RESPONSE TO CONSULTATIONS

EUROPEAN COMMISSION CALL FOR EVIDENCE

Digital Omnibus Package and Simplification

association of the
luxembourg fund industry

Luxembourg, 14 October 2025

The Association of the Luxembourg Fund Industry (ALFI) represents the face and voice of the Luxembourg asset management and investment fund community. The Association is committed to the development of the Luxembourg fund industry by striving to create new business opportunities, and through the exchange of information and knowledge.

Created in 1988, the Association today represents over 1,500 Luxembourg domiciled investment funds, asset management companies and a wide range of business that serve the sector. These include depositary banks, fund administrators, transfer agents, distributors, legal firms, consultants, tax advisory firms, auditors and accountants, specialised IT and communication companies. Luxembourg is the largest fund domicile in Europe and a worldwide leader in cross-border distribution of funds. Luxembourg domiciled investment funds are distributed in more than 70 countries around the world.

We thank the European Commission, for the opportunity to participate in this Call for Evidence on the Digital Omnibus Package and Simplification on the proposed Guidelines on the sound management of third-party risk.

Our members appreciate the opportunity to share the views of the market practitioners in Luxembourg, with regards to the overall simplification of the Regulations of the Digital Package, as applied to their activities.

In order to provide evidence of the industry considerations with regards to those various topics in the context of this Call for Evidence, elements will be provided, focusing on priorities stemming from industry-related consideration.

Contents

I. Executive summary

ALFI, responding to this consultation from the perspective of investment funds managers and fund management companies, is providing comments, proposing alignments between regulatory requirements and clarifications, as well as raising some concerns to be considered as the views of the Luxembourg investment fund industry, in a segment focused on cross-border distribution within the European Union and globally.

ALFI's main advocacy points in this consultation are as follow:

1. Cyber Resilience Act: financial entities in scope of DORA should be excluded.
2. Regulatory enforceable standard set of contractual conditions, to reduce the bargaining power of third-party providers against their financial entity clients
3. Register of Information;
    a. Adjustments to the scope of registers of ICT Third-party service providers to focus only on critical and important functions
    b. Unicity of register of information and unique reporting, at local or consolidated level
    c. Provision of Template
    d. Single source of guidance
4. Incident reporting classification review, to focus on incidents of critical relevance
5. Application of the principle of proportionality, to exclude from scope smaller-size IFMs (already complying with stringent sectoral regulations), ICT providers not supporting CIFs and lower layers of subcontracting.

****

II. Response to the Call for Evidence

As a general consideration, and while we appreciate the purpose of the Digital Operational Resilience Act to ensure resilience in the financial sector and avoid any incident of systemic impact in the industry, we would like to reiterate that governance and oversight on delegated activities are already covered, to a certain extent, in the sectorial regulations applied to the financial sector and the investment fund industry in particular (e.g. AIFMD II and UCITS V). In view of the potential overlap with existing regulatory requirements and the existing governance and oversight requirements therein, we would consider that particular care is necessary to avoid diverging requirements.

More specifically in the context of the Digital Simplification Package, we would like to raise the below concerns and considerations:

1. Cyber Resilience Act (CRA)

We would reiterate that Financial Entities in the scope of DORA should be fully excluded from the scope of the CRA, so as to avoid redundancy of regulatory requirements.

2. Standard contractual clauses

With regards to contractual conditions between financial entities and ICT third-party providers, we would see merit in the Guidelines providing a set of minimum standard clauses, applicable to ICT TPSPs (and ICT TPSPs supporting CIFs specifically), so that such clauses would set a common ground for contractual conditions (re-)negotiations with ICT TPSPs and clarify the respective responsibilities and duties. Such a minimum set of contractual conditions should be set alongside with DORA Level 2 regulatory elements, to ensure convergence and consistency across the board.

3. Register of Information

3.1 Scope of the Register of Information

Overall, considering the current EU initiatives with regards to simplification, we would be of the view that third-party service providers (TPSPs) supporting non-critical and important functions (CIFs) should be completely removed from the scope of the Register of TPSPs reported to the National Competent Authorities (NCA) and subsequently to the ESA, in the context of the Digital Operational Resilience Act (DORA) in particular. Specifically, we would advise that while financial entities would still be required to maintain an inventory of relevant non-critical ICT services, ensuring proportionality while maintaining necessary oversight, they would restrict the reporting to the NCA and the ESAs, to those TPSPs supporting CIFs only. The majority of entities maintain a register outside their third-party risk management systems and the transfer of this data on a regular basis is an overhead which is not in line with the Operational Resilience risk posed by these providers.

3.2 Unicity of Register of Information

Most financial entities would have different entities and subsidiaries, located in different jurisdictions across the Union. Removing the requirement, for financial entities, to having to provide the Register of Information in multiple jurisdictions (both at consolidated / group level and at single entity level) appears as a major step toward simplification. Moreover, members reported that noticeable differences exist, in the format of the Register expected by the various NCAs, for group level and entity level reporting. Harmonizing the format and the guidance across the EU would be beneficial. This is even more appropriate as we understand that a merge of registers is contemplated with those relating to the non-ICT perimeter under the proposed EBA guidelines currently under construction.

3.3 Provision of a simple excel and supporting macro template

As stated previously in a number of responses to the public consultations, the complexity of the Register of Information format has consumed significant time for submitting entities. The provision of a clear excel template would ease this burden in particular for smaller entities who may not have the option to invest in a separate system.

3.4 Clear Register of Information Guidance

A single source of information should be provided on the format and the validation rules. These are spread currently between an RTS, a guidance website /FAQs from the EBA, the ESAs Q&A and local Competent Authority guidance. Entities will need to submit again in Q1 2026, yet the guidance remains split across several sources and must be tracked regularly in order to keep up with the current position. A single source would reduce the number of questions received by the ESAs and Competent Authorities and ensure a uniform approach. It will also reduce the effort from the ESAs, Competent Authorities and Financial Entities as fewer resubmissions should be required.

4. Incident reporting

Further clarity and simplification would be expected, with regards to local occurrences of incidents, as to report only at local level, rather than duplicating the reporting at group level too.

Furthermore, the incident reporting framework should be focusing on material incidents, while not including minor recurrences.

In incident classification and reporting, we would be of the view that the current framework for classification of incident may lead to over-reporting, hence providing noise over meaningful message to the NCAs and the European Supervisor. We would suggest further distinction should be made, to focus incident reporting on incident with a potential systemic impact, or those with significant impact on resilience in the financial sector, in the spirit of the Regulation and in application of the principle of proportionality. An example of this would be the adjustment of some of the criteria to be industry specific, such as the two hour downtime. Within the Asset Management industry there are very few processes which have an RTO of two hours, as impact is not experienced until 4 or 8 hours. This means e.g. in the case that an incident impacts two EU member states and the downtime exceeds two hours, the entity will need to report, while potentially not experiencing any business impact.

5. Principle of proportionality

We would like to raise concerns with respect to the application of the principle of proportionality. We would be of the view that the outcome of the digital simplification package should enable NCAs, and entities subsequently, to adapt requirements based on size, systemic relevance, and risk exposure, thereby avoiding a stringent one-size-fits-all approach.

More specifically, the following considerations would allow for a more effective application of the principle of proportionality:

- Specific consideration and exemptions should be foreseen, for Class 2 investment firms and management companies for these entities are neither systemically relevant, nor part of the banking sector. This is particularly acute, should such entities rely entirely on the Group's parent company for the provision of ICT services and do not have direct contractual relationships with the ICT TPSPs.

- Sub-outsourcing: we would be of the view that a limit in the depth of the outsourcing chain considered should be set, so as to reflect the potential impact of respective sub-contractors in the actual performance of the critical and important function. It should be clearly stated that sub-contractors which are not critical to the performance of the CIF may not be required to be reported in the RoI to the NCAs and the ESAs, nor be applied the same requirements with regards to third party-risk management. In addition, for the oversight of subcontractors which are material to a CIF, the reality of the RTS is that the risk analysis of the full outsourcing chain faces practical issues. In the example of a large cloud infrastructure provider, while it may be possible for them to provide design information on their oversight and provide a list of subcontractors, few are willing to share the outcomes of their risk assessment or oversight and even fewer are able to provide the details of the next level of subcontracting (5^{th} parties). This has introduced a huge overhead on the financial entities, following up continuously for information which may never be shared. As per feedback provided during the consultation, Financial Entities have little to no influence with their 5^{th} or 6^{th} party subcontractors. We would recommend that the wording is revised to reflect that, rather than partially permitted, the entities should be fully able to rely on the work performed by their third party on subcontracting. Entities could monitor exceptions reported by this party through regular interactions and oversight such as the service management meetings.

- Scope limitation to ICT Services supporting CIFs: Requirements should be limited to ICT services that directly support CIFs. Extending obligations to non-CIF-related services adds complexity and costs with limited added value. Furthermore, we would recommend adding a criticality assessment for ICT services within the scope of the Register; for not all ICT solutions supporting CIFs should be classified as critical nor included in the RoI, even following its simplification. Entities should retain the ability to determine the criticality of ICT services based on risk assessment factors such as size, scale, and operational impact to ensure that only key dependencies are included.

About ALFI

The Association of the Luxembourg Fund Industry (ALFI) represents the face and voice of the Luxembourg asset management and investment fund community. The Association is committed to the development of the Luxembourg fund industry by striving to create new business opportunities, and through the exchange of information and knowledge.

Created in 1988, the Association today represents over 1,500 Luxembourg domiciled investment funds, asset management companies and a wide range of business that serve the sector. These include depositary banks, fund administrators, transfer agents, distributors, legal firms, consultants, tax advisory firms, auditors and accountants, specialised IT and communication companies. Luxembourg is the largest fund domicile in Europe and a worldwide leader in cross-border distribution of funds. Luxembourg domiciled investment funds are distributed in more than 70 countries around the world.