Preparing Luxembourg's Financial Sector for DORA Compliance by January 2025

FTL annual conference_18/11/2024

Ana-Maria Fimin/ European Commission

DORA – main pillars

ICT risk management

- Set of key principles and requirements on ICT risk management framework

ICT-related incident reporting

- Harmonise and streamline reporting + extend reporting obligations to all financial entities

Digital operational resilience testing

- Subject financial entities to basic testing or advanced testing (e.g. TLPTs)

ICT third-party risk

- Principle-based rules for monitoring third-party risk, key contractual provisions + oversight framework for critical ICT TPPs

Information sharing

- Voluntary exchange of information and intelligence on cyber threats

DORA-implementation phase &policy mandates

ICT risk framework (Chapter II)

- RTS on ICT Risk Management framework (Art.15)
- RTS on simplified risk management framework (Art.16.3)
- Guidelines on the estimation of aggregated costs/losses caused by major ICT related incidents (Art. 11.1)

ICT related incident management classification and reporting (Chapter III)

- RTS on criteria for the classification of ICT related incidents (Art. 18.3)
- RTS to specify the reporting of major ICT-related incidents (Art. 20.a)
- ITS to establish the reporting details for major ICT related incidents (Art. 20.b)
- Feasibility report on further centralisation of incident reporting through the establishment of a single EU hub for major ICT-related incident reporting (Art. 21)

Digital Operational Resilience Testing (Chapter IV)

- RTS to specify threat led penetration testing (Art. 26.1)

Third-party risk management (Chapter V.I)

- ITS to establish the templates of register of information (Art.28.9)
- RTS to specify the policy on ICT services performed by third-party (Art.28.10)
- RTS to specify the elements to determine and assess when sub-contracting ICT services supporting a critical or important function (Art.30.5)

Oversight framework (Chapter V.II)

- Call for advice on criticality criteria (Art. 31.8) and fees (Art. 43.2)
- Guidelines on “CAs-ESAs cooperation” regarding DORA oversight (Art. 32.7)
- RTS on “oversight conduct” (Art. 41)

➢**DORA entered into force 17 Jan 2023** (2 years for application)

➢**DORA will apply from 17 Jan 2025**

ESAs need to deliver **12 joint policy mandates within 12-18 months** from entry into force+ the call for advice on criticality criteria and fees

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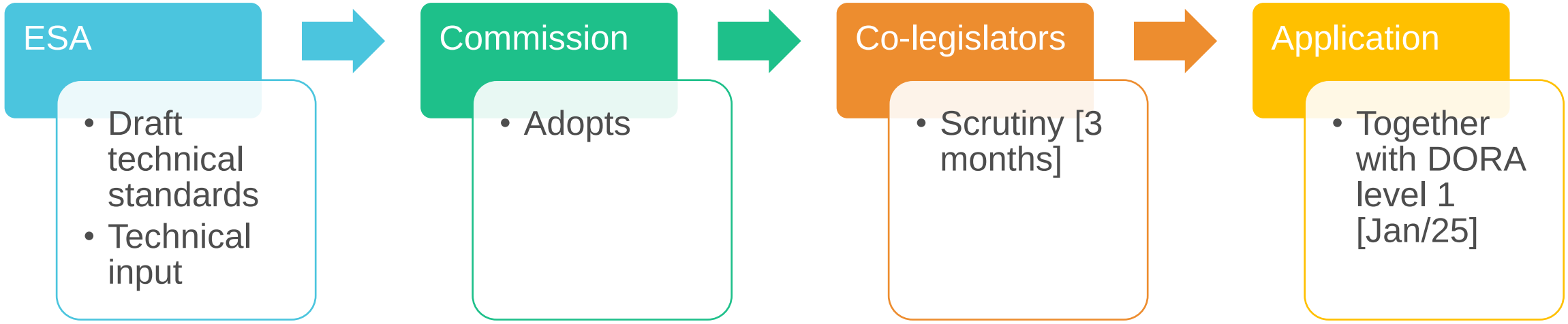
Status of policy mandates

Art	DORA policy work	WG	ESA Lead	Status	ECB/ENISA involvement	DL	Month	Last milestone at WG level	JS SC DOR	BoSs (2)
15	**RTS on ICT risk management framework**	1	ESMA	PC ended	ENISA (consulted)	**Jan-24**	**12**	28-Apr-23	**16-May-23**	WP (5-15 June)
16	**RTS on simplified ICT risk management framework**	1	ESMA	PC ended	ENISA (consulted)	**Jan-24**	**12**	28-Apr-23	**16-May-23**	WP (5-15 June)
18.3	**RTS on criteria for the classification of ICT-related incidents**	2	EBA	PC ended	ENISA and ECB (consulted)	**Jan-24**	**12**	28-Apr-23	**16-May-23**	WP (5-15 June)
28.9	**ITS to establish the templates for the Register of information**	3	EIOPA	PC ended	na	**Jan-24**	**12**	28-Apr-23	**16-May-23**	WP (5-15 June)
28.1	**RTS to specify the policy on ICT services performed by 3rd party**	1	EBA	PC ended	na	**Jan-24**	**12**	28-Apr-23	**16-May-23**	WP (5-15 June)
31.8	**Call for advice on criticality criteria**	3	EIOPA	Delivered	na	**Sep-23**	**9**	31-Mar	**18-Apr-23**	WP early May
43.2	**Call for advice on oversight fees**	3	ESMA	Delivered	na	**Sep-23**	**9**	31-Mar	**18-Apr-23**	WP early May
na	**ESRB recommendation - interim A(1) and B**	2	EIOPA	Delivered	ECB and ESRB (together)	**Jul-23**	**6**	28-Apr-23	**16-May-23**	WP (5-15 June)
20.a	**RTS on specifying the reporting of major ICT-related incidents**	2	EBA	On-time	ENISA and ECB (consulted)	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)
20.b	**ITS to establish the reporting details for major ICT-related incidents**	2	EBA	On-time	ENISA and ECB (consulted)	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)
21	**Feasibility report on single EU Hub for major ICT-related events**	2	ESMA	On-time	ENISA and ECB (consulted)	**Jan-25**	18 (1)	06-Oct	24-Oct-23	WP (10 -24 Nov)
11.11	**Guidelines on the estimation of aggregated costs/losses caused by major ICT related incidents**	2	EBA	On-time	na	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)
26.11	**RTS to specify threat led penetration testing aspects**	1	CA led	On-time	ECB (in agreement)	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)
30.5	**RTS to specify elements when sub-contracting critical or important functions**	1	EBA	On-time	na	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)
32.7	**GL on cooperation between ESAs and CAs regarding the structure of the oversight**	3	EIOPA	On-time	na	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)
41	**RTS to specify information on oversight conduct**	3	EIOPA	On-time	na	**Jul-24**	18	06-Oct	24-Oct-23	WP (10 -24 Nov)

Level 2 – process

Link to adopted acts: https://finance.ec.europa.eu/regulation-and-supervision/financial-services-legislation/implementing-and-delegated-acts/digital-operational-resilience-regulation_en



ICT third-party risk

(Articles 25 to 39)

Harmonisation of key elements of relationship with ICT third-party service providers

- Minimum aspects - core areas
- Complete monitoring of ICT third-party risk conclusion, performance, termination and post-contractual stages of contractual arrangements

Union Oversight framework for critical ICT third-party service providers

- Designation by the ESAs
- ESAs as Lead Overseers with powers to monitor
- Oversight Forum - cross-sectoral coordination on all ICT risk matter and preparatory work for individual decisions and collective recommendations

Contractual arrangements

(Articles 25-27)

General principles

- Financial entities' full responsibility
- Proportionality
- ICT third-party risk strategy
- Documentation and evidence
- Register of Information
- Pre, during and post contractual principles

Preliminary assessment of ICT concentration risk

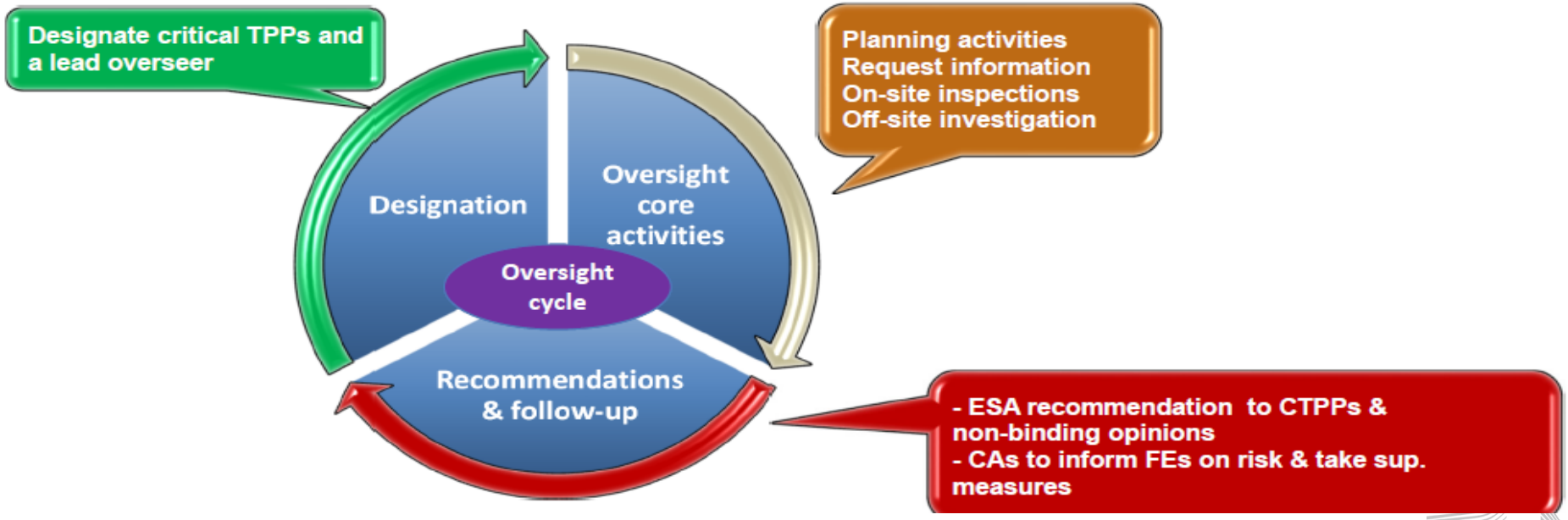
Key contractual provisions

- Description of all functions and services, service level
- Indication of location and storage of data
- Accessibility, availability, integrity, security and protection of personal data
- Full service descriptions
- Notice periods and reporting obligations of the third party provider
- Assistance by the third party provider
- Right to monitor
- Termination and exit strategies

DORA – Oversight framework

Digital Operational Resilience Act (6)
ESAs oversight activities

Objective – assessment of whether CTPPs have in place comprehensive, sound and effective rules, procedures and arrangement to manage the ICT risks, which may be posed to financial entities.



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Oversight framework

Financial entities **establish and update a Register of Information (RoI)** with all contractual arrangement on the use of ICT services provided by ICT TPPs

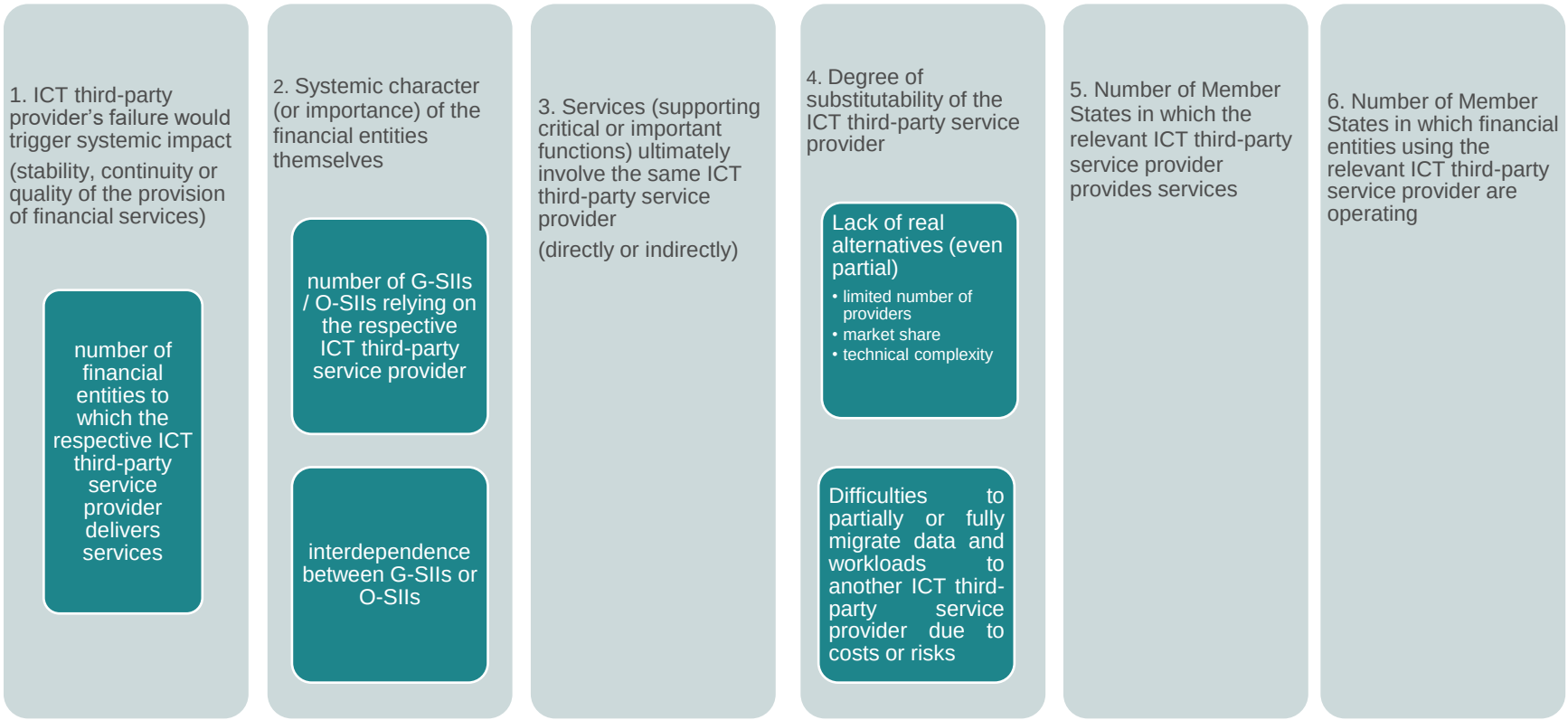
Financial entities **make available the RoI to the Competent Authorities** / report at least on a yearly basis on the **new contractual arrangements**

Competent authorities send on a yearly and aggregated basis the reports received to the **Oversight Forum** (OF support the work of the Joint Committee of ESAs and the LOs)

Designation by the ESAs, though Joint Committee of ESAs and upon recommendation from the OF, based on a set of **criteria (exemptions + voluntary opt-in)**

Oversight framework

(Article 28) Designation of critical ICT third-party providers (CTPPs) by the ESAs



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Oversight framework
(Article 28) continuation

EXEMPTION

Designation does not apply to ICT third-party service providers subject to oversight frameworks established for the purposes of supporting Treaty objectives referred to in Article 127(2) TFEU

VOLUNTARY OPT-IN

ICT third-party service providers not included may request to be subject to the Framework

LEAD OVERSEER

One ESA is appointed as Lead Overseer for each critical ICT third-party provider

(based on the value of assets of financial entities in the remit of the respective ESA)

Oversight framework (part 2)

ESAs (EBA, ESMA and EIOPA) act as **Lead Overseers (LOs)**

Critical ICT TPP – establish a subsidiary in the EU once becomes critical

LOs powers and tasks - perform **inspections and investigations**, assisted by **Joint Examination teams** + LOs perform inspections and investigations outside the EU

LOs powers and tasks – e.g. **issue recommendations to CTPPs** + **penalties** for not cooperating

Oversight framework (part 3)

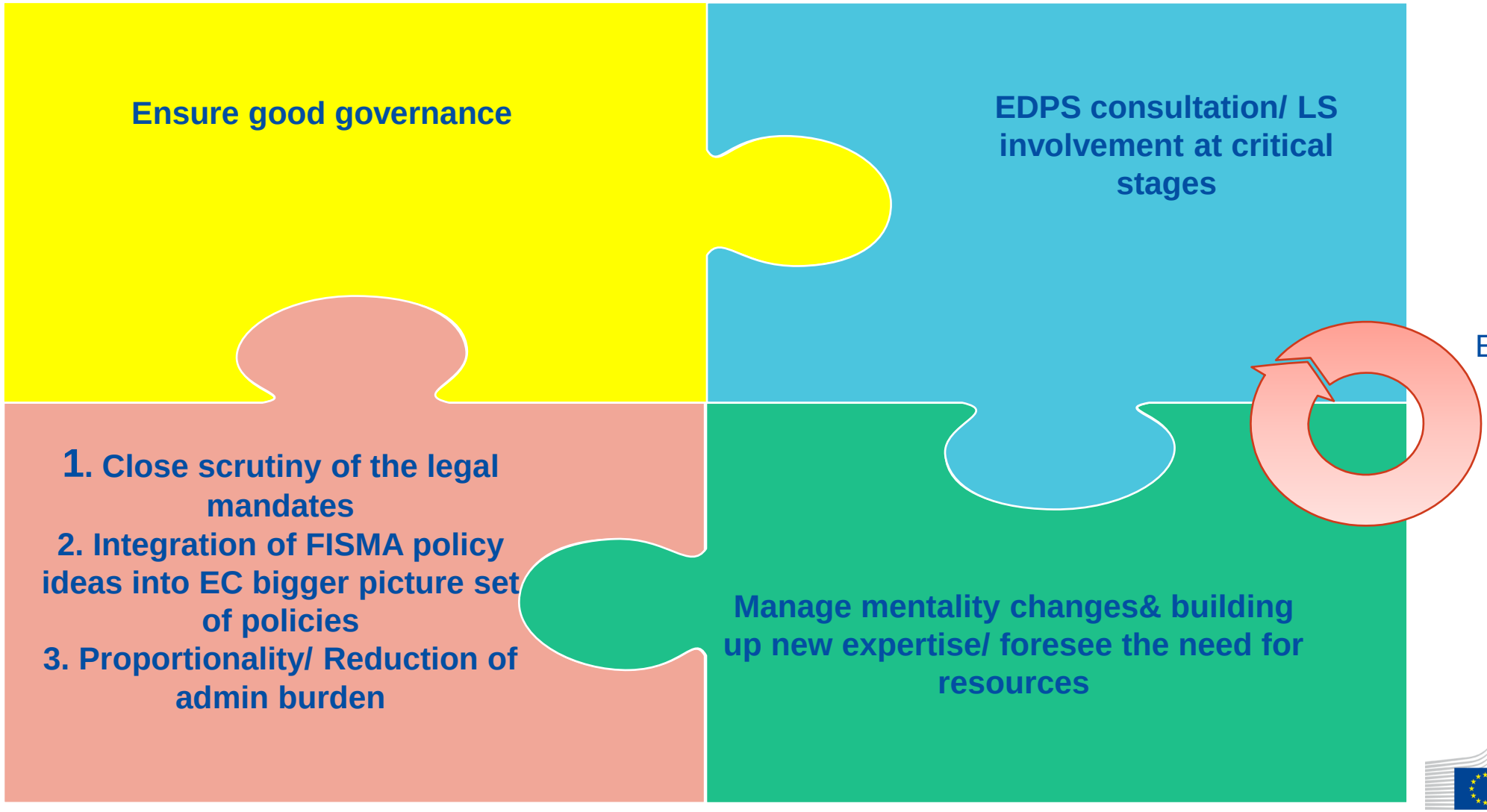
Joint Oversight Network – to ensure enhanced coordination among the LOs

Competent authorities – enforce the recommendations through financial entities

Oversight fees – to cover LOs necessary expenditure in relation to the conduct of oversight tasks

International cooperation – to conclude administrative arrangements with 3rd country regulatory and supervisory authorities to foster international cooperation

DORA level II phase- lessons learnt



Elements to have in mind

Thank you

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