

Opinion of the European Supervisory Authorities

On the Draft Implementing Technical Standards regarding the standard templates for the purposes of the register of information in relation to all contractual arrangements on the use of ICT services provided by ICT third-party service providers under Article 28(9) of Regulation (EU) 2022/2554

Introduction and legal basis

1. Article 28(9) of Regulation (EU) 2022/2554 on digital operational resilience for the financial sector (DORA)¹, mandates the European Supervisory Authorities (ESAs) to develop draft implementing technical standards to establish the standard templates for the purposes of the register of information referred to in Article 28(3) of DORA. On 17 January 2024, the ESAs submitted the above-mentioned draft Implementing Technical Standards to the European Commission.
2. The register of information is to be maintained and updated by financial entities as part of their ICT risk management framework and shall contain information on all contractual arrangements on the use of ICT services provided by ICT third-party service providers. As set out in Recital (65) and Article 31 of DORA, the register of information has three main objectives, namely (1) strengthening the financial entities' management of ICT risks stemming from third-parties; (2) enabling the supervision of these risks by the relevant competent authorities; and (3) being the key source of information upon which the ESAs will designate certain ICT third-party service providers as critical².
3. On 03 September 2024, the European Commission, acting in accordance with the procedure set out in the fourth subparagraph of Article 15(1) of the ESAs Regulations, notified the ESAs that it rejects the ITS on the basis of the envisaged mandatory use of the LEI to identify ICT third-party service providers under Article 3(5) and (6) of the draft ITS³. The European Commission considered that it is necessary to give the choice to financial entities to identify their EU-registered ICT third-party service providers via the use of the LEI or the European Unique Identifier (EUID), as for the majority of EU-registered companies this EU identifier is already attributed to the relevant legal entity free of

¹ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022 p. 1-79)

² As stipulated in Article 31(10) of DORA and in Article 6 of Commission Delegating Regulation (EU) 2024/1502 of 22 February 2024.

³ See letter to the Chair of the ESAs Joint Committee
(https://finance.ec.europa.eu/document/download/d7f731c6-39a7-42e5-bd4b-f28434b7d51d_en?filename=240723-letter-esma-dora-register-information_en.pdf)

charge in accordance with Article 16 of the codified Company Law Directive (EU) 2017/1132⁴. The European Commission has not changed the approach to the use of the identifiers for financial entities and for their ICT third-party service providers that are registered in third countries, allowing in both cases to use only the LEI as proposed by the ESAs.

4. Pursuant to Article 15(4) of the ESAs Regulation, the ESAs prepared this Opinion on the proposed amendments to the draft ITS by the European Commission. In addition, the ESAs also suggest some other minor changes to the draft ITS based on the feedback received from the ‘dry run’ exercise the ESAs carried out during 2024 to support the industry in the preparation for submission of the registers of information and to test the reporting process.
5. This opinion was prepared jointly by the ESAs and adopted by the three Board of Supervisors on 11 October 2024. The Opinion will be published on the websites of the ESAs.

General comments and proposals

6. The use of the LEI is rooted in the process of achieving international convergence for the identification of legal entities participating in financial markets and related activities, which started in 2012. At that time, as a response to the collapse of Lehman Brothers and the financial crisis, the G20 endorsed the recommendations of the Financial Stability Board (FSB) regarding the framework for developing a global legal entity identifier (LEI) system for parties to financial transactions⁵. Since its introduction, the LEI has been adopted by nearly three million entities across more than 200 countries, while the need for an LEI has been recognised by a range of parties across the world, including the European Commission⁶ and the US⁷.
7. The EU has significantly contributed to the adoption of the LEI for both financial and non-financial entities involved in the financial sector, especially following the adoption of Union regulations in different sectors⁸. This has increased the authorities’ ability to evaluate systemic and developing risks and adopt remedial measures. In particular, the clear identification of contractual parties in a network of global financial contracts processed electronically at a very high-speed permits authorities to make use of existing technologies for analysing interconnectedness, identifying

⁴ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (codification), OJ L 169, 30.6.2017, p. 46–127 (ELI of current consolidated version ELI: <http://data.europa.eu/eli/dir/2017/1132/2022-08-12>)

⁵ See G20 Leaders declaration, Los Cabos, available on the G20 website (https://www.fsb.org/wp-content/uploads/g20_leaders_declaration_los_cabos_2012.pdf).

⁶ For example, Michel Barnier, European Commissioner for Internal Market and Services, in addressing the Europe Financial Forum in February 2011, stated: “We must also work together on a common system to identify the market participants. It is an area where the USA have already given their input, but which requires global standards.”.

⁷ The US authorities have recently taken additional steps to ensure further adoption of the LEI in the context of the application the 2022 Financial Data Transparency Act (See notice on proposed rulemaking published on 22nd August 2024, available here: <https://www.occ.treas.gov/news-issuances/bulletins/2024/bulletin-2024-24.html>).

⁸ Such as Regulation (EU) No 648/2012 (EMIR), Regulation (EU) No 600/2014 (MiFIR), Regulation (EU) 2015/2365 (SFTR), Implementing Regulation (EU) 2021/451 (supervisory reporting in banking), see GLEIF for a comprehensive overview of the EU legal acts prescribing the use of LEI (<https://www.gleif.org/en/lei-solutions/regulatory-use-of-the-lei>).

potential chains of contagion and monitoring market integrity. The LEI has also become critical for connecting existing datasets of granular information on entities from multiple sources⁹.

8. The LEI is already established for reporting in the financial sector for several years, considering its limited cost for ICT third-party service providers, and following the key international principles for data aggregation, standardisation, minimisation integration between various types of reporting and also contributes to the reduction of the overall costs associated with the reporting¹⁰. To this end, the ESAs considered that the mandatory use of the LEI for the identification of both financial entities and their (EU and non-EU) ICT third-party service providers in the register of information would bring efficiencies for both the industry and supervisors and achieve international convergence in the area of global cyber security and operational resilience. The ESAs suggested this approach in the final report on the draft ITS on the registers of information which was put for public consultation to stakeholders and authorities. The ESAs did not find alternatives that could meet the requirements for an identifier capable of achieving the above-mentioned objectives. In addition, many types¹¹ of financial entities within the scope of DORA are already familiar with, use and obtain LEIs for non-financial entities in the area of supervisory reporting.
9. Whilst the ESAs take note of the arguments of the European Commission, they see the changes as impactful for the implementation of DORA by financial entities, competent authorities and the ESAs also leading to potential increase of the overall reporting burden for financial entities. Although the EUID is available to obtain free of charge to all European companies¹², the introduction of the EUID as identifier for the ICT third-party service providers within the registers of information would require previously not planned implementation and maintenance efforts and costs for the financial entities due to the changes in the register templates and the need to collect and provide additional information considering also the limitations on the access to and verification of the respective information by the financial entities and competent authorities.
10. In particular, for financial entities, the introduction of EUID will bring additional and, so far, not planned implementation and maintenance efforts related to (1) introduce changes and additional data fields to their registers of information being currently developed, (2) collection and maintenance of additional data that are not easily available and must be manually collected on a one-by-one basis, (3) use of different standards identifying legal entities in different frameworks and for different aspects, (4) the management of likely resubmissions of the registers of information to their

⁹ Extract from ESRB recommendation on identifying legal entities. Full document available here: [Recommendation of the European Systemic Risk Board on identifying legal entities \(ESRB/2020/12\) \(europa.eu\)](#)

¹⁰ See the findings of the 2021 EBA Study of the cost of compliance with supervisory reporting requirements (EBA/Rep/2021/15) available here: <https://www.eba.europa.eu/cost-compliance-supervisory-reporting>

¹¹ Credit institutions, payment institutions, electronic money institutions, insurance and reinsurance undertakings, institutions for occupational retirement provision, investment firms, central securities depositories, central counterparties, trading venues, trade repositories, managers of alternative investment funds, management companies, data reporting service providers, credit rating agencies, administrators of critical benchmarks, securitisation repositories.

¹² LEI is offered on a cost-recovery basis at Ca 50 EUR par ICT third-party provider.

competent authorities following the data quality feedback from the competent authorities or the ESAs in case of errors when using the two identifiers.

11. The introduction of the EUID would also require additional implementation efforts from the competent authorities related to the need to establish new processes for additional data quality checks for the registers of information reported to them and the lack of automated access via the Business Register Interconnection System (BRIS) to the reference data needed to verify the information that will be available only to the ESAs¹³.
12. Furthermore, financial entities, competent authorities and the ESAs will lose the benefit of existing synergies with other financial and prudential reporting, requiring them additional efforts to ensure consistency with standards used for master data in other reporting frameworks and to carry out data quality checks.
13. Annex 1 to this Opinion provides more details on the use of identifiers in financial reporting and elaborates on the impacts from the introduction of the EUID into the ITS on registers of information and the designation of critical ICT third-party service providers.
14. Given the above considerations, the ESAs have concerns regarding the European Commission's proposed approach to accommodate both the LEI and the EUID as alternative identifiers for the ICT third-party service providers in the register of information; thus the ESAs call for maintaining simplicity and efficiency in using the LEI as a common identifier. However, should the European Commission proceed with its proposal and introduce the EUID alongside the LEI in the final ITS, additional changes to the text of the ITS and data fields will be necessary for the operationalisation of the use of the EUID, including for the purposes of designation of the critical ICT third-party service providers. In particular, the ESAs suggest introducing three new fields, namely 'Name of the ICT third-party service provider in Latin alphabet', 'Additional identification code of ICT third-party service provider' and the 'Type of the additional identification code', to existing fields in the Annex to the ITS (see Annex 2 and 3 to this Opinion). Furthermore, the ESAs suggest to clarify the proposed framework of co-existence of two identifiers by giving priority to using LEI in the cases where both identifiers are available to the financial entity.

Other technical and editorial amendments

15. In addition to the changes related to the technical implementation of the European Commission proposal to incorporate the EUID as an alternative identifier to the LEI for ICT third-party service providers established in the EU, the ESAs would also propose additional relevant changes to the draft ITS (see Annex 2 and 3 to this Opinion), which aim to:
 - a. ensure as much consistency as possible in data modelling and reporting already in place for some of the types of financial entities under DORA, which also fall under the sectoral

¹³ [European e-Justice Portal - Business registers at European level \(europa.eu\)](https://europa.eu/e-justice/portal/business-registers-at-european-level)

prudential regulation (prudential reporting). These changes would allow for greater consistency among the different types of existing sectoral reporting frameworks and thus would reduce the implementation efforts for the respective types of financial entities;

- b. reflect the practical feedback received from financial entities participating in the voluntary dry run exercise on reporting of registers of information the ESAs have carried out. These changes are mostly focused on the reporting instructions, with the view to improving their understanding by the financial entities through additional clarifications or simplifications;
- c. reinstating important provisions clarifying some requirements. In particular, Recital 7 has been amended with a new drafting to avoid misinterpretation of the initial meaning.

Annexes

Annex 1. Additional consideration on the use of identifiers and impact of EUID on the registers of information and the designation of critical ICT third-party service providers

16. Regarding the register of information referred to in this Opinion, competent authorities and the ESAs need to aggregate and compare information about the financial entities' ICT third-party service providers. The objective is to assess financial entities' dependency on, and interconnectedness with, ICT third-party service providers and to determine whether the latter are critical and should be placed under the ESAs' oversight. This requires a single unique identifier for those ICT third-party service providers. Since the designation of the critical ICT third-party service providers is to be performed at group level¹⁴, the ESAs need a single identifier that allows to map whether a legal entity belongs to a group and to obtain insights on the group structure.
17. Such identifiers should meet the common criteria developed by the international community for robust identification systems to ensure data comparability and aggregation for the monitoring of financial markets (see table below). These criteria have been consulted with global market stakeholders, agreed upon by financial regulators, and made public by the Committee on Payment and Settlement Systems, the International Organisation of Securities Commissions (CPMI-IOSCO)¹⁵ and the Financial Stability Board (FSB)¹⁶ to guide the development of robust data standards. These criteria were also used by the ESAs to assess the most appropriate identifiers to be used in other technical standards on supervisory reporting and data. To ensure consistency and comparability of data, the same criteria should be considered for assessing the appropriate identifiers to be used in the context of this draft ITS.

Criteria for the use of identifiers

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|-----------------|--|
| <i>Unique</i> | identifier should be assigned to a given legal entity, and should never be reused even if the entity operates in several jurisdictions using different names |
| <i>Neutral</i> | identifier should have a format consisting of a single data field and entity characteristics should be viewed as separate elements within a reference data system available to authorities |
| <i>Reliable</i> | issuance and maintenance of the identifier, including storage and maintenance of all associated data, should involve robust quality assurance practices and system safeguard |

¹⁴ Article 31(3) of DORA

¹⁵ Section 5.2.1 of CPMI-IOSCO [Report on OTC derivatives data reporting and aggregation requirements - final report \(bis.org\)](#)

¹⁶ Annex 3 of FSB report on [FSB LEI Report not embargoed Jun2012](#)

| | |
|---|---|
| <i>Open source</i> | identifier and its reference data should have an open standard, to ensure that the identifier is compatible with existing automated systems of market participants and authorities |
| <i>Scalable</i> | identifier should be part of a system that is capable to cover all existing and potential future legal entities of all types that may be involved in financial markets ¹⁷ |
| <i>Accessible</i> | identifier and its reference data should be publicly available in a common language, while accommodating local jurisdictional differences and should be easily usable for the intended regulatory purpose |
| <i>Available at reasonable costs</i> | the funding system should be based on an efficient non-profit cost-recovery model |
| <i>Subject to an appropriate governance framework</i> | identifier system should be managed in a way that ensures that authorities can use the identifier to fulfil their responsibilities while avoiding monopoly rents to the provider of the identifier |

18. While the LEI meets the above-mentioned criteria, at present, the ESAs have not identified any alternative identifiers that would equally meet all of them. Importantly, through the use of LEIs, financial entities, competent authorities and the ESAs can validate the data against a golden copy provided by the Global Legal Entity Identifier Foundation (GLEIF) in a downloadable and machine-readable manner, with a known reference date, thus ensuring an automated access to a single source of truth for data quality checks. The use of the LEI is aimed at ensuring the highest quality of the data included in the register of information, which is particularly important for reporting purposes.
19. On the other hand, the EUID was developed according to ISO 6523 to identify companies and branches for the purpose of exchanging information among national registers via BRIS established under Article 22 of the Codified Company Law Directive (EU) 2017/1132 and managed by the European Commission itself (DG JUST). The EUID is not part of the data typically handled by financial entities, it does not contain the same level of information as the LEI (e.g. on the group structure) and it does not allow the same data validation possibilities as the LEI for all actors in the reporting chain.
20. In addition, the introduction of the EUID as identifier for ICT third-party service providers within the register of information would require implementation and maintenance efforts by the financial entities, as well as competent authorities and the ESAs. As BRIS is not a central database of standardised information, it has significant limitations on the access to data contained in the national business registers. In particular, financial entities would need to collect and incorporate EUID into their registers of information and, where relevant, make changes to the underlying IT systems leading

¹⁷ These include parties of financial transactions, may be involved in any aspect of the financial issuance and transactions process, or may be subject to required due diligence by financial sector entities

to an implementation effort currently not foreseen by them. Moreover, financial entities would incur additional operational burden for performing EUID verification checks, due to the manual one-by-one checks against BRIS required in order to verify the identity of ICT third-party service providers, or requests for resubmissions from competent authorities or the ESAs due to data quality issues.

21. The introduction of the EUID would also result in additional administrative and resource burden to competent authorities who will be required to carry out data quality checks of the registers before using them for their supervisory tasks related to ICT risks and third-party risk management and prior to providing the registers to the ESAs.
22. Therefore, for all the above reasons, the EUID does not yet fully meet the above-mentioned criteria.
23. Finally, the introduction of the EUID would introduce complexity for the ESAs to assess the criticality of ICT third-party service providers due to the need to reconcile information based on two identifiers. It would require additional implementation efforts to create an interface between the IT tool and BRIS to validate the EUIDs provided for EU ICT third-party service providers. Unlike the LEI reference data, EUID reference data cannot be downloaded from BRIS on a daily basis for the full set of entities present in BRIS. This means that the data at the ESAs' disposal will not be up-to-date. This will also increase the cost and duration of the implementation of the ESAs' IT tool for collecting the registers of information, thus mismatching with the estimations set out in the DORA's legislative financial statement.

Annex 2. ESAs proposals for further changes to the ITS on Registers of Information

Annex 3. ESAs proposals for further changes to the Annex of the ITS on Registers of Information