

Comments

on FSB Public Consultation on Format for Incident Reporting Exchange (FIRE)

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent approximately 1,700 banks.

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Alignment with DORA's removal of data fields

The FIRE template contains fields that were eliminated during the Incident Reporting Regulatory Technical Standard process for DORA. Therefore, such fields should be eliminated. For example, the Initial Consultation Paper for the Incident Reporting RTS contained a field for communication to clients/financial counterparts that was struck from the Final Report for the Incident Reporting RTS.¹

Like the Initial Consultation Paper, the FIRE template has a "comms issued" field under the "changes since previous report section." Similarly, the Initial Consultation Paper had a field for "vulnerabilities exploited" [Id. at Field 3.41.] that was subsequently removed from the Final Report, while FIRE has a field for "vulnerabilities exploited." We recommend that the FSB remove these fields to ensure consistency and minimize fields that go beyond what is currently required or will soon be required under DORA as a high watermark.

Jurisdiction adoption of FIRE

At the same time, we are aware that extensive adoption will be challenging and take time, particularly as various jurisdictions are implementing new or updating existing reporting formats, most notably under the EU's Digital Operational Resilience Act to which the most GBIC members will be subject from January 2025. Given members' significant investment to date in aligning with DORA, we believe FIRE should align sufficiently to allow EU competent authorities to accept FIRE. Even if that is not immediately possible, we encourage the FSB to seek such alignment in the future when DORA is implemented and operation is reviewed.

Outside the EU, reporting formats tend to be more disparate, which provides an even greater opportunity to align and streamline reporting. As such, if "day one" alignment to DORA is not possible, GBIC would support phased adoption, initially focused on nonEU jurisdictions before subsequently trying to more closely align FIRE to DORA and vice versa.

Extensive data fields in FIRE

Jurisdictions that currently have relatively less prescriptive or limited notification content requirements may impose more onerous reporting requirements by electing to make what are "optional" fields in the proposed FIRE framework mandatory. Under this framework, regulators would have the ability to implement these items at their discretion. Such optionality could result in perpetuating and exacerbating the existing issues with disparate reporting templates. Including so many optional fields could have the unintended consequence of increasing the reporting burden for financial entities rather than decreasing it, notwithstanding the potential use of a single (largely) unified reporting format. As such, financial entities may find

¹ Consultation Paper: Incident Reporting RTS, at Field 3.32., <https://www.eba.europa.eu/sites/default/files/2023-12/ecc72f1c-c68a-4e64-97dd-47470117c3ae/JC%202023%2070%20-%20%20CP%20on%20draft%20RTS%20and%20ITS%20on%20major%20incident%20reporting%20under%20DORA.pdf>

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themselves facing the same (or an even greater) patchwork of notification requirements than they do now.

As drafted, the Legal / Regulatory Impact Scale provides a five-prong assessment to categorize legal or regulatory impact, with the severity level corresponding to deviations from legal/regulatory compliance. [See *id.* at Annex M, 63.] we are concerned that this approach could cause reporting entities to speculate on, for example, the degree to which a contract may have been breached or a regulatory requirement may not be met. As discussed above in relation to the public reactions field, it is detrimental to reporting entities to force them to provide speculative responses. Given that reports with these assessments are potentially discoverable, requiring such information via the five-prong assessment may have a chilling effect on reporting.

Notably, European lawmakers removed similar data fields from the Regulatory Technical Standards for major incident reporting under DORA (the “Incident Reporting RTS”). The Consultation Paper for the Incident Reporting RTS included data fields for “inability to comply with legal requirements” (4.4); “breach of contractual arrangement” (4.5); and “amount of fees due to noncompliance with contractual obligations” (4.18).²

We therefor recommend that the FSB follow this example and remove the Legal / Regulatory Impact Scale.

Public reaction

GBIC is also urging the FSB to remove the public reaction field from the final FIRE template. To the extent that this field is meant to allow authorities to anticipate possible market reactions that may exacerbate an incident, we would recommend tailoring the field to only request information that the reporting entity is uniquely able to provide. For example, a reporting entity may be able to indicate that, in connection with an incident, there was a material increase in customer complaints or a material change in redemptions. Such reports would add greater value than simply re-characterizing what the media may already have reported about the public’s reaction to an incident.

Sensitive information storage and dissemination

As currently proposed, the FIRE template contains 99 reporting fields, many of which involve sensitive data. As such, GBIC expects that authorities will review and enhance their controls around safeguarding sensitive data received from reporting entities, as appropriate. The safeguarding of and protection against the unauthorized disclosure of reporting entities’ sensitive data are critical given that this information would significantly increase a reporting entity’s risk profile if exposed. We therefore urge the FSB to make safe and secure incident

² See Final Report: Incident Reporting RTS (17 July 2024), https://www.esma.europa.eu/sites/default/files/2024-07/JC_2024-33_-_Final_report_on_the_draft_RTS_and_ITS_on_incident_reporting.pdf

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reporting a priority among authorities that are considering adopting FIRE as a reporting framework.