence between G-SIIs or O-SIIs and other financial entities using ICT services provided by the same ICT TPP” (including situations where the G-SIIs or O-SIIs provide financial infrastructure services to other financial entities) and in particular about concrete data that could be used to inform this indicator? Please elaborate.

We have no proposal about data sources for this indicator for the time being.

Q18: Do you agree with the list of step 1 indicators proposed to cover criterion 3 referred to in Article 31(2)(c) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

Step 1 indicators for criterion 3 seem clear.

Q19: Do you have any comments on the proposed minimum relevance thresholds?

NA



Q20: Do you agree with the list of step 2 indicators proposed to cover criterion 3 referred to in Article 31(2)(c) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

Step 2 indicators seem unclear in terms of “level of criticality”. We suggest to define more clearly what “level of criticality” means in this context, what are the options and what are the definitions for each option.

Q21: Do you have any comments in relation to information provided in the “Notes” section under each of the indicators?

We agree that an indicative taxonomy of ICT services would be helpful to lead to the identification of the different types of ICT services provided to EU financial entities and assess the different level of criticality.

Q22: Which key data sources would you propose to use for the indicators under criterion 3? Please explain.

We have no proposal about data sources for these indicators for the time being.

Q23: Do you agree with the list of step 1 indicators proposed to cover criterion 4 referred to in Article 31(2)(d) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

We agree. Substitutability is an important element to assess, although it could reveal complex to evaluate this aspect.

Q24: Do you have any comments on the proposed minimum relevance thresholds?

NA

Q25: Do you agree with the list of step 2 indicators proposed to cover criterion 4 referred to in Article 31(2)(d) of the DORA? If not, please elaborate and, if applicable, propose alternative indicators that could be considered taking into account the relevant background information about proposed indicators.

We broadly agree.

Q26: Do you have any comments in relation to information provided in the “Notes” section under each of the indicators?

The taxonomy of ICT services mentioned in Notes of Indicator 3.2 would be a requirement to develop Indicator 4.3. Otherwise, the footprint per type of ICT service would be difficult to calculate.

Q27: Which key data sources would you propose to use for the indicators under criterion 4? Please explain.

NA



Contact:

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