

Comments

Public consultation on draft joint guidelines on the oversight cooperation and information exchange between the ESAs and the competent authorities (JC 2023-71)

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Question 1: Do you consider Guideline 1 to be clear, concise and comprehensible?

Yes

Question 2: Do you consider Guideline 2 to be clear, concise and comprehensible?

Yes

Question 3: Do you consider Guideline 3 to be clear, concise and comprehensible?

Yes

Question 4: Do you consider Guideline 4 to be clear, concise and comprehensible?

Yes

Question 5: Do you consider Guideline 5 to be clear, concise and comprehensible?

No

In the course of the DORA legislative process, it was deliberately decided not to require the regular transmission of the complete register to the supervisory authority. It should only be transmitted on request. DORA only requires an annual report on the number of new contracts and planned contracts with ICT service providers if important and critical functions are affected. The requirement for the supervisory authorities to submit the information registers to the supervisory forum means that the VU must regularly report the entire information register to the supervisory authority. Depending on the design of the reporting platform, this may involve an immense amount of work. We suggest limiting reporting to the Oversight Forum to ICT services that support important and critical functions.

Question 6: Do you consider Guideline 6 to be clear, concise and comprehensible?

Yes

Question 7: Do you consider Guideline 7 to be clear, concise and comprehensible?

Yes

Question 8: Do you consider Guideline 8 to be clear, concise and comprehensible?

No

Proposal: 8.1 Instead of 3 weeks, at least 6 weeks should be given before the start of the general investigation or review under Article 38(5)(20), Article 39(3)(21) and Article 36(1) to allow sufficient time for preparation.

Question 9: Do you consider Guideline 9 to be clear, concise and comprehensible?

Yes

Question 10: Do you consider Guideline 10 to be clear, concise and comprehensible?

No

Proposal: 10.1 The deadline should be extended from 10 working days to 15 working days after acceptance of the request for information to the critical third-party ICT service provider to allow sufficient time for processing.

Question 11: Do you consider Guideline 11 to be clear, concise and comprehensible?

Yes

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Question 12: Do you consider Guideline 12 to be clear, concise and comprehensible?

Yes

Question 13: Do you consider Guideline 13 to be clear, concise and comprehensible?

Yes

Question 14: Taking into account the specific scope of these Guidelines, do you consider that these Guidelines cover all the instances where cooperation and information exchange between competent authorities and the Lead Overseer is necessary?

Yes

Question 15: Do you consider that the implementation of these Guidelines will contribute to adequate cooperation and information exchange between the European Supervisory Authorities and competent authorities in the conduct of oversight activities?

Yes

Question 16: What are your main expectations regarding the impact on financial entities and critical ICT third-party service providers of the application of these Guidelines?

When considering whether to require contract termination, the supervisor should take into account whether the ICT service provider has a special market position and there are no real alternatives on the market, e.g. Bloomberg.