ESMA_QA_2056

Submission Date
20/12/2023

Status: Question Rejected

Additional Information

Level 1 Regulation
Regulation (EU) 2022/2554 - The Digital Operational Resilience Act (DORA)

Topic
ICT third-party risk management

Additional Legal Reference
On Draft Implementing Technical Standards 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 as mandated by Regulation (EU)

Subject Matter
Software distributors

Question

When an off-the-shelf software license (e.g. operating systems, database) is purchased through a distributor, is the distributor qualifying as “ICT third-party service provider” in case if the distributor itself is not providing any additional services in addition to the distribution, and its contractual tasks are completed with the successful intermediation of the license agreement? Is the software company qualifying as a direct “ICT third-party service provider” based on the end-user license agreement (EULA) accepted by the financial entity?