

December 3, 2024

**VIA ELECTRONIC SUBMISSION**

**Jennifer Robertson**  
**Head of Financial Market Infrastructure Unit**  
**Mattias Levin**  
**Acting Head of Digital Finance Unit**  
**DG FISMA**  
**European Commission**

**Re: 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<sup>1</sup> (“EU Digital Operational Resilience Act”)**

Dear Ms. Robertson, Dear Mr. Levin,

CCP Global is the international association for central counterparties (“CCPs”), representing 44 members who operate over 60 individual CCPs across the Americas, EMEA, and the Asia-Pacific region. CCP Global promotes effective, practical, and appropriate risk management and operational standards for CCPs to ensure the safety and efficiency of the financial markets it represents. CCP Global leads and assesses global regulatory and industry initiatives that concern CCPs to form consensus views, while also actively engaging with regulatory agencies and industry constituents through consultation responses, forum discussions, and position papers.

We are sending you this letter, as we are concerned that the European Commission (“EC”) may provide guidance in the coming weeks stating that the definition of information and communication technology (“ICT”) services under the EU Digital Operational Resilience Act (“DORA”) would exempt EU financial market infrastructures, but not third country financial market infrastructures, such as CCPs. CCPs, in both the EU and third countries, had understood that they would be exempt from the definition of ICT services under DORA, as they provide a financial

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<sup>1</sup> Official Journal of the European Union, 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: [Link](#).

service, such as serving as a CCP to clear and settle transactions, and *not* ICT services.<sup>2</sup>

A consistent and coherent interpretation of the definition of ICT services under DORA is essential for ensuring a smooth and effective implementation of DORA. CCP Global therefore believes the EC must draw a clear distinction between ICT services and other types of services, including financial services. Regulated financial services entities, including CCPs, employ ICT services to support the delivery of financial services; this does *not* mean that financial services are ICT services.

In the draft FAQs issued by the European Supervisory Authorities (“ESAs”) earlier this year,<sup>3</sup> the ESAs indicated that services for which an EU financial entity must be authorised/licensed/registered to deliver the service are *not* ICT services.<sup>4</sup> We fully agree with the ESAs’ exclusion of regulated financial services from the definition of ICT services. Under the same logic, third country regulated financial services entities should also be exempt. Exempting both EU and non-EU regulated financial services entities would maintain a level playing field.

Moreover, if EU-licensable financial services provided by EU financial entities will not be characterized as ICT services within the scope of DORA, equivalent services provided by a regulated financial services entity in third country should receive the same treatment and exemption from inclusion as ICT services. Any other outcome would undermine and conflict with principles of international comity and deference to home country regulation. As in the EU, these third country financial services entities acting as financial market infrastructures are also subject to specific financial services and operational resilience legislation, regulation, and supervision.

Finally, it is important to note that DORA’s Level 1 text defining ICT services does not explicitly distinguish between EU and third country entities, as is done elsewhere in DORA. Therefore, doing so in guidance would be contrary to the principle of non-discrimination and of proportionality that underpin EU law.

For the reasons noted above, we request that the EC also provide an exemption for all regulated financial services entities, both in the EU and third countries.

We would be happy to discuss this topic further at your convenience and provide additional details or answer any questions. Please do not hesitate to reach out at [teo.floor@ccp-global.org](mailto:teo.floor@ccp-global.org).

Yours sincerely,

Teo Floor

CEO of CCP Global

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<sup>2</sup> Similar concerns have been expressed by AFME, EACH, ECSDA, FESE, and FIA in their “Joint Statement on DORA & definition of ICT Services” available at: [Link](#).

<sup>3</sup> EBA, EIOPA, ESMA, Frequently Asked Questions, DORA 2024 Dry Run exercise on reporting of registers of information, available at: [Link](#).

<sup>4</sup> *Ibid.*, in particular Answers to Questions 74 and 75.

## About CCP Global

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