

Mr John Berrigan
Director General DG FISMA
European Commission
2 Rue de Spa
1000 Brussels
Belgium

Date : 5th December 2024

Dear Mr Berrigan

[CC: Mattias Levin, Jennifer Robertson, Tanya Panova, Marcel Haag, and Martin Merlin @ European Commission]

Re: WFE Perspectives on DORA: Global Regulatory Alignment

The World Federation of Exchanges (WFE), is the global trade association for regulated exchanges and clearing houses, representing the providers of over 250 pieces of market infrastructure that see more than \$124tr in trading pass through them annually (at end-2023). Our membership is spread across the Asia-Pacific region, EMEA and the Americas. We wish to draw your attention to the ongoing discussion surrounding the EU's Digital Operational Resilience Act (DORA), which could have substantial implications for EU Financial Entities receiving financial services from outside the EU.

Recently, the European Supervisory Authorities (ESAs) have indicated that EU regulated services are exempt from being classified as ICT services (as per the definition of ICT Services) under DORA. The ESA's have also indicated that this exemption does not extend to third country regulated financial services.¹ A consistent and coherent interpretation of the definition of ICT services under DORA is essential for ensuring an effective implementation. The EU Commission should draw a clear distinction between ICT services and other types of services, including financial services and we urge the EU Commission to urgently clarify that the same distinction applies to non-EU regulated financial services. Regulated financial services entities employ ICT services to support the delivery of financial services; this does *not* mean that financial services are ICT services. The distinction between ICT services and financial services is inherent and is evidenced by the fact that financial services are already subject to existing sector-specific regulatory frameworks.

Moreover, if EU regulated financial services will not be characterised as ICT services within the scope of DORA, similar services provided by third country regulated financial services entities should receive the same treatment and exemption from inclusion as ICT services. Any other


¹ CBI industry briefing on DORA, please find the recording [here](#). The question on the scope of ICT services (1:14:00 – 1:21:00 minutes) is addressed by Andrea Vetrone, the Secretary of the ESA's joint DORA committee, and Senior Expert and Head of the Digital Operational Resilience Act (DORA) implementation at EIOPA.

outcome would undermine and conflict with principles of international comity and deference to home country regulation.

In addition, the disruption to the provision of financial services that is likely to ensue does not serve the EU consumers of those services well. It would also increase the cost of business for EU market participants. As a consequence, this may reduce access by EU financial entities to non-EU markets, possibly leading to a loss of competitiveness for EU financial entities. Last, we recognise the potential ripple effects these actions may have on other jurisdictions.

We hope you find these comments helpful and would be pleased to discuss the matter, should you wish to do so.

Best regards,



Nandini Sukumar
Chief Executive Officer
The World Federation of Exchanges