



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL  
MARKETS UNION

The Director-General

Brussels,

Ms Verena Ross  
Chair of the European Securities and  
Markets Authority  
201-203 rue de Bercy  
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75589 Paris Cedex 12

Dear Ms Ross

I am sending you this letter in your capacity as Chair of the Joint Committee of the European Supervisory Authorities (ESAs). On 17 January 2024, the ESAs sent the Commission a draft Implementing Regulation supplementing Regulation (EU) 2022/2554 (“DORA”) of the European Parliament and of the Council with regard to implementing technical standards on standard templates for the register of information (“ITS”). The draft ITS specifies the standard templates for the purposes of the register of information in relation to contractual arrangements on the use of ICT services provided by ICT third-party service providers.

The Commission notes that the register of information is an integral part of DORA’s aim to (1) strengthen financial entities management of ICT risks stemming from third parties, (2) enable NCAs to supervise how they manage these risks, and (3) provide the factual information upon which the ESAs will designate certain third-party providers of ICT services as critical (CTPPs) that then become subject to ESAs oversight. To enable the efficient processing of information in the database (supervisors, ESAs), the draft ITS would mandate financial entities & ICT third-party service providers to have an Legal Entity Identifier (LEI).

Nevertheless, in accordance with the principle of proportionality laid down in Article 1(4) and (5), fifth sub-paragraph of Regulation (EU) 1095/2010<sup>(1)</sup>, in Article 1(4) and (5), fifth sub-paragraph of Regulation (EU) 1094/2010<sup>(2)</sup>, and in 1(4) and (5), fifth sub-paragraph of Regulation (EU) 1093/2010<sup>(3)</sup> the Commission considers it necessary to take a more proportionate approach to the drafting of the ITS, in particular with regard to requirements relating to legal identifiers for ICT third-party service providers.

Against this background, we reject the draft ITS on mainly one specific aspect of the proposed Implementing Regulation, namely the mandatory use of LEI for ICT third-party service providers under Article 3(5) and (6) of the draft ITS. The Commission considers that it is necessary to give these companies a choice between the LEI and the European

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<sup>(1)</sup> OJ L 331 15.12.2010, p. 84.

<sup>(2)</sup> OJ L 331 15.12.2010, p. 48.

<sup>(3)</sup> OJ L 331 15.12.2010, p. 12.

Unique Identifier (EUID), as for the majority of EU companies this EU identifier is already attributed free of charge in accordance with Article 16 of the codified Company Law Directive (EU) 2017/1132.

The EUID is mandatory under Union law for the vast majority of companies and their branches under Article 16 of Directive (EU) 2017/1132 (i.e. 20 million EUIDs already exist) and is publicly available. When identifying EU ICT companies, either the LEI or EUID could be used (i.e. leaving it for EU ICT third-party service providers to choose whether to have a LEI).

I would also like to stress that our amendments refer to the specific situation of ICT third-party service providers, and is without prejudice to the use of the LEI by financial institutions under Union financial services legislation and policies.

In addition, Article 3 of the draft ITS has been slightly amended to ensure that the prescribed requirements remain within the mandate laid down in Article 28(9) DORA. Finally, the draft ITS contains targeted drafting amendments that do not affect the substance of the act and are aimed at improving the quality of the legal act.

With this letter, and in line with the procedure set out in Article 15(1) of Regulation (EU) No 1095/2010, in Article 15(1) of Regulation (EU) No 1094/2010, and in in Article 15(1) of Regulation (EU) No 1093/2010, I would like to inform you that the Commission intends to reject the ITS.

In light of the above, I would like to inform you that the Commission, acting in accordance with the procedure set out in the fourth and fifth subparagraphs of Article 15(1) of Regulation (EU) No 1095/2010, as amended, in the fourth and fifth subparagraphs of Article 15(1) of Regulation (EU) No 1094/2010, as amended, and in in the fourth and fifth subparagraphs of Article 15(1) of Regulation (EU) No 1093/2010, as amended, intends to adopt the ITS submitted by the ESAs once the above-mentioned concerns are taken into account and the necessary modifications are made by the ESAs.

As per Article 15(1), subparagraph 4 of Regulation (EU) No 1095/2010, as amended, Article 15(1), subparagraph 4 of Regulation (EU) No 1094/2010, as amended, and Article 15(1), subparagraph 4 of Regulation (EU) No 1093/2010, as amended, where the Commission intends to reject and further adopt a draft ITS in part or with amendments, it shall send the draft ITS back to the Authority, explaining the reasons for its amendments, and within a period of 6 weeks, the Authority may amend the draft ITS on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission.

It should be recalled that the procedure laid down in Article 15(1), subparagraph 5 of Regulation (EU) No 1095/2010, as amended, in Article 15(1), subparagraph 5 of Regulation (EU) No 1094/2010, as amended, and in Article 15(1), subparagraph 5 of Regulation (EU) No 1093/2010, as amended sets out that if, on the expiry of that six-week period, the Authority has not submitted an amended draft ITS, or has submitted a draft ITS that is not amended in a way consistent with the Commission's proposed amendments, the Commission may adopt the ITS with the amendments it considers relevant, or reject it.

In this context, it is essential to underline that the implementing technical standards shall be **in conformity with the legal mandate set out in the DORA Regulation** and shall, among other requirements, respect the proportionality principle in allowing for a wide

usage of existent legal identifiers, in particular, also of those free of charge, for the Union ICT third-party service providers.

The Commission services in charge stand ready to assist you further in the implementation process following the insertion of the EUID in the draft ITS. We count on your diligence to conclude together with DG JUST the respective implementation steps (e.g. the signing of a Memorandum of Understanding) in the upcoming weeks while the Commission services are conducting in parallel the rejection and further adoption of the ITS.

I would like to express our appreciation for the work undertaken by the ESAs to deliver the draft ITS and look forward to continuing our good cooperation on this legal act.

Yours sincerely,

Electronically signed

John BERRIGAN

Contact: Irene Tinagli MEP, Chair of the Committee on Economic and Monetary Affairs, European Parliament; Thérèse Blanchet, Secretary-General of the Council of the European Union

Enclosure: Draft Commission Implementing Regulation supplementing Regulation (EU) 2022/2554 of the European Parliament and of the Council with regard to implementing technical standards on standard templates for the register of information