



Council of the European Union
General Secretariat

Brussels, 30 November 2020

**Interinstitutional files:
2020/0266(COD)**

WK 13889/2020 ADD 1

LIMITE

**EF
ECOFIN
CODEC**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	Commission
To:	Working Party on Financial Services (Digital Operational Resilience)
Subject:	Interaction between DORA and outsourcing rules in the Union legislation - Commission services non-paper ANNEX

Outsourcing provisions

Central securities depositories

Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (CSDR)

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
Article 30 Outsourcing <i>1. Where a CSD outsources services or activities to a third party, it shall remain fully responsible for discharging all of its obligations under this Regulation and shall comply at all times with the following conditions:</i>	Article 25 (1) DORA	-
<i>(a) outsourcing does not result in the delegation of its responsibility;</i>	Article 25 (1) DORA	-
<i>(b) the relationship and obligations of the CSD towards its participants or issuers are not altered;</i>	-	✓
<i>(c) the conditions for the authorisation of the CSD do not effectively change;</i>	-	✓
<i>(d) outsourcing does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those functions;</i>	-	✓
<i>(e) outsourcing does not result in depriving the CSD of the systems and controls necessary to manage the risks it faces;</i>	-	✓

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
<i>(f) the CSD retains the expertise and resources necessary for evaluating the quality of the services provided, the organisational and capital adequacy of the service provider, for supervising the outsourced services effectively and for managing the risks associated with the outsourcing on an ongoing basis;</i>	DORA Article 25(1) requires in its general principles that the firm manage its ICT third party risk as an integral component of ICT risk within their ICT risk management framework	-
<i>(g) the CSD has direct access to the relevant information of the outsourced services;</i>	DORA enables access rights, inspection and audit rights for the financial entity. Articles 25 and 27 DORA.	✓
<i>(h) the service provider cooperates with the competent authority and the relevant authorities in connection with the outsourced activities;</i>	DORA requires financial entities to have contractual clauses on the obligation of the ICT third party provider to fully cooperate with the competent authorities and resolution authorities of the financial entity. Article 27 (2) (i) DORA.	-
<i>(i) the CSD ensures that the service provider meets the standards set down by the relevant data protection law which would apply if the service providers were established in the Union. The CSD is responsible for ensuring that those standards are set out in a contract between the parties and that those standards are maintained.</i>	General provisions in Article 26 (2) DORA. CSDR more specific.	✓

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
<i>2. The CSD shall define in a written agreement its rights and obligations and those of the service provider.</i>	DORA more specific. Article 27 (1) DORA requires the contract to be documented in one written document available to the parties on paper or in a downloadable and accessible format.	-
<i>The outsourcing agreement shall allow the CSD to terminate the agreement.</i>	Article 25 (8) Dora on termination more specific and automatic.	-
<i>3. A CSD and a service provider shall make available upon request to the competent authority and the relevant authorities all information necessary to enable them to assess the compliance of the outsourced activities with the requirements of this Regulation.</i>	Articles 25 (strategy, Register) and 27 DORA. While CSDR language is specific here, it is compliant and not overlapping/contradicting DORA approach.	-
<i>4. The outsourcing of a core service shall be subject to authorisation under Article 19 by the competent authority.</i>	-	DORA does not aim to regulate the authorisation process. Left to sectoral legislation.
<i>5. Paragraphs 1 to 4 shall not apply where a CSD outsources some of its services or activities to a public entity and where that outsourcing is governed by a dedicated legal, regulatory and operational framework which has been jointly agreed and formalised by the public entity and the relevant CSD and agreed by the competent authorities on the basis of the requirements established in this Regulation.</i>	-	Specific exemption provided in CSDR and continuing to apply. DORA does not touch this provision.
Article 19 Extension and outsourcing of activities and services		

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
<p>1. An authorised CSD shall submit an application for authorisation to the competent authority of its home Member State where it wishes to outsource a core service to a third party under Article 30 or extend its activities to one or more of the following:</p> <p>(a) additional core services listed in Section A of the Annex, not covered by the initial authorisation;</p> <p>(b) ancillary services permitted under, but not explicitly listed in Section B of the Annex, not covered by the initial authorisation;</p> <p>(c) the operation of another securities settlement system;</p> <p>(d) the settlement of all or part of the cash leg of its securities settlement system in the books of another settlement agent;</p> <p>(e) setting up an interoperable link, including those with third-country CSDs.</p> <p>2. The granting of authorisation under paragraph 1 shall follow the procedure laid down in Article 17. The competent authority shall inform the applicant CSD whether the authorisation has been granted or refused within three months of the submission of a complete application.</p> <p>3. CSDs established in the Union that intend to establish an interoperable link shall submit an application for authorisation as required under point (e) of paragraph 1, to their respective competent authorities. Those authorities shall consult each other regarding the approval of the CSD link. In the event of divergent decisions and if agreed by both competent authorities the matter may be referred to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.</p> <p>4. The authorities referred to in paragraph 3 shall refuse to authorise a link only where such a CSD link would threaten the smooth and orderly functioning of the financial markets or cause systemic risk.</p>		<p>Not DORA's remit (authorisation matters).</p>

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
<p>5. <i>Interoperable links of CSDs that outsource some of their services related to those interoperable links to a public entity in accordance with Article 30(5) and CSD links that are not referred to in point (e) of paragraph 1 shall not be subject to authorisation under that point but shall be notified to the CSDs' competent and relevant authorities prior to their implementation by providing all relevant information that allows such authorities to assess compliance with the requirements provided in Article 48.</i></p> <p>6. <i>A CSD established and authorised in the Union may maintain or establish a link with a third-country CSD in accordance with the conditions and procedures provided in this Article. Where links are established with a third-country CSD the information provided by the requesting CSD shall allow the competent authority to evaluate whether such links fulfil the requirements provided in Article 48 or the requirements that are equivalent to those provided in Article 48.</i></p> <p>7. <i>The competent authority of the requesting CSD shall require that CSD to discontinue a CSD link that has been notified when such link does not fulfil the requirements provided for in Article 48 and thereby would threaten the smooth and orderly functioning of the financial markets or cause systemic risk. Where a competent authority requires the CSD to discontinue a CSD link, it shall follow the procedure laid down in Article 20(2) and (3).</i></p> <p>8. <i>The additional ancillary services explicitly listed in Section B of the Annex shall not be subject to authorisation, but shall be notified to the competent authority prior to their provision.</i></p>		<p>For para 5 links to the exemption in Article 30 (5) which DORA does not cover/touch.</p>
<p>Article 76 Entry into force and application</p> <p>1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. Article 3(1) shall apply from 1 January 2023 to transferable securities issued after that date and from 1 January 2025 to all transferable securities.</p> <p>3. Article 5(2) shall apply from 1 January 2015.</p>		<p>Not relevant for DORA</p>

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
By way of derogation from the first subparagraph of this paragraph, in the case of a trading venue that has access to a CSD referred to in Article 30(5), Article 5(2) <i>shall apply at least six months before such a CSD outsources its activities to the relevant public entity, and in any event from 1 January 2016.</i>		
CSDR Delegated act Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories		
Article 68 Operational risks that may be posed by critical utilities and critical service providers 1. A CSD shall identify critical utilities providers and critical service providers that may pose risks to CSD's operations <i>due to its dependency on them.</i>	DORA requires financial entities to identify interconnections with ICT third-party providers (Article 7 Dora) and have a Register of information on all contractual arrangements on the use of ICT services provided by ICT third party providers (distinguishing those that cover critical or important functions). DORA has mandates for RTS/ITS in relation to the Registers. On ICT third party providers, DORA more detailed. However, CSDR DA refers to all types of service providers. DORA (and its future delegated/implementing	-

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
	acts) would cover ICT third parties dependencies. Further consideration when bringing into DORA Level 2 these elements - see below:	
2. A CSD shall take appropriate actions to <i>manage the dependencies</i> referred to in paragraph 1 through adequate contractual and organisational arrangements, as well as through specific provisions in its business continuity policy and disaster recovery plan, before any relationship with those providers becomes operational.	As above. On ICT risk, DORA-Level 2 acts would be more detailed/specific. This would be part of the exercise of cleaning up existing Level 2 acts (in the financial services acquis acts) and carrying them over and updating them in the are mandated by DORA - see Article 14 (f) DORA.	-
3. A CSD shall ensure that its <i>contractual arrangements with any providers</i> identified in accordance with paragraph 1 require a <i>prior approval of the CSD</i> for the service provider to <i>further subcontract</i> any elements of the services provided to the CSD. Where the service provider <i>outsources its services</i> in accordance with the first subparagraph, the CSD shall ensure that the level of service and its resilience is not impacted and full access by the CSD to the information necessary for the provision of the outsourced services is preserved.	-	CSDR DA specific rules on authorization
4. A CSD shall establish clear lines of communication with the providers referred to in paragraph 1 to facilitate the exchange of information in both ordinary and exceptional circumstances.		CSDR DA more detailed

CSDR	Compliant provisions CSDR/DORA; no additional burden for the financial entity.	Compliant provisions CSDR/DORA; DORA does not regulate these aspects/not in the level of detail of the sectoral legislation
5. A CSD shall inform its competent authority about <i>any dependencies</i> on utilities and <i>service providers identified under paragraph 1</i> and take measures to ensure that authorities can obtain information about the performance of those providers, either directly from utilities or service providers or through the CSD.	Aligned with DORA Article 25 (4)	
<p>Article 75 IT systems</p> <p>8. The CSD shall have arrangements for the <i>selection and substitution of IT third party service providers</i>, CSD's timely access to all necessary information, as well as proper controls and monitoring tools.</p>	<p>This article would be fully taken into account in the exercise of cleaning up existing Level 2 acts in the financial services acquis and carrying them over in the Level 2 acts mandated by DORA (see article 14 DORA). Since paragraph 8 refers to the selection and substitution of IT third party providers this would be in future part of DORA level 2 DA.</p>	

Central counterparties

Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR)

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
<p>Article 25f Request for information</p> <p>1. ESMA may by simple request or by decision require recognised CCPs <i>and related third parties to whom those CCPs have outsourced operational functions or activities</i> to provide all necessary information to enable ESMA to carry out its duties under this Regulation:</p> <p>Article 25g General investigations</p> <p>1. In order to carry out its duties under this Regulation, ESMA may conduct necessary investigations of Tier 2 CCPs and related third parties to whom those CCPs <i>have outsourced operational functions, services or activities</i>. To that end, the officials and other persons authorised by ESMA shall be empowered to: ...</p> <p>Article 25h On-site inspections</p> <p>1. In order to carry out its duties under this Regulation, ESMA may conduct all necessary on-site inspections at any business premises, land or property of Tier 2 CCPs and related <i>third parties to whom those CCPs have outsourced operational functions, services or activities</i>.</p> <p>Article 28</p>	-	Specific EMIR provisions for ESMA. Not DORA's remit.

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
3. The risk committee shall advise the board on any arrangements that may impact the risk management of the CCP, such as a significant change in its risk model, the default procedures, the criteria for accepting clearing members, the clearing of new classes of instruments, or <i>the outsourcing of functions...</i>		
<p>Article 35 Outsourcing</p> <p>1. <i>Where a CCP outsources operational functions, services or activities, it shall remain fully responsible for discharging all of its obligations under this Regulation and shall ensure at all times that:</i></p>	Article 25 (1) DORA	-
<i>(a) outsourcing does not result in the delegation of its responsibility;</i>	Article 25 (1) DORA	-
<i>(b) the relationship and obligations of the CCP towards its clearing members or, where relevant, towards their clients are not altered;</i>	-	✓
<i>(c) the conditions for authorisation of the CCP do not effectively change;</i>	-	✓
<i>(d) outsourcing does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those mandates;</i>	-	✓
<i>(e) outsourcing does not result in depriving the CCP from the necessary systems and controls to manage the risks it faces;</i>	-	✓

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
<i>(f) the service provider implements equivalent business continuity requirements to those that the CCP must fulfil under this Regulation;</i>	Article 27 (2) (g) DORA requires contracts to contain requirements for the ICT third-party provider to implement and test business contingency plans and have ICT security measures, tools and policies guaranteeing a secure provision of services by the financial entity in line with its regulatory framework	-
<i>(g) the CCP retains the necessary expertise and resources to evaluate the quality of the services provided and the organisational and capital adequacy of the service provider, and to supervise the outsourced functions effectively and manage the risks associated with the outsourcing and supervises those functions and manages those risks on an ongoing basis;</i>	DORA Article 25(1) requires in its general principles that the firm manage its ICT third party risk as an integral component of ICT risk within their ICT risk management framework	-
<i>(h) the CCP has direct access to the relevant information of the outsourced functions;</i>	DORA enables access rights, inspection and audit rights for the financial entity. Articles 25 and 27 DORA.	✓
<i>(i) the service provider cooperates with the competent authority in connection with the outsourced activities;</i>	DORA requires financial entities to have	-

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
	contractual clauses related to the obligation of the ICT third-party providers to fully cooperate with (DORA) competent authorities and with the resolution authorities of the financial entity. Article 27 (2) (i) DORA.	
(j) the service provider protects any confidential information relating to the CCP and its clearing members and clients or, where that service provider is established in a third country, ensures that the data protection standards of that third country, or those set out in the agreement between the parties concerned, are comparable to the data protection standards in effect in the Union.	Article 26 (2) DORA. EMIR more detailed.	✓
<i>A CCP shall not outsource major activities linked to risk management unless such outsourcing is approved by the competent authority. The decision of the competent authority shall be subject to an opinion of the college pursuant to Article 19.</i>	-	DORA does not aim to regulate aspects of authorisation process. Left to sectoral legislation.
2. <i>The competent authority shall require the CCP to allocate and set out its rights and obligations, and those of the service provider, clearly in a written agreement.</i>	More specific DORA provisions. Article 27 (1) DORA requires rights and obligations of the financial entity and of the ICT third party service provider to be clearly allocated and set out in writing. The full contract	-

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
	which includes the service level agreements should be documented in one written document available to the parties on paper or in a downloadable and accessible format.	
3. A CCP shall make all information necessary to enable the competent authority to assess the compliance of the performance of the outsourced activities with this Regulation available on request.	Articles 25 (strategy, Register) and 27 DORA. While EMIR language is specific here, it is compliant with DORA approach.	-
EMIR Delegated Act Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties		
Article 2 Information to be provided to ESMA for the recognition of a CCP An application for recognition submitted by a CCP established in a third country shall contain at least the following information: (i) <i>details of any outsourcing arrangements;</i>	-	DORA does not regulate this.

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
<p>Article 3 Governance arrangements</p> <p>2. A CCP shall have adequate staff to meet all obligations arising from this Regulation and from Regulation (EU) No 648/2012. A CCP shall not share its staff with other group entities, unless under the terms of an <i>outsourcing arrangement</i> in accordance with Article 35 of Regulation (EU) No 648/2012.</p> <p>4. A CCP that is part of a group shall take into account any implications of the group for its own governance arrangements including whether it has the necessary level of independence to meet its regulatory obligations as a distinct legal person and whether its independence could be compromised by the group structure or by any board member also being a member of the board of other entities of the same group. <i>In particular, such a CCP shall consider specific procedures for preventing and managing conflicts of interest including with respect to outsourcing arrangements.</i></p>	-	<p>For the last part of paragraph 3: DORA does not regulate this.</p> <p>For the last part of paragraph 4: Article 25 (5) DORA requires financial entities before entering a contractual arrangement on the use of ICT services to identify and assess conflicts of interest that the contractual arrangement may cause. No overlap. DORA has an overarching principle. EMIR has more specific language (specific procedures) .</p>
<p>Article 7 Organisational structure and separation of the reporting lines</p> <p>2. The board shall assume at least the following responsibilities:</p> <p>(f) the oversight of <i>outsourcing arrangements</i>;</p>	-	DORA does not regulate in this level of detail.
<p>Article 11 Internal auditing</p>	-	

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
3. Internal audit shall assess the effectiveness of the CCP's risk management processes and control mechanisms in a manner that is proportionate to the risks faced by the different business lines and independent of the business areas assessed. The internal audit function shall have the necessary access to information in order to review all of the CCP's activities and operations, processes and systems, including <i>outsourced activities</i> .		DORA does not regulate in this level of detail.
<p>Article 17</p> <p>3. The business continuity policy shall take into account external links and interdependencies within the financial infrastructure including trading venues cleared by the CCP, securities settlement and payment systems and credit institutions used by the CCP or a linked CCP. <i>It shall also take into account critical functions or services which have been outsourced to third-party providers.</i></p>	<p>This article - which talks about business continuity of CCPs - would be carried over in the new RTS based on the DORA empowerment in Article 14.</p> <p>In that context, the last sentence of the third paragraph talks about how the critical functions or services outsourced to third party providers.</p>	-

Trade repositories

Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR)

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
<p>Article 61 Request for information</p> <p>1. ESMA may by simple request or by decision require trade repositories and related third parties to whom the trade repositories <i>have outsourced operational functions or activities to provide all information that is necessary in order to carry out its duties under this Regulation.</i></p>	-	Specific EMIR provisions for ESMA powers. Not DORA remit.
<p>ANNEX III List of infringements referred to in Article 25j(1)</p> <p>III. Infringements relating to operational requirements: Infringements relating to operational requirements: (c) a Tier 2 CCP infringes the second subparagraph of Article 35(1) by <i>outsourcing major activities linked to the risk management of that CCP without ESMA's approval;</i></p>	-	Specific EMIR provisions for ESMA powers. Not DORA's remit.
<p>Commission Delegated Regulation (EU) No 150/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the details of the application for registration as a trade repository</p>		

EMIR	EMIR/DORA compliant provisions; no additional burden for the financial entity.	EMIR/DORA compliant provisions; DORA does not regulate this aspect/not in the level of detail of the sectoral legislation
<p>Article 11 Fitness and properness</p> <p>An application for registration as a trade repository shall contain the following information about the applicant's staff:</p> <p>(d) the identity of the dedicated staff members and those members of the staff that are operating under an <i>outsourcing arrangement</i>;</p>		Not DORA remit (registration process to be dealt with by sectoral legislation)
<p>Article 16 Information Technology resources and outsourcing</p> <p>An application for registration as a trade repository shall contain the following information relating to information technology resources:</p> <p>(d) the <i>outsourcing arrangements</i> entered into by the applicant, including:</p> <p>(i) detailed definitions of the services to be provided, including measurable scope of those services, the granularity of the activities as well as conditions under which those activities are rendered, and their timelines;</p> <p>(ii) service level agreements with clear roles and responsibilities, metrics and targets for every key requirement of the trade repository that is outsourced, the methods employed to monitor the service level of <i>the outsourced functions and the measures or actions to be taken in the event of not meeting service level targets</i>;</p> <p>(iii) a copy of the contracts governing such arrangements.</p>	-	Point (ii) possibly to be carried over into DORA level 2 acts.

Credit institutions

Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (CRD)

and

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR)

CRD/CRR	CRD-CRR/DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	CRD-CRR/DORA compliant provision; DORA does not regulate this aspect or with this level of detail
No specific provisions in Level 1 ; EBA guidelines on outsourcing		
<p>Article 65 CRD Administrative penalties and other administrative measures</p> <p>3. Competent authorities shall have all information gathering and investigatory powers that are necessary for the exercise of their functions. Without prejudice to other relevant provisions laid down in this Directive and in Regulation (EU) No 575/2013 those powers shall include:</p>	-	CRD specific rules on supervisors' accesses to third parties.

<p>(a) the power to require the following natural or legal persons to provide all information that is necessary in order to carry out the tasks of the competent authorities, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes:</p> <p style="text-align: center;"><i>(vi) third parties to whom the entities referred to in points (i) to (iv) have outsourced operational functions or activities;</i></p>		
<p>Article 190 CRR Credit risk control</p> <p><i>Institutions using pooled data in accordance with Article 179(2) may outsource the following tasks:</i></p> <p>(a) production of information relevant to testing and monitoring grades and pools; (b) production of summary reports of the institution's rating systems; (c) production of information relevant to a review of the rating criteria to evaluate if they remain predictive of risk; (d) documentation of changes to the rating process, criteria or individual rating parameters; (e) production of information relevant to ongoing review and alterations to models used in the rating process.</p> <p>4. Institutions making use of paragraph 3 shall ensure that the competent authorities have access to all relevant information from the third party that is necessary for examining compliance with the requirements and that the competent authorities may perform on-site examinations to the same extent as within the institution.</p>	-	No impact on DORA. Specific CRR rule for credit risk control.
<p>Article 316 Relevant indicator</p> <p>1. For institutions applying accounting standards established by Directive 86/635/EEC, based on the accounting categories for the profit and loss account of institutions under Article 27 of that Directive, the relevant indicator is the sum of the elements listed in Table 1 of this paragraph. Institutions shall include each element in the sum with its positive or negative sign.</p> <p>Table 1 Institutions shall adjust these elements to reflect the following qualifications:</p>	-	No impact on DORA. Specific CRR rule for own funds requirements under operational risk.

<p>(a) institutions shall calculate the relevant indicator before the deduction of any provisions and operating expenses.</p> <p><i>Institutions shall include in operating expenses fees paid for outsourcing services rendered by third parties which are not a parent or subsidiary of the institution or a subsidiary of a parent which is also the parent of the institution.</i></p> <p><i>Institutions may use expenditure on the outsourcing of services rendered by third parties to reduce the relevant indicator where the expenditure is incurred from an undertaking subject to rules under, or equivalent to, this Regulation;</i></p>		
--	--	--

Investment firms

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID)

Directive (EU) 2019/2034 on the prudential supervision of investment firms (not yet applicable)

<p>MiFID/MiFIR</p>	<p>MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p>Article 16 Organisational requirements</p> <p>5. An investment firm shall ensure, when <i>relying on a third party</i> for the performance of operational functions which are critical for the provision of continuous and satisfactory service to clients and the performance of investment activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk. <i>Outsourcing of important operational functions may not be</i></p>	<p>Article 25 (2) (b) DORA aligned with general principles stated by MiFID for outsourcing of critical functions (firm takes reasonable steps to avoid undue operational risk; avoid impairing materially</p>	<p>-</p>

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<i>undertaken in such a way as to impair materially the quality of its internal control and the ability of the supervisor to monitor the firm's compliance with all obligations.</i>	the quality of firms' internal control and supervisors' abilities to monitor firms' compliance with all obligations)	
<p>Article 40 Obligation to provide information</p> <p>A third-country firm intending to obtain authorisation for the provision of any investment services or the performance of investment activities with or without any ancillary services in the territory of a Member State through a branch shall provide the competent authority of that Member State with the following:</p> <p>(b) all relevant details of the firm (name, legal form, registered office and address, members of the management body, relevant shareholders) and a programme of operations setting out the investment services and/or activities as well as the ancillary services to be provided and the organisational structure of the branch, <i>including a description of any outsourcing to third parties of essential operating functions;</i></p>		No impact on DORA. Specific MiFID rule for third-country firms wishing to provide investment services.
<p>Commission Delegated Regulation (EU) 2017/589 of 19 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading</p>		
<p>Article 4 IT outsourcing and procurement</p> <p><i>(Article 17(1) of Directive 2014/65/EU)</i></p>	-	-

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>1. An investment firm shall remain fully responsible for its obligations under this Regulation where it <i>outsources or procures software or hardware used in algorithmic trading activities.</i></p> <p>2. An investment firm shall have sufficient knowledge and the necessary documentation to ensure effective compliance with paragraph 1 in relation to any procured or outsourced hardware or software used in algorithmic trading.</p>		
<p>Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive</p>		
<p>Article 31 Outsourcing critical or important operational functions (Article 16(2) and of Article 16(5) first subparagraph of Directive 2014/65/EU)</p> <p>1. Investment firms outsourcing critical or important operational functions shall remain fully responsible for discharging all of their obligations under Directive 2014/65/EU and shall comply with the following conditions:</p> <p>(a) the outsourcing does not result in the delegation by senior management of its responsibility;</p> <p>(b) the relationship and obligations of the investment firm towards its clients under the terms of Directive 2014/65/EU is not altered;</p> <p>(c) the conditions with which the investment firm must comply in order to be authorised in accordance with Article 5 of Directive 2014/65/EU, and to remain so, are not undermined;</p>	<p>Paragraph 1</p> <p>No tension DORA - MiFID Delegated Regulation for points (a) – (d). Points (a) and (b) are general principles similar to the ones in CSDR or EMIR and would entail no additional burden.</p> <p>Points (c) and (d) are more specific and relate to</p>	

<p>MiFID/MiFIR</p>	<p>MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p><i>(d) none of the other conditions subject to which the firm's authorisation was granted is removed or modified.</i></p> <p><i>2. Investment firms shall exercise due skill, care and diligence when entering into, managing or terminating any arrangement for the outsourcing to a service provider of critical or important operational functions and shall take the necessary steps to ensure that the following conditions are satisfied:</i></p> <p><i>(a) the service provider has the ability, capacity, sufficient resources, appropriate organisational structure supporting the performance of the outsourced functions, and any authorisation required by law to perform the outsourced functions, reliably and professionally;</i></p> <p><i>(b) the service provider carries out the outsourced services effectively and in compliance with applicable law and regulatory requirements, and to this end the firm has established methods and procedures for assessing the standard of performance of the service provider and for reviewing on an ongoing basis the services provided by the service provider;</i></p> <p><i>(c) the service provider properly supervises the carrying out of the outsourced functions, and adequately manage the risks associated with the outsourcing;</i></p> <p><i>(d) appropriate action is taken where it appears that the service provider may not be carrying out the functions effectively or in compliance with applicable laws and regulatory requirements;</i></p> <p><i>(e) the investment firm effectively supervises the outsourced functions or services and manage the risks associated with the outsourcing and to this end the firm retains the necessary expertise and resources to supervise the outsourced functions effectively and manage those risks;</i></p>	<p>authorization, which DORA does not touch.</p> <p>Paragraph 2 points (a) – (e) set conditions aligned with DORA approach and more specific.</p>	

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>(f) the service provider has disclosed to the investment firm any development that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with applicable laws and regulatory requirements;</i></p> <p><i>(g) the investment firm is able to terminate the arrangement for outsourcing where necessary, with immediate effect when this is in the interests of its clients, without detriment to the continuity and quality of its provision of services to clients;</i></p> <p><i>(h) the service provider cooperates with the competent authorities of the investment firm in connection with the outsourced functions;</i></p> <p><i>(i) the investment firm, its auditors and the relevant competent authorities have effective access to data related to the outsourced functions, as well as to the relevant</i></p>	<p>Art 31 (2) (e) mirrors the approach in DORA Article 25 (1)</p> <p>Art 31 (2) (f) is in part / carried over in DORA 27 (2) (e) meaning that there would be contractual clauses giving effect to the obligation in DORA Article 27 (2) (e) that the ICT service providers notifies developments which may have a material effect on its ability to carry out critical functions.</p> <p>Article 31 (2) (h) is reflected in DORA Article 27 (2) (i). DORA is wider (also</p>	

<p>MiFID/MiFIR</p>	<p>MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p><i>business premises of the service provider, where necessary for the purpose of effective oversight in accordance with this article, and the competent authorities are able to exercise those rights of access;</i></p> <p><i>(j) the service provider protects any confidential information relating to the investment firm and its clients;</i></p> <p><i>(k) the investment firm and the service provider have established, implemented and maintained a contingency plan for disaster recovery and periodic testing of backup facilities, where that is necessary having regard to the function, service or activity that has been outsourced;</i></p> <p><i>(l) the investment firm has ensured that the continuity and quality of the outsourced functions or services are maintained also in the event of termination of the outsourcing either by transferring the outsourced functions or services to another third party or by performing them itself.</i></p> <p><i>3. The respective rights and obligations of the investment firms and of the service provider shall be clearly allocated and set out in a written agreement. In particular, the investment firm shall keep its instruction and termination rights, its rights of information, and its right to inspections and access to books and premises. The agreement shall ensure that outsourcing by the service provider only takes place with the consent, in writing, of the investment firm.</i></p> <p><i>4. Where the investment firm and the service provider are members of the same group, the investment firm may, for the purposes of complying with this Article and Article 32,</i></p>	<p>resolution authorities – possible impact for investment firms under BRRD)</p> <p>Article 31 (2) (i) - compliant with DORA Article 27 (2) (h) (i) and (iii)</p> <p>Article 31 (2) (j) – see DORA Article 27 (2) (c)</p> <p>Article 31 (2) (k) – see DORA Article 27 (2) (g)</p> <p>Article 31 (2) l) – see DORA Article 27 (2) (k)</p> <p>Paragraph 3 – DORA 27 (1) more specific on some parts while the MIFID DA more specific on other. Possible minor DA amendments.</p>	

<p>MiFID/MiFIR</p>	<p>MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p><i>take into account the extent to which the firm controls the service provider or has the ability to influence its actions.</i></p> <p><i>5. Investment firms shall make available on request to the competent authority all information necessary to enable the authority to supervise the compliance of the performance of the outsourced functions with the requirements of Directive 2014/65/EU and its implementing measures.</i></p>	<p>Paragraph 4 - specific rules apply; DORA has no language on this</p> <p>Paragraph 5 – see Articles on DORA on Register ; DA to follow DORA approach.</p>	
<p>Article 32 Service providers located in third countries (Article 16(2) and first subparagraph of Article 16(5) of Directive 2014/65/EU)</p> <p><i>1. In addition to the requirements set out in Article 31, where an investment firm <u>outsources functions</u> related to the investment service of portfolio management provided to clients to a service provider located in a third country, that investment firm ensures that the following conditions are satisfied:</i></p> <p><i>(a) the service provider is authorised or registered in its home country to provide that service and is effectively supervised by a competent authority in that third country;</i></p> <p><i>(b) there is an appropriate cooperation agreement between the competent authority of the investment firm and the supervisory authority of the service provider.</i></p>	<p>-</p>	<p>Specific MiFID conditions also for supervisory access.</p> <p>DORA more general and does not aim to be prescriptive. It refers to the acquis and its specific rules (as in this case) - see DORA Article 25 (4) (b)</p>

<p>MiFID/MiFIR</p>	<p>MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p><i>2. The cooperation agreement referred to in point (b) of paragraph 1 shall ensure that the competent authorities of the investment firm are able, at least, to:</i></p> <p><i>(a) obtain on request the information necessary to carry out their supervisory tasks pursuant to Directive 2014/65/EU and Regulation (EU) No 600/2014;</i></p> <p><i>(b) obtain access to the documents relevant for the performance of their supervisory duties maintained in the third country;</i></p> <p><i>(c) receive information from the supervisory authority in the third country as soon as possible for the purpose of investigating apparent breaches of the requirements of Directive 2014/65/EU and its implementing measures and Regulation (EU) No 600/2014;</i></p> <p><i>(d) cooperate with regard to enforcement, in accordance with the national and international law applicable to the supervisory authority of the third country and the competent authorities in the Union in cases of breach of the requirements of Directive 2014/65/EU and its implementing measures and relevant national law.</i></p> <p><i>3. Competent authorities shall publish on their website a list of the supervisory authorities in third countries with which they have a cooperation agreement referred to in point (b) of paragraph 1.</i></p> <p><i>Competent authorities shall update cooperation agreements concluded before the date of entry into application of this Regulation within six months from that date.</i></p>		

<p>DIRECTIVE (EU) 2019/2034 on the prudential supervision of investment firms (IFD Directive not yet applicable)</p>	<p>IFD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>IFD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>	<p>Clarification</p>
<p>Article 19 Investigatory powers</p> <p>Member States shall ensure that competent authorities have all information-gathering and investigatory powers that are necessary for the exercise of their functions, including:</p> <p>(a) the power to require information from the following natural or legal persons: (vi) third parties to whom the entities referred to in points (i) to (iv) have <i>outsourced operational functions or activities</i>;</p>	<p>-</p>	<p>IFD investigatory powers (mirroring CRD rules) apply in the prudential supervision of investment firms.</p>	<p>-</p>
<p>Article 39 Supervisory powers</p> <p>1. Member States shall ensure that competent authorities have the necessary supervisory powers to intervene in the exercise of their functions into the activity of investment firms in an effective and proportionate way:</p> <p>(f) to require the reduction of the risk inherent in the activities, products and systems of investment firms, <i>including outsourced activities</i>;</p>	<p>-</p>	<p>IFD prudential supervisory powers</p>	<p>-</p>

Data reporting service providers

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID)

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
Commission Delegated Regulation (EU) 2017/571 of 2 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers		
<p>Article 2 Information on the organisation</p> <p>1. An applicant seeking authorisation to provide data reporting services shall include in its application for authorisation a programme of operations referred to in Article 61(2) of Directive 2014/65/EU. The programme of operations shall include the following information:</p> <p>(c) a list of all <i>outsourced functions</i> and resources allocated to the control of the outsourced functions;</p>		Authorisation requirements are dealt with in the sectoral acquis. DORA does not regulate this.
<p>Article 6 Organisational requirements regarding outsourcing</p> <p>1. Where a data reporting services provider arranges for activities to be performed on its behalf by third parties, including undertakings with which it has close links, it shall ensure that the third party service provider has the ability and the capacity, to perform the activities reliably and professionally.</p>	✓	General principle requirements to be complemented by DORA contractual requirements.

<p>2. A data reporting services provider shall specify which of the activities are to be outsourced, including a specification of the level of human and technical resources needed to carry out each of those activities.</p> <p>3. A data reporting services provider that outsources activities shall ensure that the outsourcing does not reduce its ability or power to perform senior management or management body functions.</p> <p>4. A data reporting services provider shall remain responsible for any outsourced activity and shall adopt organisational measures to ensure:</p> <p>(a) that it assesses whether the third party service provider is carrying out outsourced activities effectively and in compliance with applicable laws and regulatory requirements and adequately addresses identified failures;</p> <p>(b) the identification of the risks in relation to outsourced activities and adequate periodic monitoring;</p> <p>(c) adequate control procedures with respect to outsourced activities, including effectively supervising the activities and their risks within the data reporting services provider;</p> <p>(d) adequate business continuity of outsourced activities;</p> <p>For the purposes of point (d), the data reporting services provider shall obtain information on the business continuity arrangements of the third party service provider, assess its quality and, where needed, request improvements.</p> <p>5. A data reporting services provider shall ensure that the third party service provider cooperates with the competent authority of the data reporting services provider in connection with outsourced activities.</p> <p>6. Where a data reporting services provider outsources any critical function, it shall provide the competent authority of its home Member State with:</p> <p>(a) the identification of the third party service provider;</p> <p>(b) the organisational measures and policies with respect to outsourcing and the risks posed by it as specified in paragraph 4;</p> <p>(c) internal or external reports on the outsourced activities.</p> <p>For the purpose of the first sub paragraph 6, a function shall be regarded as critical if a defect or failure in its performance would materially impair the continuing compliance of the data reporting services provider with the conditions and obligations of its authorisation or its other obligations under Directive 2014/65/EU.</p>		
---	--	--

<p>Article 7 Business continuity and back-up facilities</p> <p>3. A data reporting services provider shall have effective business continuity arrangements in place to address disruptive incidents, including:</p> <p>(a) the processes which are critical to ensuring the services of the data reporting services provider, including escalation procedures, <i>relevant outsourced activities or dependencies on external providers</i>;</p>	✓	-
--	---	---

Trading Venues

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID)

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
Commission Delegated Regulation (EU) 2017/584 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying organisational requirements of trading venues		
Article 4 Compliance function within the governance arrangements (Article 48(1) of Directive 2014/65/EU)		Detailed rules on outsourcing compliance function. These are more relevant for DORA chapter II (as such, they are more specific than DORA rules on delegating

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>3. Where the compliance function, or elements thereof, <i>is outsourced</i> to a third party, trading venues shall provide the third party with the same access to information as they would to their own compliance staff. Trading venues shall enter into an agreement with such compliance consultants, ensuring that:</p> <ul style="list-style-type: none"> (a) data privacy is guaranteed; (b) auditing of the compliance function by internal and external auditors or by the competent authority is not hindered. 		compliance with the ICT risk management in Article 5 of DORA).
<p>Article 6 Outsourcing and procurement (Article 48(1) of Directive 2014/65/EU)</p> <p>1. <i>Trading venues outsourcing all or part of their operational functions in relation to the systems allowing or enabling algorithmic trading shall ensure that:</i></p> <ul style="list-style-type: none"> (a) <i>the outsourcing agreement exclusively relates to operational functions and does not alter the responsibilities of the senior management and the management body;</i> (b) <i>the relationship and obligations of the trading venue towards its members, competent authorities, or any third parties, such as clients of data feed services are not altered;</i> (c) <i>they meet the requirements that they must comply with in order to be authorised in accordance with Title III of Directive 2014/65/EU.</i> 	Paragraph 1 aligned with DORA principles on governance, firm's responsibility etc. Should not be changed.	
<p>2. <i>For the purposes of this article, operational functions shall include all direct activities related to the performance and surveillance of the trading systems supporting the following elements:</i></p> <ul style="list-style-type: none"> (a) <i>upstream connectivity, order submission capacity, throttling capacities and ability to balance customer order entrance through different gateways;</i> 	Paragraph 2 contains more specific elements for the trading venues outsourcing all or operational functions in relation to the systems	

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>(b) trading engine to match orders;</i></p> <p><i>(c) downstream connectivity, order and transaction edit and any other type of market data feed;</i></p> <p><i>(d) infrastructure to monitor the performance of the elements referred to in points (a), (b) and (c).</i></p>	enabling algorithmic. These (shoul) remain regulated in MiFID Delegated Regulation - as rules on algorithmic trading (Article 17 MiFID) are strongly embedded in MIFD and have not been transported or carried over in DORA (for instance same approach for strong customer authentication in PSD 2).	

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>3. <i>Trading venues shall document the process of selecting the service provider to whom the operational functions are to be outsourced ('the service provider'). They shall take the necessary steps to ensure, before concluding the outsourcing agreement and throughout its duration, that the following conditions are satisfied:</i></p> <p><i>(a) the service provider has the ability to perform the outsourced functions reliably and professionally and is the holder of any authorisations required by law for those purposes;</i></p> <p><i>(b) the service provider properly supervises the carrying out of the outsourced functions and adequately manages risks associated with the outsourcing agreement;</i></p> <p><i>(c) the outsourced services are provided in accordance with the specifications of the outsourcing agreement, which are based on pre-determined methods for assessing the standard of performance of the service provider, including metrics to measure the service provided and specifications of the requirements that shall be met;</i></p> <p><i>(d) the trading venue has the necessary expertise to supervise the outsourced functions effectively and manage risks associated with the outsourcing agreement;</i></p> <p><i>(e) the trading venue has the ability to take swift action if the service provider does not carry out the functions effectively and in compliance with applicable laws and regulatory requirements;</i></p>	<p>Paragraph 3: as above same logic.</p> <p>As in the case of rules applying to investment firms in the MiFID delegated act some elements are reflected in DORA (access of NCAs, business continuity of the service provider) possible minor amendments to the Delegated act to ensure full alignment with DORA approach i.e. termination, information in the Register) see point (g) and (h) of this paragraph 3 in particular (and paragraph 7 later).</p>	

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>(f)the service provider discloses to the trading venue any fact that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with its legal obligations;</i></p> <p><i>(g) the trading venue is able to terminate the outsourcing agreement where necessary without detriment to the continuity and quality of its services to clients;</i></p> <p><i>(h)the service provider cooperates with the competent authorities of the trading venue in connection with the outsourced activities;</i></p> <p><i>(i)the trading venue has effective access to data related to the outsourced activities and to the business premises of the service provider, and auditors of the trading venue and competent authorities have effective access to data related to the outsourced activities;</i></p> <p><i>(j)the trading venue sets out requirements to be met by the service providers to protect confidential information relating to the trading venue and its members, and to the venue's proprietary information and software;</i></p> <p><i>(k)the service provider meets the requirements referred to in point (j);</i></p> <p><i>(l)the trading venue and the service provider establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities, where that is necessary having regard to the operational function that has been outsourced;</i></p>		

<p>MiFID/MiFIR</p>	<p>MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p><i>(m) the outsourcing agreement specifies the obligations of the service provider in case it cannot provide its services, including the provision of the service by a substituting firm;</i></p> <p><i>(n) the trading venue has access to information in relation to the business continuity arrangements referred to in Article 16 of the service provider.</i></p> <p>4. Outsourcing agreements shall be concluded in writing and shall set out:</p> <p><i>(a) the assignment of rights and obligations between service provider and trading venue;</i></p> <p><i>(b) a clear description of:</i></p> <ul style="list-style-type: none"> <i>(i) the operational functions that are outsourced;</i> <i>(ii) the access of the trading venue to the books and records of the service provider;</i> <i>(iii) the procedure to identify and address potential conflicts of interest;</i> <i>(iv) the responsibility assumed by each party;</i> <i>(v) the procedure for the amendment and termination of the agreement.</i> <p><i>(c) the means to ensure that both the trading venue and the service provider facilitate in any way necessary the exercise by the competent authority of its supervisory powers.</i></p>		

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>5. <i>Trading venues shall report to the competent authorities their intention to outsource operational functions in the following cases:</i></p> <p><i>(a) where the service provider provides the same service to other trading venues;</i></p> <p><i>(b) where critical operational functions necessary for business continuation would be outsourced, in which case the trading venues shall request a prior authorisation from the competent authority.</i></p> <p>6. <i>For the purposes of point (b) in paragraph 5, critical operational functions shall include those functions necessary to comply with the obligations referred to in Article 47(1)(b), (c) and (e) of Directive 2014/65/EU.</i></p> <p>7. <i>Trading venues shall inform the competent authorities of any outsourcing agreements not subject to prior authorisation requirement immediately after the signature of the agreement.</i></p>		

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
		<p>Paragraphs 4 (granular details on outsourcing agreements) to remain in MiFID delegated act.</p> <p>Paragraph 5 and 6 not covered by DORA.</p>

MiFID/MiFIR	MiFID/MiFIR - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MiFID/MiFIR - DORA compliant provision; DORA does not regulate this aspect or with this level of detail	Clarification
<p>Article 16 Business continuity plan (Article 48(1) of Directive 2014/65/EU)</p> <p>6. The business continuity plan shall set out procedures to address any disruptions of <i>outsourced critical operational functions</i>, including where those critical operational functions become unavailable.</p>	-	-	To be mirrored in the DORA RTS (Article 14).
<p>ANNEX Parameters to be considered in the self-assessments of the trading venues, as referred to in Article 2(1)</p> <p>(c) Complexity, in terms of: (viii) the level of <i>outsourcing of the trading venue and in particular where any operational functions have been outsourced</i>;</p>	-	Not DORA's remit;	-

Payment institutions

Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (PSD 2)

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>Article 5 Applications for authorization</p> <p>1. For authorisation as a payment institution, an application shall be submitted to the competent authorities of the home Member State, together with the following:</p> <p>(l) a description of the applicant’s structural organisation, including, where applicable, a description of the intended use of agents and branches and of the off-site and on-site checks that the applicant undertakes to perform on them at least annually, as well as a description of <i>outsourcing arrangements</i>, and of its participation in a national or international payment system;</p> <p>For the purposes of points (d), (e) (f) and (l) of the first subparagraph, the applicant shall provide a description of its audit arrangements and the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of payment services. The security control and mitigation measures referred to in point (j) of the first subparagraph shall indicate how they ensure a high level of technical security and data protection, including for the software and IT systems used by the applicant or the undertakings to which it outsources the whole or part of its operations. Those measures shall also include the security measures laid down in Article 95(1). Those measures shall take into account EBA’s guidelines on security measures as referred to in Article 95(3) when in place.</p>	-	<p>Authorisation-related rules remain in the sector acquis and DORA does not cover them.</p> <p>Article 95 (1) has been amended by DORA Directive to make the link with DORA for ICT risk related measures.</p>
Article 9 Calculation of own funds	-	Not DORA’s remit

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>1. Notwithstanding the initial capital requirements set out in Article 7, Member States shall require payment institutions, except those offering only services as referred to in point (7) or (8), or both, of Annex I, to hold, at all times, own funds calculated in accordance with one of the following three methods, as determined by the competent authorities in accordance with national legislation:</p> <p>Method C</p> <p>The payment institution's own funds shall amount to at least the relevant indicator defined in point (a), multiplied by the multiplication factor defined in point (b) and by the scaling factor k defined in paragraph 2.</p> <p>(a) The relevant indicator is the sum of the following:</p> <ul style="list-style-type: none"> (i) interest income; (ii) interest expenses; (iii) commissions and fees received; and (iv) other operating income. <p>Each element shall be included in the sum with its positive or negative sign. Income from extraordinary or irregular items shall not be used in the calculation of the relevant indicator. Expenditure on the <i>outsourcing of services</i> rendered by third parties may reduce the relevant indicator if the expenditure is incurred from an undertaking subject to supervision under this Directive.</p>		

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>Section 2 Other requirements</p> <p>Article 19 Use of agents, branches or entities to which activities are outsourced</p> <p>1. Where a payment institution intends to provide payment services through an agent it shall communicate the following information to the competent authorities in its home Member State:</p> <p><i>6. Where a payment institution intends to outsource operational functions of payment services, it shall inform the competent authorities of its home Member State accordingly.</i></p> <p><i>Outsourcing of important operational functions, including IT systems, shall not be undertaken in such way as to impair materially the quality of the payment institution’s internal control and the ability of the competent authorities to monitor and retrace the payment institution’s compliance with all of the obligations laid down in this Directive.</i></p> <p><i>For the purposes of the second subparagraph, an operational function shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of a payment institution with the requirements of its authorisation requested pursuant to this Title, its other obligations under this Directive, its financial performance, or the soundness or the continuity of its payment services.</i></p>	As for similar provisions in the acquis, these mirror general principles on outsourcing which aligned with DORA Article 25 and 27. Article 19 (6) third subparagraph points (a) – (d) PSD 2 does not amount to duplicative requirements.	-

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>Member States shall ensure that when payment institutions outsource important operational functions, the payment institutions meet the following conditions:</i></p> <p><i>(a) the outsourcing shall not result in the delegation by senior management of its responsibility;</i></p> <p><i>(b) the relationship and obligations of the payment institution towards its payment service users under this Directive shall not be altered;</i></p> <p><i>(c) the conditions with which the payment institution is to comply in order to be authorised and remain so in accordance with this Title shall not be undermined;</i></p> <p><i>(d) none of the other conditions subject to which the payment institution's authorisation was granted shall be removed or modified.</i></p> <p><i>8. Payment institutions shall communicate to the competent authorities of their home Member State without undue delay any change regarding the use of entities to which activities are outsourced and, in accordance with the procedure provided for in paragraphs 2, 3 and 4, agents, including additional agents.</i></p>		
<p>Article 20 Liability</p> <p>1. Member States shall ensure that, where payment institutions <i>rely on third parties for the performance of operational functions</i>, those payment institutions take reasonable steps to ensure that the requirements of this Directive are complied with.</p>	Compliant with DORA Article 25, no duplication.	-

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
2. Member States <i>shall require that payment institutions remain fully liable for any acts of their employees, or any agent, branch or entity to which activities are outsourced.</i>		
Article 23 Supervision 1. Member States shall ensure that the controls exercised by the competent authorities for checking continued compliance with this Title are proportionate, adequate and responsive to the risks to which payment institutions are exposed. In order to check compliance with this Title, the competent authorities shall, in particular, be entitled to take the following steps: (b) to carry out <i>on-site inspections</i> at the payment institution, at any agent or branch providing payment services under the responsibility of the payment institution, <i>or at any entity to which activities are outsourced</i> ;	-	Specific principles on supervisory powers under PSD2 for carrying out onsite inspections at the entities to which activities are outsourced.
Article 28 Application to exercise the right of establishment and freedom to provide services 1. Any authorised payment institution wishing to provide payment services for the first time in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicate the following information to the competent authorities in its home Member State: Where the payment institution intends to outsource operational functions of payment services to other entities in the host	-	Specific PSD 2 provisions part of the communication that a payment institutions wishing to exercise its rights under the Treaty need to communicate.

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
Member State, it shall inform the competent authorities of its home Member State accordingly. 4. The payment institution shall communicate to the competent authorities of the home Member State without undue delay any relevant change regarding the information communicated in accordance with paragraph 1, including additional agents, branches or entities to which <i>activities are outsourced in the host Member States in which it operates</i> The procedure provided for under paragraphs 2 and 3 shall apply.		
Article 74 Payer's liability for unauthorised payment transactions 1. By way of derogation from Article 73, the payer may be obliged to bear the losses relating to any unauthorised payment transactions, up to a maximum of EUR 50, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument. The first subparagraph shall not apply if: (a) the loss, theft or misappropriation of a payment instrument was not detectable to the payer prior to a payment, except where the payer has acted fraudulently; or (b) the loss was caused by acts or lack of action of an employee, agent or branch of a payment service provider or of an entity to which its activities were outsourced.	-	Not DORA's remit
Article 106 Obligation to inform consumers of their rights 1. By 13 January 2018, the Commission shall produce a user-friendly electronic leaflet, listing in a clear and easily	-	Not DORA's remit

PSD 2	PSD 2 - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	PSD 2 - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
comprehensible manner, the rights of consumers under this Directive and related Union law. 3. Payment service providers shall ensure that the leaflet is made available in an easily accessible manner on their websites, if existing, and on paper at their branches, their agents and the <i>entities to which their activities are outsourced</i> .		

Insurance and reinsurance undertakings

Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
Article 13 Definitions <i>(28) 'outsourcing' means an arrangement of any form between an insurance or reinsurance undertaking and a service provider, whether a supervised entity or not, by which that service provider</i>	-	Specific Solvency definition

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<i>performs a process, a service or an activity, whether directly or by sub-outsourcing, which would otherwise be performed by the insurance or reinsurance undertaking itself;</i>		
Article 34 General supervisory powers <i>7. The powers with regard to insurance and reinsurance undertakings referred to in paragraphs 1 to 5 shall also be available with regard to outsourced activities of insurance and reinsurance undertakings.</i> <i>8. The powers referred to in paragraphs 1 to 5 and 7 shall be exercised, if need be by enforcement and, where appropriate, through judicial channels.</i>	-	Solvency supervisory powers (including onsite inspections)
Article 38 Supervision of outsourced functions and activities <i>1. Without prejudice to Article 49, Member States shall ensure that insurance and reinsurance undertakings which outsource a function or an insurance or reinsurance activity take the necessary steps to ensure that the following conditions are satisfied:</i> <i>(a) the service provider must cooperate with the supervisory authorities of the insurance and reinsurance undertaking in connection with the outsourced function or activity;</i> <i>(b) the insurance and reinsurance undertakings, their auditors and the supervisory authorities must have effective access to data related to the outsourced functions or activities;</i>	<p>Solvency 38 (1) (a) reflects a principle that DORA also embeds in Article 27 (2) (h) (iii) – cooperation of the service provider to cooperate with the supervisory authority ; there should be a contract clause on this; no overlap.</p> <p>Points (b) – (c) i.e. accesses of supervisors and their auditors to data related to the outsourced functions and to third party</p>	More specific provisions in Solvency on accesses. More specific rules on cooperation with MS of the services provider.

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>(c) the supervisory authorities must have effective access to the business premises of the service provider and must be able to exercise those rights of access.</i></p> <p><i>2. The Member State where the service provider is located shall permit the supervisory authorities of the insurance or reinsurance undertaking to carry out themselves, or through the intermediary of persons they appoint for that purpose, on-site inspections at the premises of the service provider.</i></p> <p><i>The supervisory authority of the insurance or reinsurance undertaking shall inform the appropriate authority of the Member State of the service provider prior to conducting the on-site inspection. In the case of a non-supervised entity the appropriate authority shall be the supervisory authority.</i></p> <p><i>The supervisory authorities of the Member State of the insurance or reinsurance undertaking may delegate such on-site inspections to the supervisory authorities of the Member State where the service provider is located.</i></p> <p><i>Where a supervisory authority has informed the appropriate authority of the Member State of the service provider that it intends to carry out an on-site inspection in accordance with this paragraph, or where it carries out an on-site inspection in accordance with the first subparagraph where that supervisory authority is unable in practice to exercise its right to carry out that on-site inspection, the supervisory authority may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No</i></p>	premises not contradicted by DORA.	

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.</i></p> <p><i>In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA shall be entitled to participate in on-site examination where they are carried out jointly by two or more supervisory authorities.</i></p>		
<p>Article 41 General governance requirements</p> <p>3. Insurance and reinsurance undertakings shall have written policies in relation to at least risk management, internal control, internal audit and, where <i>relevant, outsourcing</i>. They shall ensure that those policies are implemented.</p>	DORA more specific and detailed. See Article 25 (3) and 27 DORA	-
<p>Article 49 Outsourcing</p> <p><i>1. Member States shall ensure that insurance and reinsurance undertakings remain fully responsible for discharging all of their obligations under this Directive when they outsource functions or any insurance or reinsurance activities.</i></p> <p><i>2. Outsourcing of critical or important operational functions or activities shall not be undertaken in such a way as to lead to any of the following:</i></p> <p><i>(a) materially impairing the quality of the system of governance of the undertaking concerned;</i></p> <p><i>(b) unduly increasing the operational risk;</i></p>	<p>Principles in Article 49 1 (1) and (2) (a) - (d) are compliant with DORA's Article 25 (1) and (2). No overlap.</p> <p>For paragraph 3 - prior notification of outsourcing agreements - obligation should remain in place. If the arrangement qualifies as outsourcing Solvency II prior notification rule would apply.</p> <p>In addition to that, insurance and reinsurance undertakings - based</p>	-

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>(c) impairing the ability of the supervisory authorities to monitor the compliance of the undertaking with its obligations;</i></p> <p><i>(d) undermining continuous and satisfactory service to policy holders.</i></p> <p><i>3. Insurance and reinsurance undertakings shall, in a timely manner, notify the supervisory authorities prior to the outsourcing of critical or important functions or activities as well as of any subsequent material developments with respect to those functions or activities.</i></p>	on Article 25 (4) DORA - should also inform their competent authorities in a timely manner about their planned contracting processes (i.e. not outsourcing) of critical or important function and inform when a function becomes critical or important.	
<p>Article 50 Delegated acts and regulatory technical standards</p> <p>2. In order to ensure consistent harmonisation in relation to this Section, EIOPA shall, subject to Article 301b, develop draft regulatory technical standards to further specify the following:</p> <p>(a) the requirements set out in Article 42 and the functions subject thereto;</p> <p><i>(b) the conditions for outsourcing, in particular to service providers located in third countries.</i></p> <p>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</p>	-	Not DORA's remit
<p>COMMISSION DELEGATED REGULATION (EU) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)</p>		

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>Article 2 Expert judgement</p> <p>1. Where insurance and reinsurance undertakings make assumptions about rules relating to the valuation of assets and liabilities, technical provisions, own funds, solvency capital requirements, minimum capital requirements and investment rules, these assumptions shall be based on the expertise of persons with relevant knowledge, experience and understanding of the risks inherent in the insurance or reinsurance business.</p> <p>2. Insurance and reinsurance undertakings shall, taking due account of the principle of proportionality, ensure that internal users of the relevant assumptions are informed about their relevant content, their degree of reliability and their limitations. <i>For that purpose, service providers to whom functions or activities have been outsourced shall be considered to be internal users.</i></p>	-	Solvency rules. Not DORA's remit.
<p>Article 258 General governance requirements</p> <p>2. Policies on risk management, internal control, internal audit and, where relevant, <i>outsourcing</i>, shall clearly set out the relevant responsibilities, objectives, processes and reporting procedures to be applied, all of which shall be consistent with the undertaking's overall business strategy.</p>	Consistent with Article 25 paragraphs (1) and (3) of DORA.	-
<p><i>1. Any insurance or reinsurance undertaking which outsources or proposes to outsource functions or insurance or reinsurance</i></p>	DORA requires in Article 25(3) a broader strategy addressing ICT	-

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<i>activities to a service provider shall establish a written outsourcing policy which takes into account the impact of outsourcing on its business and the reporting and monitoring arrangements to be implemented in cases of outsourcing. The undertaking shall ensure that the terms and conditions of the outsourcing agreement are consistent with the undertaking's obligations as provided for in Article 49 of Directive 2009/138/EC.</i>	third party risk. The written outsourcing policy prescribed by Article 274 of the Solvency II Delegated act would be one element of the broader strategy.	
<i>2. Where the insurance or reinsurance undertaking and the service provider are members of the same group, the undertaking shall, when outsourcing critical or important operational functions or activities take into account the extent to which the undertaking controls the service provider or has the ability to influence its actions.</i>	-	Specific intra-group provisions.
<i>3. When choosing the service provider referred to in paragraph 1 for any critical or important operational functions or activities, the administrative, management or supervisory body shall ensure that: (a) a detailed examination is performed to ensure that the potential service provider has the ability, the capacity and any authorisation required by law to deliver the required functions or activities satisfactorily, taking into account the undertaking's objectives and needs; (b) the service provider has adopted all means to ensure that no explicit or potential conflict of interests jeopardize the fulfilment of the needs of the outsourcing undertaking;</i>	-	Specific conditions not conflicting with DORA's general requirements.

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>(c) a written agreement is entered into between the insurance or reinsurance undertaking and the service provider which clearly defines the respective rights and obligations of the undertaking and the service provider;</i></p> <p><i>(d) the general terms and conditions of the outsourcing agreement are clearly explained to the undertaking's administrative, management or supervisory body and authorised by them;</i></p> <p><i>(e) the outsourcing does not entail the breaching of any law in particular with regard to rules on data protection;</i></p> <p><i>(f) the service provider is subject to the same provisions on the safety and confidentiality of information relating to the insurance or reinsurance undertaking or to its policyholders or beneficiaries that are applicable to the insurance or reinsurance undertaking.</i></p>		
<p><i>4. The written agreement referred to in paragraph 3 (c) to be concluded between the insurance or reinsurance undertaking and the service provider shall in particular clearly state all of the following requirements:</i></p> <p><i>(a) the duties and responsibilities of both parties involved;</i></p> <p><i>(b) the service provider's commitment to comply with all applicable laws, regulatory requirements and guidelines as well as policies approved by the insurance or reinsurance undertaking and to cooperate with the undertaking's supervisory authority with regard to the outsourced function or activity;</i></p> <p><i>(c) the service provider's obligation to disclose any development which may have a material impact on its ability to carry out the</i></p>	-	Specific requirements in paragraph 4 would apply. Many of these are more detailed than in DORA Article 27 requirements.

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>outsourced functions and activities effectively and in compliance with applicable laws and regulatory requirements;</i></p> <p><i>(d) a notice period for the termination of the contract by the service provider which is long enough to enable the insurance or reinsurance undertaking to find an alternative solution;</i></p> <p><i>(e) that the insurance or reinsurance undertaking is able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of services to policyholders;</i></p> <p><i>(f) that the insurance or reinsurance undertaking reserves the right to be informed about the outsourced functions and activities and their performance by the services provider as well as a right to issue general guidelines and individual instructions at the address of the service provider, as to what has to be taken into account when performing the outsourced functions or activities;</i></p> <p><i>(g) that the service provider shall protect any confidential information relating to the insurance or reinsurance undertaking and its policyholders, beneficiaries, employees, contracting parties and all other persons;</i></p> <p><i>(h) that the insurance or reinsurance undertaking, its external auditor and the supervisory authority have effective access to all information relating to the outsourced functions and activities including carrying out on-site inspections of the business premises of the service provider;</i></p> <p><i>(i) that, where appropriate and necessary for the purposes of supervision, the supervisory authority may address questions</i></p>		

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>directly to the service provider to which the service provider shall reply;</i></p> <p><i>(j) that the insurance or reinsurance undertaking may obtain information about the outsourced activities and may issue instructions concerning the outsourced activities and functions;</i></p> <p><i>(k) the terms and conditions, where applicable, under which the service provider may sub-outsource any of the outsourced functions and activities;</i></p> <p><i>(l) that the service provider's duties and responsibilities deriving from its agreement with the insurance or reinsurance undertaking shall remain unaffected by any sub-outsourcing taking place according to point (k).</i></p>		
<p><i>5. The insurance or reinsurance undertaking that is outsourcing critical or important operational functions or activities shall fulfil all of the following requirements:</i></p> <p><i>(a) ensure that relevant aspects of the service provider's risk management and internal control systems are adequate to ensure compliance with Article 49(2)(a) and (b) of Directive 2009/138/EC;</i></p> <p><i>(b) adequately take account of the outsourced activities in its risk management and internal control systems to ensure compliance with Article 49(2)(a) and (b) of Directive 2009/138/EC;</i></p> <p><i>(c) verify that the service provider has the necessary financial resources to perform the additional tasks in a proper and reliable way, and that all staff of the service provider who will be involved in providing the outsourced functions or activities are sufficiently qualified and reliable;</i></p>	-	<p>Specific requirements in the Solvency II Delegated act apply.</p> <p>Some are also reflected in DORA's general requirements or specific provision in Article 27 (i.e. contingency plans) some cover additional matters (financial resources of the third party provider, qualifications of its staff etc.).</p>

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<i>(d) ensure that the service provider has adequate contingency plans in place to deal with emergency situations or business disruptions and periodically tests backup facilities where necessary, taking into account the outsourced functions and activities.</i>		
Article 294 System of governance 8. The solvency and financial condition report shall include a <i>description of the outsourcing policy of the insurance or reinsurance undertaking</i> , that undertaking's outsourcing of any critical or important operational functions or activities and the jurisdiction in which the service providers of such functions or activities are located.		Specific requirements in the Solvency II Delegated act apply for the solvency report to include outsourcing. Not DORA's remit.
Article 308 System of governance 1. The regular supervisory report shall include all of the following information regarding the insurance or reinsurance undertaking's system of governance 8. The <i>regular supervisory report</i> shall include all of the following information regarding outsourcing: (a) where the undertaking outsources any critical or important operational functions or activities, the rationale for the outsourcing and evidence that appropriate oversight and safeguards are in place; (b) information on the service providers to whom any critical or important operational functions or activities have been outsourced and on how the undertaking ensures that the service providers comply with Article 274(3)(a).	-	Specific requirements in the Solvency II Delegated act apply for the regular supervisory report to include outsourcing. Not DORA's remit.

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
(c) a list of the persons responsible for the outsourced key functions in the service provider.		
<p>Article 324 Sound administrative and accounting procedures, adequate internal control mechanisms and risk-management requirements</p> <p>Special purpose vehicles shall have an effective system of governance which provides for sound and prudent management of the special purpose vehicle and that is appropriate to the nature, scale and complexity of the risks it assumes and the uses for which it is authorised.</p> <p>2. The system of governance of the special purpose vehicle shall consist of all of the following:</p> <p>(a) written policies in relation to at least risk management, internal control, administrative and accounting procedures and, where relevant, <i>outsourcing</i>; the written policies shall comprise policies relating to the areas set out in Article 44(2)(a) to (f) of Directive 2009/138/EC to the extent that these are relevant taking into account the uses of the special purpose vehicle;</p>	-	Specific requirements in the Solvency II Delegated act apply to governance of SPVs requiring written policies also on outsourcing where applicable. Not DORA's remit.
<p>SUPERVISION OF GROUP SOLVENCY FOR GROUPS WITH CENTRALISED RISK MANAGEMENT</p> <p>Article 351 Assessment of conditions:</p> <p>1. In assessing whether the risk management processes and internal control mechanisms of the parent undertaking cover the subsidiary in accordance with point (b) of Article 236 of Directive 2009/138/EC, the group supervisor and the other supervisory</p>	-	Specific supervisory requirements in the Solvency II Delegated act apply for groups with centralised risk management. Not DORA's remit.

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>authorities concerned shall consider whether all of the following criteria are met:</p> <p>(c) the requirements <i>on outsourcing</i> set out in Article 49 of Directive 2009/138/EC are complied with by the subsidiary in relation to the risk management and compliance activities carried out by the parent undertaking.</p>		
<p>CHAPTER V PUBLIC DISCLOSURE</p> <p>SECTION 1</p> <p>Group solvency and financial condition report</p> <p>Article 359 Structure and contents</p> <p>Articles 290 to 298 of this Regulation shall apply to the group solvency and financial condition report which participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies are required to disclose publicly. In addition, the group solvency and financial condition report shall include all of the following information:</p> <p>(b) regarding the group's system of governance:</p> <p>(iii) <i>information on any material intra-group outsourcing arrangements;</i></p>	-	<p>Specific requirements in the Solvency II Delegated act on elements to be contained in the group solvency and financial condition report including information on any material intra-group outsourcing arrangements</p> <p>Not DORA's remit.</p>
<p>TITLE III</p> <p>THIRD COUNTRY EQUIVALENCE AND FINAL PROVISIONS</p> <p>CHAPTER I - UNDERTAKINGS CARRYING OUT REINSURANCE ACTIVITIES WITH THEIR HEAD OFFICE IN A THIRD COUNTRY</p> <p>Article 378 Criteria for assessing third country equivalence</p>	-	<p>In the context of criteria for assessing third country equivalence for reinsurance companies headquartered in a third country, Solvency II Delegated act also refers to requirements for ensuring that outsourced functions or activities are effectively supervised. Not DORA's remit.</p>

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p>The criteria to be taken into account in order to assess whether the solvency regime of a third country that applies to reinsurance activities of undertakings with their head office in that third country is equivalent to that laid down in Title I of Directive 2009/138/EC shall be the following:</p> <p>(f) whether the solvency regime of that third country requires domestic insurance or reinsurance undertakings carrying out reinsurance activities to have an effective system of governance in place which provides for sound and prudent management of the business and prescribes all of the following:</p> <p style="padding-left: 40px;"><i>(iv) requirements for ensuring that the outsourced functions or activities are effectively supervised;</i></p>		
<p>CHAPTER III - INSURANCE AND REINSURANCE UNDERTAKINGS WITH THE PARENT UNDERTAKINGS OUTSIDE THE UNION</p> <p>Article 380 Criteria for assessing third country equivalence</p> <p>The criteria which shall be taken into account in order to assess whether the prudential regime in a third country for the supervision of groups is equivalent to that laid down in Title III of Directive 2009/138/EC shall be the following:</p> <p>(g) whether the prudential regime of that third country requires an effective system of governance at the group level which provides for sound and prudent management of the business and prescribes all of the following:</p> <p style="padding-left: 40px;"><i>(iv) requirements for ensuring that the outsourced functions or activities are effectively supervised;</i></p>	-	<p>For insurance and reinsurance undertakings whose parent undertaking is outside the Union the criteria to assess if the group supervision is equivalent to the Union rules also contains elements on outsourcing.</p> <p>Not DORA's remit.</p>

Solvency II	Solvency II - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Solvency II - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
ANNE XX STRUCTURE OF THE SOLVENCY AND FINANCIAL CONDITION REPORT AND REGULAR SUPERVISORY REPORT B. System of Governance B.7 Outsourcing	-	Structure of the Solvency and financial report. Not DORA's remit.

Institutions for occupational retirement provision (IORPs)

Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORP)

IORP	IORPs - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	IORPs - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
Article 21 General governance requirements 3. Member States shall ensure that IORPs establish and apply written policies in relation to risk management, internal audit and, <i>where relevant</i> , actuarial and <i>outsourced activities</i> . Those written policies shall be subject to prior approval by the management or supervisory body of the IORP and shall be	DORA has in Article 4 (2) (g) rules for the management body to approve and periodically review the financial entity's policy on arrangements	-

IORP	IORPs - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	IORPs - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
reviewed at least every three years and adapted in view of any significant change in the system or area concerned.	regarding the use of ICT services provided by ICT third party service providers.	
<p>Article 22 Requirements for fit and proper management</p> <p>1. Member States shall require IORPs to ensure that persons who effectively run the IORP, persons who carry out key functions and, <i>where applicable, persons or entities to which a key function has been outsourced in accordance with Article 31</i> fulfil the following requirements when carrying out their tasks:</p>	-	More specific rules - fit and proper assessment - which DORA does not cover.
<p>Article 25 Risk-management</p> <p>2. The risk-management system shall cover, in a manner that is proportionate to the size and internal organisation of IORPs, as well as to the size, nature, scale and complexity of their activities, risks which can occur in IORPs <i>or in undertakings to which tasks or activities of an IORP have been outsourced</i>, at least in the following areas, where applicable:</p> <p>a) underwriting and reserving; (b) asset–liability management; (c) investment, in particular derivatives, securitisations and similar commitments; (d) liquidity and concentration risk management; (e) operational risk management; (f) insurance and other risk-mitigation techniques; (g) environmental, social and governance risks relating to the investment portfolio and the management thereof.</p>	-	Specific risk management rules extending to risks occurring in undertakings to which tasks or activities of an IORP have been outsourced.

<p>IORP</p>	<p>IORPs - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>IORPs - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p>Article 26 Internal audit function Member States shall require IORPs in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities, to provide for an effective internal audit function. The internal audit function shall include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance, <i>including, where applicable, outsourced activities.</i></p>	<p>-</p>	<p>Rules on internal audit function also encompassing and other elements of the system of governance, including, where applicable, outsourced activities.</p>
<p>Section 3 Documents concerning governance Article 28 Own-risk assessment 2. Member States shall ensure that the risk assessment referred to in paragraph 1, having regard to the size and internal organisation of the IORP, as well as to the size, nature, scale and complexity of the IORP's activities, includes the following: (c) a description of how the IORP <i>prevents conflicts of interest with the sponsoring undertaking, where the IORP outsources key functions</i> to the sponsoring undertaking in accordance with Article 24(3);</p>	<p>-</p>	<p>IORPs more specific documentation rules on own-risk assessment - including description of how IORP prevents conflicts of interest with the sponsoring undertaking, where it outsources key functions to the sponsoring undertaking. Not DORA's remit.</p>
<p>CHAPTER 2 <i>Outsourcing and investment management</i> Article 31 Outsourcing 1. <i>Member States may permit or require IORPs registered or authorised in their territories to entrust any activities including key</i></p>	<p>Similar to rules in Solvency II, principles in Article 31 paragraphs (1) (2) and (3) (a) - (d) are compliant with DORA's Article 25 (1) and (2). Paragraph 4 (selection of providers) and 5 (contracts) aligned with</p>	<p>IORPs rules in paragraph 6 apply on prior notification of outsourcing before the agreement enters into force and in paragraph 7 on powers of competent authorities to request information from providers.</p>

<p>IORP</p>	<p>IORPs - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.</p>	<p>IORPs - DORA compliant provision; DORA does not regulate this aspect or with this level of detail</p>
<p><i>functions and the management of those IORPs, in whole or in part, to service providers operating on behalf of those IORPs.</i></p> <p><i>2. Member States shall ensure that IORPs remain fully responsible for compliance with their obligations under this Directive when they outsource key functions or any other activities.</i></p> <p><i>3. Outsourcing of key functions or any other activities shall not be undertaken in such a way as to lead to any of the following:</i></p> <p><i>(a) impairing the quality of the system of governance of the IORP concerned;</i></p> <p><i>(b) unduly increasing the operational risk;</i></p> <p><i>(c) impairing the ability of the competent authorities to monitor the compliance of the IORP with its obligations;</i></p> <p><i>(d) undermining continuous and satisfactory service to members and beneficiaries.</i></p> <p><i>4. IORPs shall ensure the proper functioning of the outsourced activities through the process of selecting a service provider and the ongoing monitoring of the activities of that service provider.</i></p> <p><i>5. Member States shall ensure that IORPs outsourcing key functions, the management of those IORPs, or other activities covered by this Directive enter into a written agreement with the service provider. Such agreement shall be legally enforceable and shall clearly define the rights and obligations of the IORP and the service provider.</i></p> <p><i>6. Member States shall ensure that IORPs notify competent authorities in a timely manner of any outsourcing of the activities covered by this Directive. Where the outsourcing relates to the key functions or management of IORPs, this shall be notified to</i></p>	<p>Article 27 Dora while not duplicative.</p>	

IORP	IORPs - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	IORPs - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>competent authorities before the agreement in respect of any such outsourcing enters into force. Member States shall also ensure that IORPs notify competent authorities of any subsequent important developments with respect to any outsourced activities.</i></p> <p><i>7. Member States shall ensure that competent authorities have the power to request information from IORPs and from service providers about outsourced key functions or any other activities at any time.</i></p>		
<p>Article 49 Supervisory review process</p> <p>1. Member States shall ensure that competent authorities have the necessary powers to <i>review</i> the strategies, processes and reporting procedures which are established by IORPs to comply with the laws, regulations and administrative provisions adopted pursuant to this Directive, taking into account the size, nature, scale and complexity of the activities of the IORP. That review shall take into account the circumstances in which the IORPs are operating, and, where relevant, the parties carrying out <i>outsourced key functions or any other activities for them</i>. The review shall comprise the following elements:</p>	-	IORPs specific supervisory powers also taking into account the parties carrying out outsourced functions. SREP.
<p>Article 50 Information to be provided to the competent authorities</p> <p>Member States shall ensure that the competent authorities, in respect of any IORP registered or authorised in their territories, have the necessary powers and means to:</p> <p><i>(b)supervise relationships between the IORP and other companies or between IORPs, when IORPs outsource key functions or any other activities to those other companies or IORPs and all</i></p>	-	IORPs more specific supervisory powers for relationships between the IORP and other companies or between IORPs when the latter outsource key functions to other companies or IORPs and all subsequent re-outsourcing, influencing the financial situation of the IORP or being in a material way relevant for effective

IORP	IORPs - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	IORPs - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>subsequent re-outsourcing</i>, influencing the financial situation of the IORP or being in a material way relevant for effective supervision;</p> <p>(e) <i>carry out on-site inspections</i> at the IORP's premises and, where appropriate, <i>on outsourced and all subsequent re-outsourced activities to check</i> if activities are carried out in accordance with the supervisory rules;</p> <p>(f) request information from IORPs about outsourced and all subsequent re-outsourced activities at any time.</p>		supervision. Also on inspections on outsourced activities and request of information.

Management companies

Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)

UCITS	UCITS - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	UCITS - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>Article 14</p> <p>1. Each Member State shall draw up rules of conduct which management companies authorised in that Member State shall observe at all times. Such rules shall implement at least the principles set out in this paragraph. Those principles shall ensure that a management company:</p>		

UCITS	UCITS - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	UCITS - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
(b) acts with due <u>skill, care and diligence</u> , in the best interests of the UCITS it manages and the integrity of the market;		
<p>CHAPTER IV RULES OF CONDUCT (Article 14(1)(a), (b) and (2)(a), (b) of Directive 2009/65/EC) SECTION 1 General principles</p> <p>Article 23 Due diligence requirements See Paragraph 4, second subparagraph:</p> <p>Management companies shall exercise <i>due skill, care and diligence when entering into, managing or terminating any arrangements with third parties in relation to the performance of risk management activities</i>. Before entering into such arrangements, management companies shall take the necessary steps in order to verify that the third party has the ability and capacity to perform the risk management activities reliably, professionally and effectively. The management company shall establish methods for the on-going assessment of the standard of performance of the third party.</p>	<p>Aligned with DORA see in particular Article 25 (5) (d) DORA on the general DORA requirement to undertake <i>due diligence</i> on prospective ICT third party providers and ensure in the <i>selection and assessment process that the ICT provider is suitable</i>.</p>	-

Managers of Alternative Investment Funds (AIFMs)

Directive 2011/61/EU on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (AIFMD)

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
Article 12 General principles 1. Member States shall ensure that, at all times, AIFMs: (a) act honestly, <i>with due skill, care and diligence and fairly</i> in conducting their activities;		
Delegation of AIFM functions Article 20 Delegation 1. <i>AIFMs which intend to delegate to third parties the task of carrying out functions on their behalf shall notify the competent authorities of their home Member State before the delegation arrangements become effective. The following conditions shall be met:</i> (a) <i>the AIFM must be able to justify its entire delegation structure on objective reasons;</i> (b) <i>the delegate must dispose of sufficient resources to perform the respective tasks and the persons who effectively conduct the business of the delegate must be of sufficiently good repute and sufficiently experienced;</i> (c) <i>where the delegation concerns portfolio management or risk management, it must be conferred only on undertakings which are authorised or registered for the purpose of asset management and subject to supervision or, where that condition cannot be met, only subject to prior approval by the competent authorities of the home Member State of the AIFM;</i>		These are rules on delegation to third parties especially for portfolio management. Some also reflect general principles met in other legislations and applied here in the AIFMS area (responsibility maintained, preserving the AIFMs supervision, prior notification of the delegation arrangement) other are more specific. Aligned with approaches taken by DORA Articles 25 and 27. Specific rules on sub-delegation.

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>(d) where the delegation concerns portfolio management or risk management and is conferred on a third-country undertaking, in addition to the requirements in point (c), cooperation between the competent authorities of the home Member State of the AIFM and the supervisory authority of the undertaking must be ensured;</i></p> <p><i>(e) the delegation must not prevent the effectiveness of supervision of the AIFM, and, in particular, must not prevent the AIFM from acting, or the AIF from being managed, in the best interests of its investors;</i></p> <p><i>(f) the AIFM must be able to demonstrate that the delegate is qualified and capable of undertaking the functions in question, that it was selected with all due care and that the AIFM is in a position to monitor effectively at any time the delegated activity, to give at any time further instructions to the delegate and to withdraw the delegation with immediate effect when this is in the interest of investors.</i></p> <p><i>3. The AIFM's liability towards the AIF and its investors shall not be affected by the fact that the AIFM has delegated functions to a third party, or by any further sub-delegation, nor shall the AIFM delegate its functions to the extent that, in essence, it can no longer be considered to be the manager of the AIF and to the extent that it becomes a letter-box entity.</i></p> <p><i>4. The third party may sub-delegate any of the functions delegated to it provided that the following conditions are met:</i></p> <p><i>(a) the AIFM consented prior to the sub-delegation;</i></p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>(b) the AIFM notified the competent authorities of its home Member State before the sub-delegation arrangements become effective;</i></p> <p><i>(c) the conditions set out in paragraph 1, on the understanding that all references to the ‘delegate’ are read as references to the ‘sub-delegate’.</i></p> <p><i>5. No sub-delegation of portfolio management or risk management shall be conferred on:</i></p> <p><i>(a) the depositary or a delegate of the depositary; or</i></p> <p><i>(b) any other entity whose interests may conflict with those of the AIFM or the investors of the AIF, unless such entity has functionally and hierarchically separated the performance of its portfolio management or risk management tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF.</i></p> <p><i>The relevant delegate shall review the services provided by each sub-delegate on an ongoing basis.</i></p>		
<p>Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision</p>		
<p>SECTION 8 <u><i>Delegation of AIFM functions</i></u> <i>(Article 20(1), (2), (4) and (5) of Directive 2011/61/EU)</i> Article 75 General principles</p>		All section 8 details with granularity rules on delegation from general rules (which mirror the ones in other financial areas) to very specific rules on

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>When delegating the task of carrying out one or more functions on their behalf, AIFMs shall comply, in particular, with the following general principles:</i></p> <ul style="list-style-type: none"> <i>(a) the delegation structure does not allow for the circumvention of the AIFM’s responsibilities or liability;</i> <i>(b) the obligations of the AIFM towards the AIF and its investors are not altered as a result of the delegation;</i> <i>(c) the conditions with which the AIFM must comply in order to be authorised and carry out activities in accordance with Directive 2011/61/EU are not undermined;</i> <i>(d) the delegation arrangement takes the form of a written agreement concluded between the AIFM and the delegate;</i> <i>(e) the AIFM ensures that the delegate carries out the delegated functions effectively and in compliance with applicable law and regulatory requirements and must establish methods and procedures for reviewing on an ongoing basis the services provided by the delegate.</i> <p><i>The AIFM shall take appropriate action if it appears that the delegate cannot carry out the functions effectively or in compliance with applicable laws and regulatory requirements;</i></p> <ul style="list-style-type: none"> <i>(f) the AIFM supervises effectively the delegated functions and manages the risks associated with the delegation. For this purpose the AIFM shall have at all times the necessary expertise and resources to supervise the delegated functions. The AIFM shall set out in the agreement its right of information, inspection, admittance and access, and its instruction and monitoring rights against the</i> 		<p>quality of delegates, further conditions for delegation conferred on third-country undertakings, further specification on when is considered that a delegation is deemed to prevent the effective supervision of the AIFMS, sub-delegations, letter-box entities.</p>

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>delegate. The AIFM shall also ensure that the delegate properly supervises the performance of the delegated functions, and adequately manages the risks associated with the delegation;</i></p> <p><i>(g) the AIFM ensures that the continuity and quality of the delegated functions or of the delegated task of carrying out functions are maintained also in the event of termination of the delegation either by transferring the delegated functions or the delegated task of carrying out functions to another third party or by performing them itself;</i></p> <p><i>(h) the respective rights and obligations of the AIFM and the delegate are clearly allocated and set out in the agreement. In particular, the AIFM shall contractually ensure its instruction and termination rights, its rights of information, and its right to inspections and access to books and premises. The agreement shall make sure that sub-delegation can take place only with the consent of the AIFM;</i></p> <p><i>(i) where it concerns portfolio management, the delegation is in accordance with the investment policy of the AIF. The delegate shall be instructed by the AIFM how to implement the investment policy and the AIFM shall monitor whether the delegate complies with it on an ongoing basis;</i></p> <p><i>(j) the AIFM ensures that the delegate discloses to the AIFM any development that may have a material impact on the delegate's ability to carry out the delegated functions effectively and in compliance with applicable laws and regulatory requirements;</i></p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>(k) the AIFM ensures that the delegate protects any confidential information relating to the AIFM, the AIF affected by the delegation and the investors in that AIF;</p> <p>(l) the AIFM ensures that the delegate establishes, implements and maintains a contingency plan for disaster recovery and periodic testing of backup facilities while taking into account the types of delegated functions.</p>		
<p>Article 76 Objective reasons for delegation</p> <p>1. The AIFM shall provide the competent authorities with a detailed description, explanation and evidence of the objective reasons for delegation. When assessing whether the entire delegation structure is based on objective reasons within the meaning of Article 20(1)(a) of Directive 2011/61/EU the following criteria shall be considered:</p> <ul style="list-style-type: none"> (a) optimising of business functions and processes; (b) cost saving; (c) expertise of the delegate in administration or in specific markets or investments; (d) access of the delegate to global trading capabilities. <p>2. Upon request by the competent authorities, an AIFM shall provide further explanations and provide documents proving that the entire delegation structure is based on objective reasons.</p>		
<p>Article 77 Features of the delegate</p> <p>1. A delegate shall have sufficient resources and shall employ sufficient personnel with the skills, knowledge and expertise necessary for the proper discharge of the tasks</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>delegated to it and have an appropriate organisational structure supporting the performance of the delegated tasks.</i></p> <p><i>2. Persons who effectively conduct the activities delegated by the AIFM shall have sufficient experience, appropriate theoretical knowledge and appropriate practical experience in the relevant functions. Their professional training and the nature of the functions they have performed in the past shall be appropriate for the conduct of the business.</i></p> <p><i>3. Persons who effectively conduct the business of the delegate shall not be deemed of sufficiently good repute if they have any negative records relevant both for the assessment of good repute and for the proper performance of the delegated tasks or if there is other relevant information which affects their good reputation. Such negative records shall include but shall not be limited to criminal offences, judicial proceedings or administrative sanctions relevant for the performance of the delegated tasks. Special attention shall be given to any offences related to financial activities, including but not limited to obligations relating to the prevention of money laundering, dishonesty, fraud or financial crime, bankruptcy or insolvency. Other relevant information shall include information such as that indicating that the person is not trustworthy or honest.</i></p> <p><i>Where the delegate is regulated in respect of its professional services within the Union, factors referred to in the first subparagraph shall be deemed to be satisfied when the relevant supervisory authority has reviewed the criterion of ‘good repute’ within the authorisation procedure unless there is evidence to the contrary.</i></p> <p>Article 78 Delegation of portfolio or risk management</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>1. <i>This Article shall apply where the delegation of portfolio management or risk management is concerned.</i></p> <p>2. <i>The following entities shall be deemed to be authorised or registered for the purpose of asset management and subject to supervision in accordance with point (c) of Article 20(1) of Directive 2011/61/EU:</i></p> <ul style="list-style-type: none"> <i>(a) management companies authorised under Directive 2009/65/EC;</i> <i>(b) investment firms authorised under Directive 2004/39/EC to perform portfolio management;</i> <i>(c) credit institutions authorised under Directive 2006/48/EC having the authorisation to perform portfolio management under Directive 2004/39/EC;</i> <i>(d) external AIFMs authorised under Directive 2011/61/EU;</i> <i>(e) third country entities authorised or registered for the purpose of asset management and effectively supervised by a competent authority in those countries.</i> 		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>3. Where the delegation is conferred on a third-country undertaking the following conditions shall be fulfilled in accordance with point (d) of Article 20(1) of Directive 2011/61/EU:</p> <p>(a) a written arrangement shall exist between the competent authorities of the home Member State of the AIFM and the supervisory authorities of the undertaking to which delegation is conferred;</p> <p>(b) with respect to the undertaking to which delegation is conferred, the arrangement referred to in point (a) allows the competent authorities to:</p> <p style="padding-left: 40px;">(i) obtain on request the relevant information necessary to carry out their supervisory tasks as provided for in Directive 2011/61/EU;</p> <p style="padding-left: 40px;">(ii) obtain access to the documents relevant for the performance of their supervisory duties maintained in the third country;</p> <p style="padding-left: 40px;">(iii) carry out on-site inspections on the premises of the undertaking to which functions were delegated. The practical procedures for on-site inspections shall be detailed in the written arrangement;</p> <p style="padding-left: 40px;">(iv) receive as soon as possible information from the supervisory authority in the third country for the purpose</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>of investigating apparent breaches of the requirements of Directive 2011/61/EU and its implementing measures;</i></p> <p><i>(v) cooperate in enforcement in accordance with the national and international law applicable to the supervisory authority of the third country and the EU competent authorities in cases of breach of the requirements of Directive 2011/61/EU and its implementing measures and relevant national law.</i></p> <p>Article 79 Effective supervision</p> <p><i>A delegation shall be deemed to prevent the effective supervision of the AIFM where:</i></p> <p><i>(a) the AIFM, its auditors and the competent authorities do not have effective access to data related to the delegated functions and to the business premises of the delegate, or the competent authorities are not able to exercise those rights of access;</i></p> <p><i>(b) the delegate does not cooperate with the competent authorities of the AIFM in connection with the delegated functions;</i></p> <p><i>(c) the AIFM does not make available on request to the competent authorities all information necessary to enable authorities to supervise the compliance of the performance of the delegated functions with the requirements of Directive 2011/61/EU and its implementing measures.</i></p> <p>Article 80 Conflicts of interest</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>1. In accordance with point (b) of Article 20(2) of Directive 2011/61/EU, the criteria to assess whether a delegation conflicts with the interests of the AIFM or the investor in the AIF shall at least include:</p> <p>(a) where the AIFM and the delegate are members of the same group or have any other contractual relationship, the extent to which the delegate controls the AIFM or has the ability to influence its actions;</p> <p>(b) where the delegate and an investor in the relevant AIF are members of the same group or have any other contractual relationship, the extent to which this investor controls the delegate or has the ability to influence its actions;</p> <p>(c) the likelihood that the delegate makes a financial gain, or avoids a financial loss, at the expense of the AIF or the investors in the AIF;</p> <p>(d) the likelihood that the delegate has an interest in the outcome of a service or an activity provided to the AIFM or the AIF;</p> <p>(e) the likelihood that the delegate has a financial or other incentive to favour the interest of another client over the interests of the AIF or the investors in the AIF;</p> <p>(f) the likelihood that the delegate receives or will receive from a person other than the AIFM an inducement in relation to the collective portfolio management activities provided to the AIFM and the AIFs it manages in the form of monies, goods or services other than the standard commission or fee for that service.</p> <p>2. The portfolio or risk management function may be considered to be functionally and hierarchically separated from other potentially conflicting tasks only where the following conditions are satisfied:</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>(a) persons engaged in portfolio management tasks are not engaged in the performance of potentially conflicting tasks such as controlling tasks;</i></p> <p><i>(b) persons engaged in risk management tasks are not engaged in the performance of potentially conflicting tasks such as operating tasks;</i></p> <p><i>(c) persons engaged in risk management functions are not supervised by those responsible for the performance of operating tasks;</i></p> <p><i>(d) the separation is ensured throughout the whole hierarchical structure of the delegate up to its governing body and is reviewed by the governing body and, where it exists, the supervisory function of the delegate.</i></p> <p><i>3. Potential conflicts of interest shall be deemed properly identified, managed, monitored and disclosed to the investors of the AIF only if:</i></p> <p><i>(a) the AIFM ensures that the delegate takes all reasonable steps to identify, manage and monitor potential conflicts of interest that may arise between itself and the AIFM, the AIF or the investors in the AIF. The AIFM shall ensure that the delegate has procedures in place corresponding to those required under Articles 31 to 34;</i></p> <p><i>(b) the AIFM ensures that the delegate discloses potential conflicts of interest as well as the procedures and measures to be adopted by it in order to manage such conflicts of interest to the AIFM which shall disclose them to the AIF and the investors in the AIF in accordance with Article 36.</i></p> <p>Article 81 Consent and notification of sub-delegation</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>1. A subdelegation shall become effective where the AIFM demonstrates its consent to it in writing. A general consent given in advance by the AIFM shall not be deemed consent in accordance with point (a) of Article 20(4) of Directive 2011/61/EU.</p> <p>2. Pursuant to point (b) of Article 20(4) of Directive 2011/61/EU, the notification shall contain details of the delegate, the name of the competent authority where the sub-delegate is authorised or registered, the delegated functions, the AIFs affected by the sub-delegation, a copy of the written consent by the AIFM and the intended effective date of the sub-delegation.</p> <p>Article 82 Letter-box entity and AIFM no longer considered to be managing an AIF</p> <p>1. An AIFM shall be deemed a letter-box entity and shall no longer be considered to be the manager of the AIF at least in any of the following situations:</p> <p>(a) the AIFM no longer retains the necessary expertise and resources to supervise the delegated tasks effectively and manage the risks associated with the delegation;</p> <p>(b) the AIFM no longer has the power to take decisions in key areas which fall under the responsibility of the senior management or no longer has the power to perform senior management functions in particular in relation to the implementation of the general investment policy and investment strategies;</p> <p>(c) the AIFM loses its contractual rights to inquire, inspect, have access or give instructions to its delegates or the exercise of such rights becomes impossible in practice;</p> <p>(d) the AIFM delegates the performance of investment management functions to an extent that exceeds by a substantial margin the investment management functions</p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>performed by the AIFM itself. When assessing the extent of delegation, competent authorities shall assess the entire delegation structure taking into account not only the assets managed under delegation but also the following qualitative criteria:</i></p> <ul style="list-style-type: none"> <i>(i) the types of assets the AIF or the AIFM acting on behalf of the AIF is invested in, and the importance of the assets managed under delegation for the risk and return profile of the AIF;</i> <i>(ii) the importance of the assets under delegation for the achievement of the investment goals of the AIF;</i> <i>(iii) the geographical and sectoral spread of the AIF's investments;</i> <i>(iv) the risk profile of the AIF;</i> <i>(v) the type of investment strategies pursued by the AIF or the AIFM acting on behalf of the AIF;</i> <i>(vi) the types of tasks delegated in relation to those retained; and</i> <i>(vii) the configuration of delegates and their sub-delegates, their geographical sphere of operation and their corporate structure, including whether the delegation is conferred on an entity belonging to the same corporate group as the AIFM.</i> <p><i>2. The Commission shall monitor, in the light of market developments, the application of this Article. The Commission shall review the situation after two years and shall, if necessary, take appropriate measures to further specify the conditions under which the AIFM shall be deemed to have delegated its functions to the extent that it becomes a letter box entity and can no longer be considered to be manager of the AIF.</i></p>		

AIFMD	AIFMD - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	AIFMD - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
3. ESMA may issue guidelines to ensure a consistent assessment of delegation structures across the Union.		

Crypto-asset service providers

Proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final (MICA)

MICA	MICA - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MICA - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
Chapter 2 of MICA regulation imposes requirements on all crypto-asset service providers, including rules on outsourcing. Article 66 Outsourcing <i>1. Crypto-asset service providers, that rely on third parties for the performance of operational functions, take all reasonable steps to</i>		Paragraphs 1 and 4 - Similar rules to the ones that other pieces of the financial service acquis contains. Essentially stating the retained responsibility of the crypto-asset provider, need to

MICA	MICA - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MICA - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>avoid additional operational risk. They shall remain fully responsible for discharging all of their obligations under this Title and shall ensure at all times that all the following conditions are complied with:</i></p> <p><i>(a)outsourcing does not result in the delegation of the responsibility of the crypto-asset service providers;</i></p> <p><i>(b)outsourcing does not alter the relationship between the crypto-asset service providers and their clients, nor the obligations of the crypto-asset service providers towards their clients;</i></p> <p><i>(c)outsourcing does not change the conditions for the authorisation of the crypto-asset service providers;</i></p> <p><i>(d)third parties involved in the outsourcing cooperate with the competent authority of the crypto-asset service providers' home Member State and the outsourcing does not prevent the exercise of supervisory functions by those competent authorities, including on-site access to acquire any relevant information needed to fulfil those functions;</i></p> <p><i>(e)crypto-asset service providers retain the expertise and resources necessary for evaluating the quality of the services provided, for supervising the outsourced services effectively and for managing the risks associated with the outsourcing on an ongoing basis;</i></p> <p><i>(f)crypto-asset service providers have direct access to the relevant information of the outsourced services;</i></p> <p><i>(g)crypto-asset service providers ensure that third parties involved in the outsourcing meet the standards laid down in the relevant data protection law which would apply if the third parties were</i></p>		<p>preserve the relationship/obligations with the client, not to change authorisation conditions, enabling cooperation of third parties in the outsourcing with the competent authority of the crypto-asset service providers' home Member Stat; ensuring that outsourcing does not prevent the supervisory functions by competent authorities. Specific references to on-site access, data protection standards by the third party providers.</p>

MICA	MICA - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	MICA - DORA compliant provision; DORA does not regulate this aspect or with this level of detail
<p><i>established in the Union. For the purposes of point (g), crypto-asset service providers are responsible for ensuring that the standards laid down in the relevant data protection legislation are set out in the contract referred to in paragraph 3.</i></p> <p><i>2. Crypto-asset service providers shall have a policy on their outsourcing, including on contingency plans and exit strategies.</i></p> <p><i>3. Crypto-asset service providers shall enter into a written agreement with any third parties involved in outsourcing. That written agreement shall specify the rights and obligations of both the crypto-asset service providers and of the third parties concerned, and shall allow the crypto-asset service providers concerned to terminate that agreement.</i></p> <p><i>4. Crypto-asset service providers and third parties shall, upon request, make available to the competent authorities and the relevant authorities all information necessary to enable those authorities to assess compliance of the outsourced activities with the requirements of this Title.</i></p>	<p>Paragraph 2- general reference on outsourcing policy aligned with Dora's requirements in Article 25.</p> <p>Paragraph 3 - general rules on contracts aligned and not overlapping with Article 27 DORA.</p>	

Credit rating agencies

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (CRA)

CRA	CRA - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	CRA - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>Article 9 Outsourcing <i>Outsourcing of important operational functions shall not be undertaken in such a way as to impair materially the quality of the credit rating agency's internal control and the ability of ESMA to supervise the credit rating agency's compliance with obligations under this Regulation.</i></p>	Aligned with DORA Article 25 (1) no overlap.	-
<p>Article 16 Examination of the application for registration of a credit rating agency by ESMA</p> <p>1. ESMA shall, within 45 working days of the notification referred to in the second subparagraph of Article 15(4), examine the application for registration of a credit rating agency based on the compliance of the credit rating agency with the conditions set out in this Regulation.</p>	-	Not DORA's remit

<p>2. ESMA may extend the period of examination by 15 working days, in particular if the credit rating agency: <i>(b) envisages using outsourcing;</i></p>		
<p>Article 17 Examination of the applications for registration of a group of credit rating agencies by ESMA</p> <p>1. ESMA shall, within 55 working days of the notification referred to in the second subparagraph of Article 15(4), examine the applications for registration of a group of credit rating agencies based on the compliance of those credit rating agencies with the conditions set out in this Regulation.</p> <p>2. ESMA may extend the period of examination by 15 working days, in particular if any of the credit rating agencies in the group: <i>(b) envisages using outsourcing;</i></p>	-	Not DORA's remit
<p>Article 23b Requests for information</p> <p>1. ESMA may by simple request or by decision require credit rating agencies, persons involved in credit rating activities, rated entities and related third parties, <i>third parties to whom the credit rating agencies have outsourced operational functions or activities</i> and persons otherwise closely and substantially related or connected to credit rating agencies or credit rating activities to provide all information that</p>	-	ESMA supervisory powers

<p>is necessary in order to carry out its duties under this Regulation.</p>		
<p>ANNEX II INFORMATION TO BE PROVIDED IN THE APPLICATION FOR REGISTRATION Documents and detailed information related to the expected <i>outsourcing arrangements</i> including information on entities assuming outsourcing functions.</p>	-	Not DORA's remit
<p>ANNEX III List of infringements referred to in Article 24(1) and Article 36a(1)</p> <p>I. Infringements related to conflicts of interest, organisational or operational requirements</p> <p>50. The credit rating agency infringes Article 9 <i>by undertaking the outsourcing of important operational functions in such a way as to impair materially the quality of the credit rating agency's internal control or the ability of ESMA to supervise the credit rating agency's compliance with obligations under this Regulation.</i></p>		Not DORA's remit. Sanctions applied on financial entities (CRAs) for breaches of outsourcing related rules.
<p>Commission Delegated Regulation (EU) No 449/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on information for registration and certification of credit rating agencies</p>		
<p>Article 21 Inventory of conflicts of interest</p> <p>1. A credit rating agency shall provide ESMA with an up-to-date inventory of existing and potential conflicts of interest relevant to it.</p>		Specific rules on conflict of interest

<p>Where a credit rating agency is part of a group of undertakings, it shall include in the inventory any conflicts of interest arising from other entities which belong to its group of undertakings.</p> <p>2. The inventory of existing and potential conflicts of interest shall identify the following potential conflicts of interest:</p> <p>(b) any potential conflicts of interest arising from <i>the carrying out of ancillary services and the outsourced rating activities</i>;</p> <p>3. The inventory referred to in paragraph 1 shall explain how the potential conflicts of interest are to be eliminated or managed and disclosed.</p>		
<p>Article 25 Outsourcing requirements</p> <p>1. <i>Where a credit rating agency outsources any important operational functions, it shall provide ESMA with the following information:</i></p> <p>(a) <i>its policies with respect to outsourcing;</i></p> <p>(b) <i>an explanation on how it intends to identify, manage and monitor the risks posed by the outsourcing of important operational functions;</i></p> <p>(c) <i>a copy of the outsourcing agreements between the credit rating agency and the entity to which the activities are outsourced;</i></p>		<p>Specific Level 2 rules on the content of information to be provided to ESMA in the context of outsourcing. DORA does not regulate in that level of detail.</p>

<p><i>(d) a copy of any internal or external report on the outsourced activities issued in the past five years.</i></p> <p><i>2. For the purposes of paragraph 1, important operational functions shall comprise rating review, lead analyst, rating methodology development and review, rating approval, internal quality control, <u>data storage</u>, <u>IT systems</u>, <u>IT support and accounting</u>.</i></p>		
<p>ANNEX IX PROGRAMME OF OPERATIONS</p> <p><i>Outsourcing</i></p> <p><i>6.A description of the activities planned to be outsourced, and identification of the entities to which the activities are planned to be outsourced and an explanation of the reasons for outsourcing. If any activity is outsourced from a branch, this should be indicated.</i></p> <p>ANNEX X RECORD KEEPING, BUSINESS CONTINUITY PLANNING AND INFORMATION SYSTEMS</p> <p>(Article 11) Record keeping</p> <p>Continuity and regularity of the activities</p> <p>2.Information regarding the continuity and regularity in the performance of the credit rating activities as set out in point 8 of Section A of Annex I to Regulation (EC) No 1060/2009, including:</p>	-	Not DORA's remit.

(a) description of the procedures to ensure continuity and regularity in the performance of the credit rating activities, including information on their applicability to service providers to which activities have been outsourced;		
---	--	--

Crowdfunding Service Providers

Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (applicable as of 10 November 2021)

ECSP	ECSP - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	ECSP- DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
Article 9 Outsourcing 1. Crowdfunding service providers shall, when relying on a third party for the performance of operational functions, take all reasonable steps to avoid additional operational risk. 2. Outsourcing of operational functions referred to in paragraph 1 shall not impair the	Aligned with DORA Article 25 (1) no overlap.	-

ECSP	ECSP - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	ECSP- DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p><i>quality of the crowdfunding service providers' internal control and the ability of the competent authority to monitor the crowdfunding service providers' compliance with this Regulation.</i></p> <p><i>3. Crowdfunding service providers shall remain fully responsible for compliance with this Regulation with respect to the outsourced activities.</i></p>		
<p>Article 12 Authorisation as a crowdfunding service provider</p> <p>1. A legal person who intends to provide crowdfunding services shall apply to the competent authority of the Member State where it is established for authorisation as a crowdfunding service provider.</p> <p>2. The application referred to in paragraph 1 shall contain all of the following:</p> <p>(n) a description of the prospective crowdfunding service provider's outsourcing arrangements;</p>	-	Authorisation requirements under sectoral rules. Not DORA's remit.
<p>Article 27 Requirements regarding marketing communications</p> <p>1. Crowdfunding service providers shall ensure that all marketing communications about their</p>	-	Sector specific rules on transparency - marketing communication ; not DORA's remit

ECSP	ECSP - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	ECSP- DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
services, including <i>those outsourced to third parties, are clearly identifiable as such.</i>		

Statutory auditors and audit firms

Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC

Statutory audits Directive	Statutory audits Directive - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Statutory audits Directive - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
Article 24a Internal organisation of statutory auditors and audit firms	Aligned with DORA Article 25 (1) no overlap.	-

Statutory audits Directive	Statutory audits Directive - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Statutory audits Directive - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>1. Member States shall ensure that a statutory auditor or an audit firm complies with the following organisational requirements:</p> <p><i>(d) a statutory auditor or an audit firm shall establish appropriate policies and procedures to ensure that outsourcing of important audit functions is not undertaken in such a way as to impair the quality of the statutory auditor's or the audit firm's internal quality control and the ability of the competent authorities to supervise the statutory auditor's or the audit firm's compliance with the obligations laid down in this Directive and, where applicable, in Regulation (EU) No 537/2014;</i></p> <p><i>Any outsourcing of audit functions as referred to in point (d) of this paragraph shall not affect the responsibility of the statutory auditor or the audit firm towards the audited entity.</i></p>		
<p>Article 27 Statutory audits of consolidated financial statements</p> <p>1. Member States shall ensure that in the case of a statutory audit of the consolidated financial statements of a group of undertakings:</p>	-	Sectoral rules, not Dora's remit.

Statutory audits Directive	Statutory audits Directive - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Statutory audits Directive - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>(c) the group auditor reviews the audit work performed by third-country auditor(s) or statutory auditor(s) and third-country audit entity(ies) or audit firm(s) for the purpose of the group audit and documents it.</p> <p>2. Where the group auditor is unable to comply with point (c) of the first subparagraph of paragraph 1, he, she or it shall take appropriate measures and inform the relevant competent authority.</p> <p>Such measures shall, as appropriate, include carrying out additional statutory audit work, <i>either directly or by outsourcing such tasks, in the relevant subsidiary.</i></p>		

Administrators of critical benchmarks

Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (Benchmark Regulation)

Benchmark Regulation	Benchmark Regulation - DORA compliant provisions. Principle stated for all contractual relationships in DORA. No additional burden for the financial entity.	Benchmark Regulation - DORA compliant provision; DORA does not regulate this aspect or with this level of detail.
<p>Article 10 Outsourcing</p> <p>1. <i>An administrator shall not outsource functions in the provision of a benchmark in such a way as to impair materially the administrator's control over the provision of the benchmark or the ability of the relevant competent authority to supervise the benchmark.</i></p> <p>2. <i>Where an administrator outsources to a service provider functions or any relevant services and activities in the provision of a benchmark, the administrator shall remain fully responsible for discharging all of the administrator's obligations under this Regulation.</i></p> <p>3. <i>Where outsourcing takes place, the administrator shall ensure that the following conditions are fulfilled:</i></p> <p><i>(a) the service provider has the ability, capacity, and any authorisation required by law, to perform the outsourced functions, services or activities reliably and professionally;</i></p> <p><i>(b) the administrator makes available to the relevant competent authorities the identity and</i></p>	Aligned with DORA Article 25 (1) no overlap.	-

<p><i>the tasks of the service provider that participates in the benchmark determination process;</i></p> <p><i>(c) the administrator takes appropriate action if it appears that the service provider may not be carrying out the outsourced functions effectively and in compliance with applicable law and regulatory requirements;</i></p> <p><i>(d) the administrator retains the necessary expertise to supervise the outsourced functions effectively and to manage the risks associated with the outsourcing;</i></p> <p><i>(e) the service provider discloses to the administrator any development that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with applicable law and regulatory requirements;</i></p> <p><i>(f) the service provider cooperates with the relevant competent authority regarding the outsourced activities, and the administrator and the relevant competent authority have effective access to data related to the outsourced activities, as well as to the business premises of the service provider, and the relevant competent authority is able to exercise those rights of access;</i></p> <p><i>(g) the administrator is able to terminate the outsourcing arrangements where necessary;</i></p> <p><i>(h) the administrator takes reasonable steps, including contingency plans, to avoid undue operational risk related to the participation of</i></p>		
---	--	--

<p><i>the service provider in the benchmark determination process.</i></p>		
<p>Article 41 Powers of competent authorities 1. In order to fulfil their duties under this Regulation, competent authorities shall have, in conformity with national law, <i>at least the following supervisory and investigatory powers:</i> (b) require or demand information from any person involved in the provision of, and contribution to, a benchmark, <i>including any service provider to which functions, services or activities in the provision of a benchmark have been outsourced as provided for in Article 10</i>, as well as their principals, and if necessary, summon and question any such person with a view to obtaining information.</p>		<p>Supervisory powers</p>