

Brussels, 27 November 2024

Chairperson Petra Hielkema
European Insurance and Occupational Pensions Authority

Chair Verena Ross
European Securities and Markets Authority

Chairperson José Manuel Campa
European Banking Authority

Re: Request to the European Supervisory Authorities for a no-action on DORA enforcement

Dear Chairperson Hielkema,
Dear Chair Ross,
Dear Chairperson Campa,

PensionsEurope and AEIP request that the ESAs issue no-action letters to the national competent authorities (NCAs) to provide much-needed relief from DORA supervision and enforcement. The legal uncertainty arising from the absence of final Level 2 texts, such as the ITS on the register of information and the RTS on subcontracting makes it challenging to prepare for DORA compliance.

As the application date of DORA set for 17 January 2025 is looming, the lack of final delegated and implementing acts supplementing the level 1 DORA text raises legitimate concerns about the correct application of this new framework. Thus, it provides a sound legal basis for the ESAs to issue no-action letters¹.

PensionsEurope and AEIP consider that the main issues arising from the implementation of DORA are the renegotiation of contracts throughout ICT outsourcing value chains, the delivery of the register of information, and the reporting on major ICT-related incidents.

Finalizing contract renegotiations with ICT third-party providers is a basis for DORA implementation. This process cannot be finalized as long as there is legal uncertainty created by an absence of

¹ The ESA's competence to deliver an opinion in the form of a no-action letter is based on Article 9c (4) of [Regulation \(EU\) No 1093/2010](#), Article 9a (4) of [Regulation \(EU\) No 1095/2010](#) and Article 9a(4) of [Regulation 1094/2010](#) which provide that the ESAs may issue no-action letters, if the absence of a delegated or implementing act that would complement or specify the legislative act in question would raise legitimate doubts concerning the proper application of such act.

interpretation of DORA's definition of ICT services² and an absence of final delegated and implementing acts, setting the practical requirements of DORA.

Furthermore, following the publication of the ESAs final report on the ITS on the register of information in January 2024, financial entities were only informed in the second half of 2024 of the Commission's decision to reject it, after the ESA's published their opinion³. In the absence of the final text entering into force, PensionsEurope and AEIP consider the application date of 17 January 2025 as insufficient for the entities to grant optimal implementation of DORA.

It is crucial to have information from subcontracting chains to report major ICT-related incidents. However, this cannot be fully ensured as contract renegotiations are ongoing and as long as there remains uncertainty regarding the RTS on subcontracting. Indeed, the incident management process can be in place and operationalized but not the ICT incident information reporting system through the whole outsourcing chains.

Thus, uncertainties about the core parts of DORA hinder a common, uniform, and consistent application. It is also undermining consistent and effective supervisory and enforcement practices.

Delays in the delivery of delegated and implementing acts further complicate the problems for financial entities to comply with implementation deadlines that were already very ambitious, considering the level 1 text does not provide any transitional periods to comply with new requirements.

The ESAs decision published on 15 November 2024 to set a timeline to collect information for the designation of CTTs also raises issues as regards implementation deadlines. The ESAs expect NCAs to collect the registers of information from the financial entities ahead of the deadline of 30 April 2025 for NCAs to submit that related information to the ESAs. This is likely to be very challenging, both for the NCAs and the financial entities, as legal uncertainty is still present.

PensionsEurope and AEIP therefore respectfully ask the ESAs to send no-action letters to NCAs as soon as practicable, ahead of the 17 January 2025 date for DORA's entry into application. In doing so, the competent authorities should not prioritise any supervisory or enforcement action on DORA. It would also be consistent with Ursula von der Leyen's political guidelines of July 2024 that call for simplifying implementation and reducing administrative burden as a task for each commissioner.

We thank you in advance for taking into consideration our proposal and we remain at your disposal should you have any questions or need any further information.

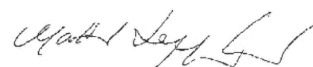
Yours sincerely,

Simone MIOTTO



AEIP Executive Director

Matti LEPPÄLÄ



PensionsEurope Secretary General/CEO

² See PensionsEurope [letter](#) to the EC sent on 14 October 2024.

³ See [ESAs response](#) to the European Commission's rejection of the technical standards on registers of information under the Digital Operational Resilience Act.

About PensionsEurope

PensionsEurope represents national associations of pension funds and similar institutions for workplace and other funded pensions. Some members operate purely individual pension schemes. PensionsEurope has **25 member associations** in 18 EU Member States and 3 other European countries⁴.

PensionsEurope member organisations cover different types of workplace pensions for approximately over **90 million people**. Through its Member Associations PensionsEurope represents approximately **€ 5 trillion of assets** managed for future pension payments. In addition, many members of PensionsEurope also cover personal pensions, which are connected with an employment relation.

PensionsEurope also has **18 Corporate and Supporter Members** which are various service providers and stakeholders that work with IORPs.

PensionsEurope has established a **Central & Eastern European Countries Forum (CEEC Forum)** to discuss issues common to pension systems in that region.

PensionsEurope has established a **Multinational Advisory Group (MAG)** which delivers advice on pension issues to PensionsEurope. It provides a collective voice and information sharing for the expertise and opinions of multinationals.

What PensionsEurope stands for

- A regulatory environment encouraging workplace pension membership;
- Ensure that more and more Europeans can benefit from an adequate income in retirement;
- Policies which will enable sufficient contributions and good returns.

Our members offer

- Economies of scale in governance, administration and asset management;
- Risk pooling and often intergenerational risk-sharing;
- Often “not-for-profit” and some/all of the costs are borne by the employer;
- Members of workplace pension schemes often benefit from a contribution paid by the employer;
- Wide-scale coverage due to mandatory participation, sector-wide participation based on collective agreements and soft-compulsion elements such as auto-enrolment;
- Good governance and alignment of interest due to participation of the main stakeholders.

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⁴ EU Member States: Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden. Non-EU Member States: Iceland, Norway, Switzerland.

AEIP Disclaimer

AEIP represents the European Paritarian Institutions of Social Protection in Brussels since 1997. AEIP is a Brussels-based advocacy organisation representing social protection providers – second pillar occupational pension, healthcare, and provident funds, managed on joint (paritarian) basis by employer and trade union organizations. **AEIP gathers 29 leading large and medium-sized national social protection providers from 13 EU Member States managing over €2.8 trillion in assets for more than 118 million citizens.** AEIP represents its members' values and interests at the level of both European and international institutions. In particular, AEIP - through its working groups - deals with EU coordinated pension schemes and pension funds, healthcare, unemployment, provident and paid-holiday schemes. Owing to the quality of its members and to the delegation of powers conferred to its Board, AEIP aims at becoming the leading body for the promotion of balanced paritarian social protection systems in Europe. AEIP promotes and develops programs and orientations aiming at the sustainability of paritarian social protection systems at local level taking into account the national specificities aiming at ensuring social cohesion in Europe. Based thereon, AEIP prepares recommendations, proposes local programs and influences European decisions to safeguard and promote the interests of its members. AEIP thinks ahead and anticipate modern paritarian social protection systems that take into account changing economic and societal pattern. It furthermore seeks to find a new balance between and across generations.

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