

## DORA - Draft ITS

***ITS to establish the templates composing the register of information in relation to all contractual arrangements on the use of ICT services provided by ICT third-party service providers.***

September 2023

### Executive Summary

AFME welcomes the opportunity to respond to the draft Implementing Technical Standard (ITS) to establish the templates composing the register of information in relation to all contractual arrangements on the use of ICT services provided by ICT third-party service providers under DORA (Digital Operational Resilience Act)<sup>1</sup>. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

Our response to this consultation is from the perspective of our bank members, focusing on those issues which are most relevant to wholesale capital markets. We are responding to each of the specific questions set out in the consultation paper, but wanted to raise three overarching concerns:

**1. The principle of proportionality has not been appropriately or sufficiently applied across the register in terms of the level of information required, and inclusion of pertinent data fields**

AFME stresses that the creation of a new, standalone register, without any proposed consolidation or amalgamation with those already in existence has caused major frustration across industry. Further, the proposed 'proportionate' application of the register requires recalibration as it fails to apply a risk-based approach in a number of key areas. The ESAs indicate that proportionality is applied to the templates based on the number of services provided by ICT third-party service providers that a financial entity relies upon. This unfortunately overlooks other essential risk factors such as the size and complexity of the legal entity and the criticality of the ICT third-party services provided in terms of their impact on operational risk.

Overall the 108 -145 attributes of the proposed register (depending on whether submission is at entity level or consolidated/sub-consolidated level) go far above and beyond the existing EBA expectations on outsourcing registers.

Additionally, there are certain areas where the data collection and reporting requirements appear to apply irrespective of the criticality or materiality of the ICT service, and other relevant risk factors. This is reflected in the template requirement to report on the criticality or importance of the *function*, without linking that to the materiality of the *ICT service* supporting that function. This would result in an inappropriately broad scope of ICT services subject to enhanced register requirements. It is also evident in the broad definition of 'material subcontractors' which does not take into account the role or potential impact of the subcontractor to the provision of services.

<sup>1</sup> <https://www.esma.europa.eu/sites/default/files/2023-06/CP - Draft ITS on register of information.pdf>

We call for a deliberate and comprehensive integration of proportionality in the application of the register requirements. Adopting a proportionate, risk-based approach when defining register requirements ensures that the scope of information remains focused, pragmatic and purposeful, aligning with all the three stated purposes that the templates are designed to achieve. As a general overarching recommendation, we encourage the ESAs to recognise that financial entities are best placed to determine where and how the Register of Information should be relied upon for internal risk management purposes.

**2. The proposed taxonomy of ICT services captures an overly broad scope of ICT services and is not risk-based.**

The taxonomy of services within Annex IV captures several services that are unlikely to present meaningful risk to a financial entity – or the type of risk which DORA intends to mitigate – but in respect of which the vast majority of data points still apply. This will result in an unnecessarily broad reporting scope. The ultimate result would be an inappropriate expansion of the Level 1 scope. We strongly recommend the taxonomy is not introduced, and in any case flag that ICT development, consulting and auditing should not fall within a DORA related taxonomy.

This approach fails to contribute to the financial entities' understanding and management of ICT-related risks and diverts significant resources from focusing on meaningful risk factors, undermining the efficacy and application of the proportionality principle.

**3. The requirements surrounding timing of the first register submission and maintenance of data fields are unrealistic and inconsistent with a risk-based approach**

**Maintenance:** The draft ITS proposes that information should be kept up to date on an 'ongoing basis' and 'regularly' received by the competent authorities. Whilst it is reasonable for financial entities to maintain certain data points on an ongoing basis to support effective ICT risk management practices and processes, it is not practically feasible to secure and validate all data points on a constant basis – particularly the vast amount of data fields mandated in the proposed template. Industry practice typically follows an approach of periodic reconciliations to ensure accuracy and maintain data quality, especially in relation to supply chain outsourcing where data may not be available in real time (for example because the financial entity is a global corporate and contractual arrangements are held at the group level, potentially outside the EU). We recommend a risk-based approach to determining the frequency of updates to the register and provision to competent authorities. This can be achieved by allowing financial entities to prioritise their risk management efforts, ensuring that critical updates are made as required, while allowing flexibility in maintaining data fields which do not directly support financial entities' ability to manage relevant risks.

**Timing of register submission:** The implementation timeline for the submission of the first register must be reconsidered. Financial entities need to be given sufficient time to secure net new information from third-parties and establish the first version of the register, which is a substantial manual task. The current deadline of the January 2025 effective date is unreasonable and does not take into account the complexity and volume of data that financial entities will need to collect, verify and submit into the proposed templates, which are not expected to be finalised until Q1 2024 at the earliest.

We recommend setting the deadline for the first submission no earlier than **January 2026** (i.e. approximately 18 months from the anticipated adoption by the European Commission of the final register). This will allow financial entities sufficient time to submit comprehensive and accurate data and will result in a more successful and viable implementation of the new register.

We also encourage the ESAs and competent authorities (CAs) to limit register submissions to an annual cadence. A more frequent submission, and the expectation that CA's would "regularly receive" the register information as required in Article 9(1), would provide minimal supervisory benefit given the time needed to aggregate, analyse and action register submissions.

Please see below our responses on questions 1 – 14. We remain available to discuss further any points raised.

## Consultation Questions

### Question 1      **Can you identify any significant operational obstacles to providing a Legal Entity Identifier (LEI) for third-party ICT service providers that are legal entities, excluding individuals acting in a business capacity?**

- The requirement to ensure the provision and maintenance of a valid LEI for ICT third-party service providers and all material subcontractors goes far beyond current industry requirements and practices and fails to consider the practical challenges of procuring LEIs – particularly across extensive supply chains which may comprise thousands of subcontractors. It will simply not be feasible for financial entities to satisfy this mandate and to ensure ongoing validity of LEIs for all material subcontractors.
- Furthermore, not all third-party providers may have LEIs, continue to actively refuse to procure one or may not even be familiar with this approach. Codifying this requirement in EU regulation will not change this dynamic. In the event that the third-party provider was unwilling to adopt this practice, a rigid LEI requirement could result in a financial entity having to separate its processes in relation to the EU ICT services. Such segmentation could unintentionally pose operational risk or reduce market choice.
- In light of the above practical and operational challenges, we recommend a pragmatic and proportionate approach to obligations in procuring and maintaining LEI validity. We would strongly recommend that the requirement is limited to providing an LEI **if available** to allow for non-EU third-party providers or other providers to submit an alternative identifier where an LEI is not possible. For example the provider's legal entity name, or corporate registration number or national activity code, as is now accepted in SSM (Single Supervisory Mechanism) reports. Failure to accommodate global market participants will only curtail EU market choice and increase costs for financial entities who may be obliged to seek alternative providers, with potentially adverse consequences for operational resilience.
- Additionally, recognising the complexities of vast supply chains, the requirement should be applied proportionately to those 'material subcontractors' based on the proposed amended

definition set out in Q2 below. This approach balances regulatory objectives with the practicalities of navigating extensive supplier networks.

- We therefore propose amendments to the ITS as follows:

Provision	Proposed ITS text	Suggested text
<b>Article 4(7)</b>	Financial entities shall use a valid and active legal entity identifier (LEI) to identify their ICT third-party service providers that are legal persons except those who are individuals acting in a business capacity and chose not to procure for themselves a valid LEI.	Financial entities shall use a valid and active legal entity identifier (LEI), <b>if available</b> , to identify their ICT third-party service providers that are legal persons except those who are individuals acting in a business capacity and chose not to procure for themselves a valid LEI.
<b>Article 4(8)</b>	When an ICT service provided by a direct ICTT TPP is supporting a critical or important function of the financial entities, FEs shall ensure through the direct ICT TPP, that, all the material subcontractors with the exception of those who are individuals acting in a business capacity, shall procure and maintain a valid and active LEI	When an ICT service provided by a direct ICTT TPP is supporting a critical or important function of the financial entities, FEs shall ensure through the direct ICT TPP, that, all the material subcontractors <b>providing a material part of the ICT service supporting a critical or important function and whose disruption or failure could lead to a material impact to service provision</b> , with the exception of those who are individuals acting in a business capacity, shall procure <del>and maintain</del> a valid and active LEI, <b>if available</b> .
<b>Article 9(3)</b>	To facilitate the discharge of the obligation specified in paragraph 1, financial entities shall ensure that they: <ul style="list-style-type: none"> <li>a. have established capability to provide the Registers of Information to the competent authorities in accordance with the requested uniform formats and using the defined secure electronic channels;</li> <li>b. have procured and maintain a valid and active legal entity identifier (LEI).</li> </ul>	<ul style="list-style-type: none"> <li>b. have procured <del>and maintain</del> a valid and active legal entity identifier (LEI), <b>if available</b>.</li> </ul>

**Question 2** Do you agree with Article 4(1)b that reads ‘the Register of Information includes information on all the material subcontractors when an ICT service provided by a direct ICT third-party service provider that is supporting a critical or important function of the financial entities.’? If not, could you please explain why you disagree and possible solutions, if available?

- The ITS broadly considers any subcontractor linked to an ICT service supporting a critical or important function as a ‘material subcontractor’. Treating every subcontractor linked to a

critical or important function as equal would significantly divert risk management resources to providers that do not present material risks to the contracted ICT service or financial entity.

- We also flag that financial entities will in practice struggle to provide information on subcontractors who would be beyond Rank 3 (as set out as under RT.05.02.0060 in the CP). We propose therefore that a financial entity is only responsible for providing information for material subcontractors, as determined by the financial entity. The ranking exercise does not appear a valuable exercise for risk management purposes. Alternatively, data fields for Rank 4 providers and beyond could have fewer data fields or be optional rather than mandatory.
- In order to properly reflect a risk-based approach to supply-chain scope, we recommend that a revised definition of 'material subcontractor' is added to Article 2 of the ITS as follows:

Provision	Proposed ITS text	Suggested text
<b>Article 2 – Definitions</b>	N/A	'material subcontractor' means a subcontractor of ICT services supporting a critical or important function <b><i>providing</i></b> material parts <b><i>of the contracted service and whose disruption or failure could lead to a material impact to service provision.</i></b>

**Question 3 When implementing the Register of Information for the first time:**

- **What would be the concrete necessary tasks and processes for the financial entities?**
- **Are there any significant operational issues to consider?**

**Please elaborate.**

- AFME stresses that the creation of a new, standalone register, without any proposed consolidation or amalgamation with those already in existence has caused major frustration across industry. Our understanding is that financial entities will not be able to expand existing registers, to capture the additional information sought, but will have to establish a new database. The frustration is exacerbated by the fact that the ESAs have neither sought to use this new register as a prototype for greater digitalisation within regulatory reporting, failing for example to consider how to bolster and embed digital forms of submission.
- The existing divergence from existing register requirements is significant and should not be necessary given the commonality of supervisory objectives. As highlighted in our response to the consultation on a policy for ICT services supporting critical and important functions, we urge the ESAs to consolidate the heavily overlapping registers which will now exist. The presence of multiple registers reporting the same information in varying formats not only introduces unnecessary complexity but materially diverts resources from managing underlying risks effectively. The proposed template will create a significant administrative burden, with a number of data fields marked as mandatory irrespective of the criticality of the ICT service.. It is highly regrettable that a different approach was not adopted, with the

existing registry expanded to capture the additional information sought under DORA – an approach which aligns with the broader harmonisation objectives of DORA.

- The implementation of the Register of Information will in any case require significant resources, and would have to encompass:
  - i. The sourcing, collection and remediation of necessary data, including for the first time data relating to intra-group arrangements;
  - ii. Significant discussions with suppliers to educate them on the new requirements;
  - iii. Implementation of the RACI across the entity, at both consolidated and sub consolidated level; and
  - iv. Tooling enhancements.

The fact there was a two year transition period with the implementation of the (less prescriptive) EBA outsourcing register underlines the pressure on firms in meeting the tight implementation timeframes under DORA.

- We set out at Q14 our concerns on specific requirements/data fields, but would highlight that operationally there will be particular difficulty in:
  - i. Ensuring function identification to all activities across a group's product lines and geographies. This approach is also inconsistent with that under the EBA Outsourcing Guidelines, which is based on essentiality of service.
  - ii. Coordinating across a group's subsidiaries and branches, for the purposes of collating, maintaining and providing sight of the consolidated and sub-consolidated registers.
  - iii. Providing service level specific information (under RT.02.02) for *all* services, as opposed to critical services. As noted above, focusing on the latter, consistent with a proportionate and risk-based approach, is therefore recommended.

**Question 4      Have you identified any significant operational obstacles for keeping information regarding contractual arrangements that have been terminated for five years in the Register of Information?**

- It is unclear how requesting detailed information on contracts terminated over a five year historical period to be reported in the register is helpful for managing risk or achieving supervisory objectives. We would encourage the ESAs take a proportionate and risk-based approach to this reporting requirement to allow financial entities to focus resources towards monitoring and managing active engagements.
- AFME seeks clarification on whether this requirement covers only contracts terminated from the effective date of DORA (January 2025) or whether it retrospectively captures all contracts terminated since 2020, with the expectation that this historical information is provided with

the first submission of the register (ie January 2025)? If the latter, It will not be possible for financial entities to gather all historic data points requested for terminated arrangements as at the date of entry into force. It could also compel financial entities to act in contravention of applicable third country laws and regulations, something which should be avoided at all costs.

- We also seek clarification as to whether this requirement applies specifically to terminated contracts, or more broadly to capture also those contracts that expire or are cancelled.
- Applying a proportionate and risk-based approach, we strongly recommend that a one year period for keeping information from terminated arrangements would be sufficient for risk management and supervisory purposes. The proposed five year period would entail reporting on a significant volume of information which serves no purpose for achieving the three stated objectives of the ITS, and which would be at odds with international best practice.

**Question 5      Is Article 6 sufficiently clear regarding the assignment of responsibilities for maintaining and updating the register of information at sub-consolidated and consolidated level?**

- We do not agree that this article is sufficiently clear, and urge further clarification on how the sub-consolidated level captures or relates to a firm's branches, noting the lack of consistency in what is defined as a branch across different authorities or level of consolidation for international firms with multiple reporting registers of information to different competent authorities, but who ultimately consolidate to a single parent entity to whom DORA does not apply. We also recommend that sub-consolidated and consolidated, as specific definitions are, set out within Article 2.

**Question 6      Do you see significant operational issues to consider when each financial entity shall maintain and update the registers of information at sub-consolidated and consolidated level in addition to the register of information at entity level?**

- The maintenance of different versions of the register of information, at sub-consolidated and consolidated level, is viewed by financial entities as a significant operational task, which will require central ownership to co-ordinate and implement. We stress that the entire supply chain template should only be required for critical services.
- Secondly, we are conscious that authorities can request access to and information from the register, and would recommend that such requests, whether by national or EU authorities, should be directed to the parent EU entity in the case of groups to assist with such central ownership.

**Question 7      Do you agree with the inclusion of columns RT.02.01.0041 (Annual expense or estimated cost of the contractual arrangement for the past year) and RT.02.01.0042 (Budget of the contractual arrangement for the upcoming year) in the template RT.02.01 on general information on the contractual arrangements? If not, could you please provide a clear rationale and suggest any alternatives if available?**



- As noted above, a proportionate and risk-based approach must be applied consistently across the templates to ensure that the level and nature of data requested in the register is focused on achieving the three stated purposes of the ITS. This will ensure that the register of information remains a targeted instrument which has maximum value to supervisors and financial entities alike. We struggle to understand the relevance of the information in RT.02.01.0041 to the ITS objectives, or its role in enhancing digital operational resilience across the industry, especially if it is intended to apply beyond control and instrumentation (C&I) functions, and recommend this information is removed from the proposed template.
- Inclusion of this field risks the provision of misleading data which may confuse, rather than inform, the ESAs on any risk considerations. Cost itself is not a driver of the third-party oversight approach and does not change how financial entities approach due diligence, nor provide any value on systemic or concentration risks. Furthermore, estimating annual cost/expense for global arrangements with third-parties, (i.e. modelling how much of a global service's spend is relevant just for EU-supervised legal entities at a transactional/arrangement level) is a practical challenge as resources are fungible. Estimating this data point at a transactional/arrangement level is also relatively incompatible from an intragroup services perspective, especially if CAs demand a high level of accuracy from the estimates for an unduly long period of time. The budgeting of expenses related to intragroup outsourcing services is typically embedded in the annual process at the legal entity level. Furthermore, the cost of outsourcing is not necessarily equivalent with the cost of bringing the activity back in house, or using another provider, so the data point cannot be used to understand the cost of implementing an exit plan.
- We additionally flag there is inconsistency in whether the term "annual expenditure" or "actual expenditure" is applied.

**Question 8      Do you agree that template RT.05.02 on ICT service supply chain enables financial entities and supervisors to properly capture the full (material) ICT value chain? If not, which aspects are missing?**

- AFME's concern lies not in what data fields are missing, but rather in the challenge from the current approach capturing too broad a scope of information and relationships that do not necessarily help financial entities and supervisors manage the relevant risks. We reiterate our strong recommendation to limit the approach to supply chain scope by amending the definition of 'material subcontractors' as proposed above. The ability to populate this template is subject to the third-party provider being willing to share information.
- We also note that the ranking of subcontractors does not provide any meaningful information for any of the stated register objectives. Identifying if a subcontractor is a 4<sup>th</sup> or 6<sup>th</sup> party does not change oversight or supervision. To support effective risk management and oversight, the register should differentiate between (i) direct third-parties and (ii) material subcontractors.

**Question 9:      Do you support the proposed taxonomy for ICT services in Annex IV? If not, please explain and provide alternative suggestions, if available?**



- The introduction of a new taxonomy which may sit in parallel to financial entities' existing taxonomies created as a result of the EBA outsourcing guidelines could lead to additional complexity for both financial entities and the authorities. We therefore object to the creation of a new centralised taxonomy.
- Regarding Annex IV specifically, this proposed taxonomy will capture an overly broad scope of ICT services, the majority of which are unlikely to present the type of risk to the financial entity and financial system which DORA is aimed at mitigating. The effect of this is an expansion of the scope of ICT services outlined in the Level 1 text, which we do not believe is the intention of the ITS, or potentially mandated as part of the Level 2 regulatory deliverables.
- To maintain proportionate and risk-based approach, which allows the financial entity the flexibility to apply their risk assessment methodology in determining their reporting obligations in accordance with the broad definition of ICT services in the Level 1 text, we strongly recommend that this taxonomy is removed from the ITS.
- If the taxonomy is to be maintained, it should be revised to ensure the ICT services satisfy the Level 1 definition of 'ICT services'. We therefore make the following recommendations on the specific categories in Annex IV:
  - **S1: Software licensing** – ICT services under DORA should not include an off-the-shelf software licence if it is not provided as a service and if it is not provided on an ongoing basis (to be consistent with the definition of ICT service in DORA). An example of this would be if Microsoft Office provided via a software licence which the FE could purchase off-the-shelf and install. This should not be an ICT service, compared to Microsoft 365 which is provided on an ongoing basis via cloud hosting. This could meet the definition of an ICT service.
  - **S2: ICT Project Management** – ICT services under DORA should not include provision of a project manager, as a project manager would not be an ICT service provided through an ICT system. If a PMO (project management office) is provided to a financial entity outside the context of the provision of an ICT system or hardware, then it is difficult to see how such PMO would be included in the definition of an ICT service. If, however, a PMO is provided to an FE as part of a hardware (or software) provision (e.g. a technical support contact), then the service being provided by that PMO should fall within the definition of ICT service as this would constitute the "technical support via software or firmware updates by the hardware provider" element of the Level 1 'ICT service' definition.
  - **S3: ICT Development** – ICT development services, such as software development and testing are typically project-based or provided on a temporary basis, involving the creation or enhancement of ICT systems, rather than the ongoing provision of digital and data services and so we do not consider they fall within the Level 1 'ICT service' definition.
  - **S16: ICT Consulting** – ICT services under DORA should not include provision of expertise services of an ICT consultant as they do not fall within the Level 1 'ICT service' definition. ICT consulting services which may help financial entities make informed decisions about their ICT systems usually entail project-based or advisory engagements, rather than the ongoing provision of digital services through ICT systems.

**S17: ICT risk management and ICT audit** – For similar reasons this category does not fall within the scope of the Level 1 ‘ICT service’ definition. These services are not typically considered ongoing digital or data services through ICT systems and it is otherwise unclear to members what services are intended to be in scope in this category.

**Question 10: Do you agree with the instructions provided in Annex V on how to report the total value of assets and the value of other financial indicator for each type of financial entity? If not, please explain and provide alternative suggestions?**

- As with Q7, we struggle to see the direct relevance of this information in achieving the three stated purposes of the register or in achieving broader digital operational resilience across the industry. Given that such information will require input from across various business units and lines (for example, third party management, IT, cyber and cloud), it will entail significant operational/logistical effort, and the value from the information is questionable at best. We would again encourage the ESAs to adopt a more targeted approach to the register, consistent with the principle of proportionality and a risk-based approach, and remove this information requirement.

**Question 11: Is the structure of the Register of Information clear? If not, please explain what aspects are unclear and suggest any alternatives, if available?**

- A primary concern is the level of duplication required, with ten of the fourteen templates applicable at both entity and consolidated/sub-consolidated level. This significantly adds to the compliance burden, which is exacerbated by the ESAs failing to accommodate and make use of technology solutions, for example to bolster and update the use of electronic reporting. It also reinforces the need for central ownership within a group as set out at Q6. As mentioned above, the decision to go beyond the existing EBA data fields raises significant operational challenges.
- We note that Article 3(1)(b) provides that: *“when filling-in the register of information financial entities shall complete each data point with a single value. If more than one value is valid for a specific data point, the financial entity shall add an additional row in the corresponding template for each valid value”*. We caution that this approach will increase the number of rows exponentially and make it difficult for financial entities to generate the report, and for those reviewing the report. We recommend the structure of the templates is amended to allow financial entities to separate multiple values with a semi-colon in order to minimise the number of rows.
- We would also appreciate clarification as to whether there will be a UAT (user acceptance testing) platform to test data uploads with mock data. This is a useful feature that is leveraged in other register reporting platforms, including the ECB. If so, it would be most helpful if the UAT platform could be continuously accessible to enable the testing of formatting nuances unique to the DORA register.

**Question 12: Do you agree with the level of information requested in the Register of Information templates? Do you think that the minimum level of information requested is sufficient to fulfil the three purposes of the Register of Information, while also**

**considering the varying levels of granularity and maturity among different financial entities?**

- As emphasised throughout this response, the ITS creates substantial new requirements that do not necessarily support or enhance third-party risk management practices in connection with the provision of ICT services or go above what is truly needed to support the supervision and oversight objectives of the ITS. Given the level of duplication referenced above, AFME encourages the ESAs to be more ambitious in embedding the principle of proportionality in a more appropriate manner across the register. In the case of international groups, many of the mandatory data fields request the same information to be reported multiple times across different templates which creates operational and administrative burden with no additional value for financial entity or indeed the authorities.
- Furthermore, the goal of achieving a “minimum level of content and harmonisation” risks undermining DORA’s overarching objectives on harmonising regulatory and supervisory requirements across the single market. The ITS expects financial entities to complement the information reported in the templates by tailoring them to their internal risk management processes. However, the ITS is silent on whether additional fields could be added by CAs beyond the ultimate harmonised template. There is therefore a risk that requiring just the *minimum* level of information will result in the potential expansion of the DORA register requirement in individual states. The ESAs should explicitly restrict any additions to the template by national authorities and/or require the ESAs to review and approve any additions at EU-level to help avoid such divergence in the DORA register and further divergence across existing outsourcing registers.

**Question 13: Do you agree with the principle of used to draft the ITS? If not, please explain why you disagree and which alternative approach you would suggest.**

- We have stressed the need to more robustly apply the principle of proportionality across the ITS throughout our responses, but please see in particular our comments in the executive summary (overarching points 1 & 2) and Q12.
- A key example of where the register fails to adequately apply a proportionate approach, relates to an apparent structural anomaly within the template which risks altering the risk-based approach set out in the Level 1 text of DORA. The issue relates to the requirement that the financial entity reports on the criticality or importance of the *function* (at RT.06.01.0061), without reflecting and linking that reporting requirement to the actual materiality of the *ICT service* supporting the critical or important function. This risks an inappropriately broad scope of third-party ICT services that would be subject to enhanced requirements under the new register.
- This structural design suggests that the ITS treats all ICT services supporting critical or important functions the same, without applying a true level of proportionality. That is, not all ICT services supporting critical or important functions carry a level of risk (or importance) to the financial entity that require enhanced reporting or risk management requirements. This approach is also out of step with the Level 1 text, which appropriately acknowledges that the risk assessment conducted by the financial entity should focus on elements such as the criticality or importance of the services supported by the envisaged ICT contract. Additionally,

this would be consistent with the ECB outsourcing inventory template for ‘Significant Institutions’ where the assessment of criticality or importance is associated with the contractual arrangement.

- A proportionate and risk based approach therefore requires the templates allow the financial entity to first reflect the materiality or importance of the third-party arrangement to the critical or important function. We therefore recommend that a Y/N data field be added to template RT.02.02, requiring identification of whether the contractual arrangement is material to the provision of the contracted ICT service supporting a critical or important function.
- Third-party ICT services marked as “Y” in this data field would then be subject to the enhanced data requirements for critical or important functions as currently set out in proposed register. This design would align with the risk-based approach set out in the Level 1 text and reflect a more accurate view of the third-party ICT services which are most relevant to a critical or important function.

**Question 14: Do you agree with the impact assessment and the main conclusions stemming from it?**

- AFME has no objections to the impact assessment.
- Feedback on template columns/data fields:

<u>Column Code</u>	<u>Column Name</u>	<u>Fill-in instruction</u>	<u>Proposal</u>
RT.01.01.0070	Value of total assets - of the financial entity	Monetary value of total assets of the entity making use of the ICT services as reported in the entity’s annual financial statement of the year before the date of the last update of the register of information.	<b>DELETE:</b> Inclusion of this field risks the provision of data which may confuse, rather than inform, the ESAs on any risk considerations.
RT.01.01.0080	Value of the other financial indicator of the financial entity	Monetary value of the other financial indicator of the entity making use of the ICT services as reported in the entity’s annual financial statement of the year before the date of the last update of the register of information.	<b>DELETE:</b> Inclusion of this field risks the provision of data which may confuse, rather than inform, the ESAs on any risk considerations.
RT.02.01.0010	Contractual arrangement reference number	Identify the contractual arrangement between the financial entity and the direct ICT third-party service provider. The contractual arrangement reference number is the internal reference number of the contractual arrangement assigned by the financial entity. The contractual arrangement reference number shall be	<b>REVISE:</b> Clarify that the contractual arrangement reference number should be consistent only for the duration of the contract, and not in the event of a contract renewal after the

		unique and consistent over time at entity, sub-consolidated and consolidated level, where applicable. The contractual arrangement reference number shall be used consistently across all templates of the register of information when referring to the same contractual arrangement.	contract end date is reached.
RT.02.01.0020	Type of contractual arrangement	Identify the type of contractual arrangement by using one of the options in the following closed list: 1. Standalone arrangement 2. Overarching arrangement	<b>DELETE:</b> It is unclear what value this data field adds for supervision purposes that would not already provided through the identification of services provided by the ICT Third party.
RT.02.01.0041	Annual expense or estimated cost of the contractual arrangement for the past year	Annual expense or estimated cost (or intragroup transfer) of the ICT service arrangement for the past year.  In case of an overarching arrangement with subsequent or associated arrangements, the sum of the annual expenses or estimated costs reported for the overarching arrangement and the subsequent or associated arrangements should be equal to the total expenses or estimated costs for the overall contractual arrangement. This means, there should be no repetition or duplication of annual expenses or estimated costs. The following cases should be reflected: (a) if the annual expenses or estimate costs are not determined at the level of the overarching arrangement (i.e. they are 0), the annual expenses or estimated costs should be reported at the level of each subsequent or associated arrangements. (b) if the annual expenses or estimated costs cannot be reported for each of the subsequent or associated arrangements, the total annual expense or estimated cost should be reported at the level of the overarching arrangement. (c) if there are annual expenses or estimated costs related to each level of the arrangement, i.e. overarching and subsequent or associated, and this information is available, the annual expenses or estimated costs shall be	<b>DELETE:</b> no value add and in many cases could constitute confidential information

		reported without duplication at each level of the contractual arrangement.	
RT.02.01.0042	Budget of the contractual arrangement for the upcoming year	<p>Budget or estimated cost or budget of the contractual arrangement for the upcoming year.</p> <p>The annual expense or estimated cost shall be expressed in the currency reported in RT.01.01.0060.</p> <p>In case of an overarching arrangement with subsequent or associated arrangements, the sum of the budget reported for the overarching arrangement and the subsequent or associated arrangements should be equal to the total budget for the overall contractual arrangement. This means, there should be no repetition or duplication of budget. The following cases should be reflected:</p> <p>(a) if the budget is not determined at the level of the overarching arrangement (i.e. they are 0), the budget should be reported at the level of each subsequent or associated arrangements.</p> <p>(b) if the budget cannot be reported for each of the subsequent or associated arrangements, the total budget should be reported at the level of the overarching arrangement.</p> <p>(c) if there is a budget related to each level of the arrangement, i.e. overarching and subsequent or associated, and this information is available, the budget shall be reported without duplication at each level of the contractual arrangement.</p>	<b>DELETE:</b> no value add and in many cases could constitute confidential information.
RT.02.01.0060	LEI of the ICT third-party service provider	Identify the direct ICT third-party service provider that signed the contractual arrangement by reporting the LEI	<b>REVISE:</b> It is unclear why an additional mandatory data field to report an alternative identifier in RT.02.10.0071 is included given the mandatory requirements surrounding LEIs. Consistent with our proposed amendment to require FEs to procure LEIs <i>if available</i> , this anomaly

			would be resolved if these data fields are not mandatory.
RT.02.01.0071	Other code to identify the ICT third-party service provider	Identify the direct ICT third-party service provider that signed the contractual arrangement by reporting the other code	As above
RT.02.02.0080	Notice period for the financial entity	Identify the notice period for terminating the contractual arrangement by the financial entity in a business-as-usual case. The notice period shall be expressed as number of calendar days from the receipt of the counterparty of the request to terminate the ICT service.	<b>REVISE:</b> A time range should be permitted, as is the case with SSM reporting.
RT.02.02.0130	Sensitiveness of the data stored by the ICT third-party service provider	Identify the level of sensitiveness of the data stored or processed by the ICT third-party service provider using one of the options provided in the following closed list:	<b>REVISE:</b> Clarify the definition of sensitive data, with reference to GDPR.
RT.05.01.0023 / RT.05.0103	Type of other code to identify the ICT third-party service provider	Type of the other code to identify the ICT third-party service provider One of the options in the following closed list shall be used: 1. Corporate registration number 2. VAT number 3. Passport Number 4. National Identity Number	<b>DELETE:</b> Inappropriate to request and partially incompatible with GDPR.
RT.05.01.0070	Business Alliance	One of the options in the following closed list shall be used: 1. The ICT third-party service provider is not part of an alliance; 2. The ICT third-party service provider is part of a group; 3. The ICT third-party service provider is a joint-venture; 4. The ICT third-party service provider is a member of an association or a partnership of firms; 5. Other case where the ICT third-party service provider is connected to other legal entities.	<b>DELETE:</b> There is no value beyond distinguishing whether the ICT third party is internal or external – which is adequately covered by RT.05.01.0120. This is more information than is required and does not add value to or impact risk.
RT.05.01.0090	LEI of the ICT third-party service	Identify the ICT third-party service provider's ultimate parent undertaking using the Legal Entity Identifier (LEI) 20-	<b>DELETE:</b> GLIEF does not have good quality data for 'Parent company name'.



	provider's ultimate parent undertaking	character, alpha-numeric code based on the ISO 17442 standard valid and active at the date of last update if the contract is not terminated or cancelled.	We therefore recommend this data field is deleted to ensure that ESAs are not provided with inaccurate or inconsistent data.
RT.05.02.0060	Rank	If the ICT third-party service provider is signing the contractual arrangement with the financial entity, it is considered as a direct ICT third-party service provider and the 'rank' to be reported shall be 1; If the ICT third-party service provider is signing the contract with the direct ICT third-party service provider, it is considered as a subcontractor and the 'rank' to be reported shall be 2; The same logic apply to all the following subcontractors by incrementing the 'rank' until the last contractor in the ICT service supply chain. In case multiple ICT third-party service providers have the same 'rank' in the ICT service supply chain, financial entities shall report the same 'rank' for all those ICT third-party service providers.	<b>REVISE:</b> The ranking should be abolished. Alternatively a cap should be introduced after Rank 3 providers, given the difficulty for a financial entity in obtaining this information.  Identifying however the 'rank' does not add value to risk management or supervision and would be difficult for FEs to provide for all subcontractors across the supply chain. We recommend the requirement to rank subcontractors is limited to ranking only 'material subcontractors' based on the proposed amended definition above.
RT.06.01.0061	Criticality importance assessment or	Use this column to indicate whether the function is critical or important according to the financial entity's assessment. One of the options in the following closed list shall be used: 1. Yes 2. No 3. Assessment not performed	<b>REVISE:</b> We recommended the approach to this data field is reconsidered based on our comments in Q12.
RT.06.01	Instructions to fill in template RT.06.01 — Functions identification	This template aims at identifying and providing information on the functions of the financial entity according to the financial entity's internal organisation. Each combination of the two following items shall have a unique function identifier assigned:  i. 'Licenced activity' column RT.06.01.0040 'Function name' column RT.06.01.0051	<b>REVISE:</b> The references to columns RT.06.01.0040 RT.06.01.0051 in the instructions do not correspond with a column code in this template.

RT.06.01.0100	Impact of discontinuing the function	Use this column to indicate the impact of discontinuing the function according to the financial entity's assessment. One of the options in the following closed list shall be used	<b>DELETE:</b> Financial entities have struggled to understand the purpose of this data field, given template RT.06.01 relates to the impact from perspective of a financial entity's internal organisation. This data field should be deleted as the more relevant and valuable assessment for risk management and supervisory purposes is the impact of discontinuing the <b>service</b> as captured in RT.08.01.0090.
RT.07.01.0022	Description of the ICT service provided	A brief (maximum 300 characters) description of the ICT service provided, in case it is not listed in Annex IV, including the data that are being processed and store	<b>REVISE:</b> Summarising the service including information about data being processed and stored, within a 300 character would be a challenge that is also experienced by FE's with other register submissions. We recommend increasing the character limit to 3000.

## Contacts

<b>AFME</b>	Andrew Harvey	+44(0)20 3828 2694	<a href="mailto:andrew.harvey@afme.eu">andrew.harvey@afme.eu</a>
<b>AFME</b>	Stefano Mazzocchi	+32(0) 2883 5546	<a href="mailto:stefano.mazzocchi@afme.eu">stefano.mazzocchi@afme.eu</a>
<b>AFME</b>	Coen Ter Wal	+44(0)020 3828 2727	<a href="mailto:coen.terwal@afme.eu">coen.terwal@afme.eu</a>
<b>AFME</b>	Marcus Corry	+44 (0)20 3828 2679	<a href="mailto:marcus.corry@afme.eu">marcus.corry@afme.eu</a>

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