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Regulations on Outsourcing Arrangements

Issued pursuant to   
Section 10.1, Paragraph twenty of the Credit Institutions Law

# **I. General provisions**

1. "Regulations on Outsourcing Arrangements" (hereinafter - the Regulations) shall be binding to credit institutions registered in the Republic of Latvia (hereinafter - the institution), which use outsourcing for performance of their functions.

2. The Regulations prescribe the following:

2.1 requirements for the use of outsourcing;

2.2 procedure according to which the institution shall identify significant outsourcing and report on their amendments, as well as transactions that are not to be deemed to be outsourced;

2.3. Documents and information to be submitted to the Finance and Capital Market Commission (hereinafter - the Commission) for receipt of significant outsourcing services;

2.4 requirements to be included in the policy and procedures for outsourcing;

2.5 requirements to be included in significant outsourcing contracts;

2.6 procedure according to which the institution shall report to the Commission about further delegation of significant outsourcing services.

3 An institution shall comply with the requirements of these Regulations individually, on the level of consolidated group or sub-consolidated level.

4. These Regulations shall be applied to institutions, the supervision of which is performed by the European Central Bank, to the extent they do not conflict with the requirements determined by the European Central Bank for the use of outsourcing.

5. It is recommended to apply these Regulations to the payment institutions and electronic money institutions licensed in the Republic of Latvia, if they use outsourcing for the performance of their functions.

6. When applying the requirements included in the Regulations, the institution shall take into account its size, type of activity, complexity, volume of functions delegated to outsourcing providers, risks related to fulfilment of outsourcing contracts and possible impact of outsourcing on the business continuity of the institution, as well as shall provide the necessary resources, including specialists with the relevant qualification and experience.

7. Definitions of the terms used in the Regulation:

7.1 outsourcing contract - a written agreement between the institution and the service provider regarding delegation of functions of the institution to the outsourcing provider;

7.2 function - any process, service or other activities;

7.3 critical or important function - function, which the institution, in accordance with the assessment determined in Chapter V of these Regulations, has identified as critical or important;

7.4 significant outsourcing - an outsourcing, where the performance of critical or important functions is delegated to the outsourcing provider;

7.5 management structure - the supervisory board and the executive board of an institution;

7.6 cloud services - services, which are provided by using cloud computing, that is, a model, providing ubiquitous, convenient and available on-demand access to the shared and configurable set of computing resources, including networks, servers, data storages, applications and services, which can be quickly provided and managed with minimum involvement of the service provider;

7.7. sub-delegation of outsourcing - a situation when the outsourcing provider sub-delegates the function of the institution delegated to it to another service provider (subcontractor);

7.8. the use of other terms corresponds with the use of terms in [Credit Institutions Law](https://likumi.lv/ta/id/37426-kreditiestazu-likums) .

# **II. Outsourcing used within a group**

8. The parent institution shall ensure introduction of group-level policies and procedures with regard to the use of outsourcing by all subsidiaries included in the consolidation group or sub-consolidation group in accordance with 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, taking into account the requirements of the laws and regulations of the relevant country where the subsidiary is located, as well as monitor their implementation.

9. The institution, in accordance with the internal governance arrangements introduced in the consolidation group or sub-consolidation group, shall comply with the following requirements:

9.1. in cases where the institution delegates its functions to an outsourcing provider within the group, its management structure shall retain full responsibility for compliance with the requirements of regulatory enactments and ensure compliance with the requirements of these Regulations;

9.2. when internal control functions are delegated to an outsourcing provider within a group, the institution shall ensure the effective performance of those functions and shall receive all information necessary for monitoring and auditing, including reports.

10. In addition to the provisions referred to in Paragraph 9 of these Regulations, the institution shall take into account the following conditions:

10.1. the institution shall ensure that independent supervision and control of outsourcing providers, to which critical or important functions have been delegated, is possible (receipt of reports, information on the results of risk assessment and performance monitoring);

10.2. the institution's management body receives information on the planned changes to centrally supervised outsourcing providers and the potential impact of the planned changes on critical or important functions, including a summary of the risk assessment carried out;

10.3. if the risk assessment of the institution's functions and service provider is performed centrally before receipt of outsourcing, the institution shall receive a summary of the assessment within the consolidation group or sub-consolidation group and the structure and risks of each institution shall be taken into account in the decision-making process;

10.4. where a centralized register of all outsourcing is established and maintained, the Commission and each group institution shall have the right and the possibility to obtain, without undue delay, information on all or part of the register subject only to the specific institution, including contracts with service providers within the group;

10.5. if the institution relies on the exit strategy defined for a critical or important function in the consolidation group or sub-consolidation group, the institution shall receive a summary of the strategy and ensure that the plan can be effectively implemented.

# **III. Analysis before the use of outsourcing**

11. Before the use of outsourcing the institution shall:

11.1. assess whether the function which is planned to be delegated to an outsourcing provider is critical or important in accordance with the provisions of Chapter V of these Regulations;

11.2. ascertain that the conditions for the supervision of outsourcing set out in Paragraphs 12 and 13 of these Regulations are met;

11.3. identify and assess all significant risks in accordance with the provisions of Chapter X of these Regulations;

11.4. perform the verification of suitability of the service provider in accordance with the criteria referred to in Chapter XI of these Regulations;

11.5. identify and assess potential conflicts of interest and take the necessary measures to manage them.

# **IV. Supervision of the use of outsourcing**

12. The institution shall ensure that the delegation of financial services, the provision of which requires obtaining a permit (license) from the Commission and ensuring their compliance with the requirements specified in regulatory enactments, to an outsourcing provider registered in Latvia or a Member State takes place only if the service provider has been authorized by the Commission or a national supervisory authority to perform such activities or provide services.

13. The institution shall ensure that the delegation of financial services, the provision of which requires obtaining a permit (license) from the Commission and ensuring their compliance with the requirements specified in regulatory enactments, to an outsourcing provider registered outside a Member State takes place only if the following conditions are met:

13.1. the service provider has been authorized to carry out such activities or to provide services outside a Member State and is supervised by the national supervisory authority;

13.2. an appropriate cooperation agreement has been concluded between the Commission and the national supervisory authority of the service provider concerned (for example, a memorandum of understanding has been signed or a collegium has been established).

# **V. Assessment of the functions of the institution**

14. When deciding to outsource functions, the institution shall assess whether, following the delegation of functions, it will continue to ensure stable and sustainable operations.

15. The institution shall assess whether the planned outsourcing agreement falls within the definition of outsourcing in Section 1, Paragraph one, Clause 68 of the Credit Institutions Law, taking into account whether the function (or part thereof) to be outsourced is performed on a permanent basis and (or part of it) is or could be performed by the institution itself, even if it has never performed this function before.

16. If the contract with an outsourcing provider covers several functions, the institution shall take this into account when performing assessment of those functions.

17. The institution shall not consider as outsourcing the following:

17.1. functions which, in accordance with the requirements of regulatory enactments, cannot be performed by the institution itself, for example, audits or examinations of financial statements specified in legal acts;

17.2. market information services (for example, provision of *Bloomberg, Moody's, Standard & Poor's, Fitch* data);

17.3. agreement on the use of global network infrastructure (such as, *Visa, MasterCard*);

17.4. clearing and settlement arrangements between clearing institutions, central counterparties and payment institutions;

17.5. the use of a global financial messaging infrastructure supervised by the relevant authorities;

17.6. correspondent banking services;

17.7. services that would not otherwise be provided by the institution (for example, architectural advice, legal advice and representation in court or other administrative bodies, cleaning, gardening and maintenance of premises, medical services, company car service, catering services, vending machine services, stationery, travel services, postal services, registrars, secretaries and switchboard operators, provision of goods (such as plastic cards, card readers, office supplies, personal computers, furniture) or public utilities (such as electricity, gas, water, telephone line)).

18 In order to determine whether a function that is intended to be outsourced is considered critical or important, the institution shall perform an assessment and document it accordingly.

19. An institution shall consider a function to be critical or important if:

19.1. as a result of insufficient performance or non-performance of the above-mentioned function, the following criteria of the institution would significantly decrease:

19.1.1. constant compliance with the requirements of regulatory enactments regulating its activities;

19.1.2. financial indicators;

19.1.3. the stability or continuity of the services provided and operations;

19.2. the institution's internal control function or a part thereof is delegated, except in cases where the assessment has established that the non-performance or improper performance of the function delegated to the outsourcing provider does not adversely affect the effectiveness of the institution's internal control function;

19.3. the financial services of the institution are delegated to the outsourcing provider, for the provision of which it is necessary to obtain a permit (license) from the Commission in accordance with the provisions of Chapter IV of these Regulations.

20. The function of the institution is considered critical or important if it is necessary for provision of key activities or critical functions set forth in Section 1, Paragraph one, Clause 15 and Clause 27 of the Law on the Restoration and Resolution of Credit Institutions and Investment Brokerage Companies that are identified in accordance with the criteria set forth in Article 6 and Article 7 of Regulation (EU) 2016/778[[1]](#footnote-1) , except cases, when the assessment of the institution concludes that non-performance or improper performance of those functions does not adversely affect the business continuity of the key operations or critical functions.

21. When assessing whether the intended use of outsourcing relates to a critical or important function, the institution shall take into account the results of the risk assessment referred to in Chapter X of these Regulations, as well as at least the following factors:

21.1. whether the use of outsourcing is directly related to the financial services of the institution for the provision of which a permit (license) of the Commission has been obtained;

21.2. the effect of any disruption on the performance of the function delegated to the outsourcing provider or the inability of the service provider to provide the service on a continuous basis at the level provided for in the contract, and its possible effect on the institution:

21.2.1. the short-term and long-term financial soundness and viability, including its assets, capital, costs, financing, liquidity, profits and losses;

21.2.2. business continuity and soundness;

21.2.3. operational risk, including conduct*,* information and communication technology and legal risks;

21.2.4. reputation risk;

21.2.5. where applicable, recovery of operations and resolution planning, resolvability and business continuity in the event of early intervention, recovery or resolution measures;

21.3. the possible impact of the use of outsourcing on the institution's ability to:

21.3.1. identify, supervise and manage all risks;

21.3.2. ensure compliance with all legal and regulatory requirements;

21.3.3. carry out appropriate audits of the functions delegated to the outsourcing provider;

21.4. the possible impact on the services provided to customers;

21.5. the possible impact on the use of all outsourced services in the institution, the scope of the functions delegated to one outsourcing provider and the possible impact on the use of outsourcing in the same field of activity of the institution;

21.6. the size and complexity of each field of activity covered by the contract on the use of outsourcing;

21.7. the possibility to expand the scope or extent of the functions in the planned outsourcing contract without changing it;

21.8. the possibility, if necessary, of delegating the function delegated to an outsourcing provider to another service provider, including the foreseeable risks, the impact on business continuity of the institution, as well as the costs and timetable for carrying out such activities;

21.9. the possibility for the outsourcing provider to take the performance of the delegated function back to the institution, if necessary or desirable;

21.10. the protection of personal data and the impact on privacy caused by a possible breach of confidentiality or failure to ensure the availability and integrity of data in relation to the institution and its clients, in accordance with requirements of the Regulation (EU) No 2016/679[[2]](#footnote-2).

# **VI. Management of the use of outsourcing**

22. The institution shall identify and manage all significant risks associated with the use of outsourcing, including those arising from agreements with third parties, ensure their measurement, assessment, control and risk reporting in accordance with the requirements set forth in the regulatory enactments of the Commission for the establishment of the internal control system. The institution shall make reasonable decisions about risk-taking and shall ensure that risk management measures are properly implemented, including in relation to cyber risks.[[3]](#footnote-3) .

23 The institution shall, taking into account the principle of proportionality set forth in Paragraph 6 of these Regulations, identify, assess, supervise and manage all risks arising from agreements with third parties and which are or could be covered by them, regardless of whether this agreement is to be considered as outsourcing. The risk assessment shall be performed in accordance with the requirements specified in Chapter X of these Regulations.

24. The institution shall ensure compliance with the requirements of Regulation (EU) 2016/679 on the protection of personal data through a processor, including with regard to the functions delegated to outsourcing providers and any agreements with third parties.

25 When delegating functions to an outsourcing provider, the management body of the institution shall ensure compliance with the regulations of the Commission on the establishment of the internal control system with regard to the supervision of critical or important functions delegated to outsourcing providers.

26. The institution shall ensure that the use of outsourcing does not minimize the requirements for assessment of suitability of the members of the management body of the institution, including ensuring that the members of its management body collectively have sufficient competence and appropriate qualifications for management and supervision of outsourcing.

27 In order to ensure the management and supervision of outsourcing, the institution shall:

27.1. clearly define the responsibilities for the preparation, management and control of documentation for the use of outsourcing;

27.2. ensure sufficient resources in order to perform management, supervision and preparation of documentation for the use of outsourcing in accordance with the requirements of regulatory enactments;

27.3. establish a structural unit or appoint a responsible person who is directly subordinated to the management structure (for example, a person who performs basic functions) and who is, in accordance with internal regulatory enactments of the institution, responsible for compliance with the requirements of these regulations, risk management and supervision of the use of outsourcing, as well as supervision of the documentation necessary for the use of outsourcing. Small and uncomplicated institutions shall ensure at least a clear division of tasks and responsibilities for the management and control of the use of outsourcing and may delegate the responsibilities of the person in charge for the use of outsourcing to a member of the management body of the institution.

28. When making a decision to delegate functions to an outsourcing provider, the institution shall, after delegation of those functions, ensure:

28.1. compliance with all the conditions for the granting of a permit of operation (license) of the institution, ensuring the effective performance of the duties of the management body in accordance with the provisions of Paragraph 25 of these Regulations;

28.2. a clear and transparent organizational structure that allows compliance with regulatory requirements to be ensured;

28.3. appropriate supervision and ability to manage the risks arising from the delegation of critical or important functions to outsourcing providers in cases when the functions of the internal control system are performed by an outsourcing provider (for example, use of outsourcing within a consolidation group or sub-consolidation group);

28.4. the availability of sufficient resources to implement compliance with the requirements set forth in Paragraphs 28.1–28.3 of these Regulations.

29. When using outsourcing, an institution shall ensure that:

29.1. it may take and implement decisions related to its activities and the performance of critical or important functions, including those delegated to outsourcing providers;

29.2. it may provide financial services according to its type of activity;

29.3. the risks associated with the use of current and planned outsourcing, including those related to the field of information and communication technologies and financial technologies (*fintech*), are properly identified, assessed, managed and mitigated;

29.4. the necessary confidentiality measures with regard to data and other information are in place;

29.5. effective exchange of information with outsourcing providers is implemented;

29.6. by delegating critical or important functions to outsourcing providers, that it is able to perform at least one of the following activities during the relevant time period:

29.6.1. delegate the function to another outsourcing provider;

29.6.2. to take the performance of the function delegated to the outsourcing provider back to the institution;

29.6.3. to terminate the activities of the institution in the field related to the function delegated to the outsourcing provider;

29.7. the necessary measures are taken to ensure the processing of data in accordance with Regulation (EU) 2016/679 in cases where personal data is processed by outsourcing providers located in a Member State or abroad.

30. The internal audit function of the institution shall perform an independent assessment of the functions delegated to outsourcing providers and the process of the use of outsourcing, in particular with regard to significant outsourcing services by using a risk-based approach, and shall ensure that:

30.1. the process of the use of outsourcing established in the institution and its efficiency;

30.2. the identification of critical or important functions and the quality and effectiveness of the assessment performed;

30.3. the quality and effectiveness of the performed risk assessment of the use of outsourcing and the compliance of the risks with the risk strategy of the institution;

30.4. the role of the management body;

30.5. supervision and management of the use of outsourcing in the institution.

# **VII. Requirements to be included in the outsourcing policy and procedures**

31. The institution intending to receive the outsourcing service shall develop an outsourcing policy and procedures which shall be regularly reviewed and updated. The outsourcing policy and procedures shall be approved by the management body of the institution and its application shall be determined individually, at the level of the consolidation group or on a sub-consolidated basis.

32. The outsourcing policy and procedures shall take into account the requirements set out in the regulatory enactments of the Commission on the establishment of an internal control system with regard to the introduction of new financial services or significant changes to existing financial services.

33. The institution shall include in the policy and procedures the main stages of the use of the outsourcing process, the principles, responsibilities and obligations for the use of outsourcing and shall specify at least:

33.1. the responsibilities of the management body in accordance with the provisions of Paragraph 25 of these Regulations and the delegation of critical or important functions of the decision-making processes to outsourcing providers;

33.2. the internal control function of the institution (including risk control, operational compliance control, internal audit) and the role of business functions, as well as the involvement of other persons in the process of outsourcing;

33.3 . planning of the use of outsourcing, including:

33.3.1 requirements for the use of outsourcing;

33.3.2. criteria for determination of critical or important functions;

33.3.3. procedures for risk identification, assessment and management;

33.3.4. requirements for the assessment of the suitability of the planned outsourcing providers, including the measures referred to in Chapter XI of these Regulations;

33.3.5. procedures for identification, assessment, management and mitigation of potential conflicts of interest;

33.3.6. measures for business continuity planning in accordance with the provisions of Chapter VIII of these Regulations;

33.3.7. a new outsourcing approval process;

33.4. supervision and management of the use of outsourcing in the institution, including:

33.4.1. a continuous and regular assessment of the performance of the outsourcing provider in accordance with the requirements of Chapter XVII of these Regulations;

33.4.2. procedures for determination of information with regard to changes in the use of outsourcing or the receipt of outsourcing providers (for example, financial situation, changes in organizational or ownership structure, sub-outsourcing);

33.4.3. performance of independent inspections and audits to assess compliance with regulatory requirements and policies;

33.4.4. business recovery processes;

33.5. documentation and registration of outsourcing, taking into account the requirements of Chapter IX of these Regulations;

33.6. outsourcing termination strategies and procedures for termination of cooperation, including the requirement to prepare a documented outsourcing termination strategy for each critical or important function that is planned to be outsourced, if the institution considers such termination possible, taking into account the potential termination of provision of services or unplanned termination of the outsourcing contract.

34. Outsourcing policies and procedures shall determine and separate:

34.1. the procedures for the use of significant outsourcing and other outsourcing services;

34.2. requirements for outsourcing, before the use of which a permit of the Commission shall be received;

34.3. the procedures for the use of outsourcing services provided within and outside the consolidation group or sub-consolidation group;

34.4. the procedure for the use of outsourcing, delegated to an outsourcing provider located in a Member State and to outsourcing providers located abroad.

35. The institution shall ensure that policies and procedures include the following aspects of the potential impact of significant outsourcing and are taken into account in the decision-making process:

35.1. the risk profile of the institution;

35.2. the ability of the institution to supervise the outsourcing provider and manage the relevant risks;

35.3. business continuity planning measures;

35.4 performance results of the institution.

# **VIII. Business Continuity Plans**

36. An institution, in accordance with requirements set forth in the regulatory enactments of the Commission regarding the establishment of the internal control system, shall maintain and regularly review a business continuity plan for critical or important functions delegated to outsourcing providers. An institution may rely on centrally established business continuity plans of its parent company with regard to the functions delegated to its outsourcing providers.

37. Business continuity plans shall address situations where the quality of the provision of critical or important functions delegated to outsourcing providers deteriorates to a critical level or is not met. The plans shall also include the potential impact of the insolvency of the outsourcing provider or other circumstances (for example, suspension or limitation of activities, court proceedings), the measures to be taken and, where appropriate, the political risks associated with the outsourcing providers.

# **IX. Outsourcing Register**

38. The institution shall establish, maintain and keep up to date a register of all contractual obligations with outsourcing providers and include at least the following information:

38.1. the identification number of each outsourcing service;

38.2. the date of entry into force of the contract or the commencement of receipt of outsourcing and, if possible, the date of renewal of the next contract, the end date or the time limit for notification on the termination of the contract in respect to the outsourcing provider and the institution;

38.3. a brief description of the function delegated to the outsourcing provider, including information on the data outsourced to the outsourcing provider and a reference to the information included in the register of personal data processing;

38.4. the category of outsourcing assigned by the institution, which characterizes the nature of the function delegated to the outsourcing provider (for example, information and communication technologies, control function);

38.5. the name of the outsourcing provider, registration number of the company, identifier of the legal entity (if available), legal address and other contact information, as well as the name of the service provider's parent company (if any);

38.6. the country or countries where the service is intended to be provided, as well as the location of the data (country or region);

38.7. an indication of whether the function delegated to the outsourcing provider is critical or important, as well as, if necessary, the justification for the assessment;

38.8. if functions are delegated to a cloud service provider, indicate the cloud service and deployment models (public, private, hybrid or community-wide), as well as the characteristics of the data to be stored and the locations (countries or regions) where the data will be stored;

38.9. an indication of the date on which the significance or criticality of the function delegated to the outsourcing provider has been assessed.

39. The register shall separate information on critical or important functions delegated to outsourcing providers from other outsourcing services and shall include at least the following information:

39.1. institutions and other companies that use outsourcing within the consolidation group or sub-consolidation group;

39.2. an indication of whether or not the service provider or subcontractor is a part of a consolidation group or a sub-consolidation group;

39.3. an indication of when the risk assessment has been carried out and a brief summary of the main results;

39.4. the management structure of the institution which has approved the outsourcing;

39.5. legal acts governing outsourcing contracts;

39.6. an indication of the dates of performed and, if known, also planned inspections or audits;

39.7. where applicable, the names of the subcontractors to whom essential parts of the critical or important functions will be delegated, as well as the country where the subcontractors are registered, where the service will be provided and, if necessary, the location (country or region) where the data will be stored;

39.8. the results of the assessment of the substitutability of the outsourcing provider (easy, difficult or impossible), the possibility for the institution to take back the performance of the critical or important function delegated to the outsourcing provider or the impact assessment in case it is planned to withdraw from the performance of critical or important function;

39.9. identification of alternative outsourcing providers in accordance with Paragraph 39.7 of these Regulations;

39.10. an indication of whether the execution of a critical or important function delegated to the outsourcing provider is time-critical (supports business operations that are time-critical);

39.11. planned annual budget costs.

40. At the request of the Commission, the institution shall provide all or part of the information in the register (for example, about all delegated information and communication technology outsourcing services). The institution shall provide this information in a processable electronic format.

41. The institution shall ensure that the information and documents included in the register are stored for at least five years after the end of the outsourcing contract.

42. An institution in a consolidation group or a sub-consolidation group may centrally maintain a register of outsourcing.

43. An institution shall document the results of the performed assessment and the supervisory measures implemented (for example, performance results of the service provider, compliance with harmonized service levels, other contractual and regulatory requirements, updating of the risk assessment performed).

# **X. Risk assessment on the use of outsourcing**

44. An institution shall assess the potential impact of the use of outsourcing on operational risk. When making a decision as to whether the function may be outsourced, the results of the assessment shall be taken into account and the necessary measures shall be taken to avoid additional operational risk before the outsourcing contract is concluded.

45. The assessment shall include, where appropriate, potential risk scenarios, including high-level operational risk scenarios. When performing scenario analysis, the institution shall take into account the identified weaknesses in the outsourcing process, assess the results of the previous use of outsourcing and their potential impact, including risks posed by processes, systems, people or external events. An institution shall, in accordance with the principle of proportionality referred to in Paragraph 6 of these Regulations, document the results of the analysis performed and assess the extent to which the use of outsourcing will affect the level of operational risk.

46. An institution with a small organizational structure and scope of activities and which is not recognized as another systemically important institution, taking into account the provisions of Paragraph 6 of these Regulations, may use qualitative risk assessment methods. Other institutions shall use a risk assessment approach that provides a comprehensive assessment of their risk, including, where possible, quantitative data on internal and external losses, in order to obtain information for scenario analysis.

47. When performing risk assessment, the institution shall also take into account the expected benefits and costs in relation to the planned use of outsourcing, assess the risks that can be mitigated or better managed, and take into account any potential risks that may arise from the planned use of outsourcing, including:

47.1. concentration risk, which includes:

47.1.1. delegation of outsourcing to a dominant service provider that cannot be easily substituted;

47.1.2. transfer of several outsourcing services to one and the same service provider or closely related service providers;

47.2. in the case of common risks when several functions of the institution have been delegated to outsourcing providers, or in case of the common risk in the consolidation group or sub - consolidation group if several functions within the group have been delegated to outsourcing providers;

47.3. the risk of intervention that may arise if a service provider, which has appeared in difficulty, needs financial support or it is necessary to take over its activities;

47.4. the measures taken by the institution and the outsourcing provider to manage and mitigate the risks.

48. Where the use of outsourcing involves the possibility for a service provider to sub-outsource critical or important functions to other outsourcers, the institution shall take into account:

48.1. the risks associated with the sub-outsourcing, including the additional risks that may arise if the subcontractor is located abroad or in a country other than the country of the service provider;

48.2. the risk that long and complex chains of sub-outsourcing reduce the ability of the institution to supervise the critical or important functions delegated to the outsourcing provider and the ability of the Commission to monitor them effectively.

49. When performing a risk assessment before the use of outsourcing and implementing constant supervision of the activities of the outsourcing provided, the institution shall at least:

49.1. identify and classify the relevant functions, determine whether the systems and data related to them are sensitive and what protection measures are necessary;

49.2. carry out a thorough risk-based analysis of the functions and associated data and systems that are to be outsourced or are already provided by outsourcing providers, and address potential risks, in particular operational risks, including legal, information and communication technology and compliance risks, as well as reputational risk, and also assess the supervisory constraints with regard to the countries where outsourcing is or may be provided and data is or may be stored;

49.3. consider the consequences of the location of the service provider (in a Member State or abroad);

49.4. consider the political stability and safety of the relevant jurisdictions, including:

49.4.1. existing legal acts, including legal acts on the protection of personal data;

49.4.2. the law enforcement regulations in force;

49.4.3. the requirements of the insolvency law applicable to the outsourcing provider and any restrictions (such as operating restrictions, court proceedings) that may arise, in particular in relation to the urgent need to recover the data of the institution;

49.5. define and decide on the appropriate level of protection of data confidentiality, the continuity of delegated activities and the integrity and traceability of data and systems in the context of the planned outsourcing. Institutions and payment institutions should also consider introducing, where necessary, specific measures with regard to the data that is transmitted, stored electronically and not currently used, such as the use of encryption technologies combined with the provision of an appropriate data management infrastructure;

49.6. assess whether the outsourcing provider is a subsidiary or a parent undertaking of the institution, whether it is included in a consolidation group or a sub-consolidation group, and to what extent the institution controls or is able to influence its operations.

# **XI. Suitability check of the outsourcing provider**

50. Before entering into the outsourcing contract, the institution shall ascertain during the selection and assessment process of the outsourcing provider on the suitability of the service provider and shall take into account the operational risk associated with the outsourcing of functions to the outsourcing provider.

51. In the case of significant outsourcing services, the institution shall ascertain on the ability of the outsourcing provider to perform the function to be delegated, its reputation, competence, resources (such as human, IT, financial resources), organizational structure and, where appropriate, existence of a permit (licence) or registration, to implement critical or important functions in a reliable and professional manner and ensure the fulfilment of its obligations throughout the planned validity period of the outsourcing contract.

52. When examining the suitability of an outsourcing provider, the institution shall assess at least the following factors:

52.1. the type, nature, scale, complexity, financial situation, ownership and group structure of the entrepreneurship;

52.2. long-term relationships with outsourcing providers who have already been evaluated and who provide outsourcing services to the institution;

52.3. whether the outsourcing provider is the parent undertaking or a subsidiary of the institution and is part of a consolidation group or a sub-consolidation group;

52.4. whether the outsourcing provider is supervised by the relevant supervisory authority.

53. Where the use of outsourcing involves the processing of personal data or confidential data, the institution shall ascertain that the outsourcing provider implements the necessary technical and organizational measures for data protection.

54. The institution shall take the necessary measures to ensure that outsourcing providers operate in accordance with its corporate values and code of ethics, in particular with regard to outsourcing providers located abroad and, where appropriate, their subcontractors. The institution shall ascertain that outsourcing providers act in an ethically and socially responsible manner and that they comply with international standards for human rights (such as the European Convention on Human Rights) and environmental protection, and ensure appropriate working conditions.

# **XII. Requirements to be included in the significant outsourcing contract**

55. The rights and obligations of the institution and the service provider shall be set out and clearly specified in the written outsourcing contract.

56. A significant outsourcing contract shall include at least the following information:

56.1. a clear description of the function that is planned to be outsourced;

56.2. the date of commencement of the work and, where appropriate, the date of termination or notice of termination of the contract in respect to the outsourcing provider and the institution;

56.3. legal acts governing outsourcing contracts;

56.4. financial obligations of the contracting parties;

56.5. an indication of whether it is permitted to sub-outsource services with regard to critical or important functions or essential parts thereof in accordance with the conditions for sub-outsourcing referred to in Chapter XIV of these Regulations;

56.6. the place or places (countries or regions) where the critical or important function will be provided or the relevant data will be stored and processed, including the possible place of storage and the conditions to be met, including the requirement to inform the institution if the service provider proposes to change this place or places;

56.7. where applicable, rules on access to the relevant data, as well as their availability, integrity, privacy and security, according to the provisions of Chapter XV of these Regulations;

56.8. the right of the institution to constantly monitor the activities and results of the outsourcing provider;

56.9. mutually agreed service criteria, including well-defined quantitative and qualitative targets for the functions outsourced to the outsourcing provider, allowing for timely monitoring so that appropriate corrective action can be taken without undue delay in the event of non-compliance with the agreed service criteria;

56.10. the obligation of the outsourcing provider to report to the institution, including the outsourcing provider's report on any process development that may significantly affect the ability of the service provider to effectively perform a critical or important function in accordance with the harmonized service criteria and applicable legal acts and governing requirements, as well as an obligation to submit reports of the service provider's internal audit function in case of need;

56.11. an indication of whether the service provider is required to take out compulsory insurance against certain risks and, if so, the level of insurance cover required;

56.12. requirements to implement and verify operational contingency emergency situation plans;

56.13. conditions ensuring access to data held by the institution in the event of the insolvency, resolution or termination of the operation of the service provider;

56.14. the obligation of the service provider to cooperate with the Commission, including with other persons authorized by it;

56.15. a clear reference to the powers of the resolution authority in accordance with provisions of Sections 90-93 of the Law on Recovery of Activities and Resolution of Credit Institutions and Investment Brokerage Companies;

56.16. the right of the institution and the Commission to inspect the activities of the outsourcing provider at its place of location or place of provision of outsourcing, including to request any documents and become familiar with all documents related to the particular outsourcing, as well as request from the outsourcing provider, its representatives or employees for explanation and information related to provision of outsourcing, in particular in relation to a critical or important function delegated to the outsourcing provider;

56.17. the right to terminate the outsourcing contract, as well as a requirement for the institution to inform the Commission on the termination of the outsourcing contract;

56.18. the requirements contained in Chapter XV of these Regulations regarding the security of data and systems and the requirement specified in Chapter XVI of these Regulations regarding the rights of access, availability of information and audit.

# **XIII. Termination of the outsourcing contract**

57. The outsourcing contract shall explicitly provide for the possibility for the institution to terminate the contract in accordance with applicable law, as well as in cases when:

57.1. the outsourcing provider has violated applicable laws, regulations or contractual provisions;

57.2. obstacles are identified that may affect the performance of the function delegated to the outsourcing provider;

57.3. there are significant changes that affect the use of the outsourcing or the outsourcing provider (for example, sub-delegation or change of subcontractors);

57.4. deficiencies have been identified with regard to the management and security of confidential, personal or otherwise sensitive data or information;

57.5. the use of outsourcing prevents or restricts the possibilities of the Commission to perform the supervisory functions specified in regulatory enactments.

58. The requirements determined in the outsourcing contract must ensure that the function delegated to the outsourcing provider is transferred as easily and expeditiously as possible or that the institution is able to take back the function delegated to the service provider. For this purpose the outsourcing contract shall:

58.1. clearly set forth the responsibilities of the current service provider in the event if the function delegated to the outsourcing provider is transferred to another service provider or its performance is taken back by the institution, including data processing;

58.2. determine an appropriate transition period during which, after termination of the outsourcing contract, the outsourcing provider shall continue to perform the function delegated to it in order to reduce the risk of interruption;

58.3. include the obligation of the service provider to provide support to the institution by performing organized transfer of the function in the event of termination of the outsourcing contract.

# **XIV. Sub-outsourcing of significant outsourcing services**

59. The outsourcing agreement shall specify whether the sub-outsourcing of critical or important functions or essential parts thereof delegated to the outsourcing provider is permitted.

60. In cases when sub-outsourcing of significant outsourcing services is permitted, the institution shall assess whether the part of the function to be sub-outsourced is critical or important (i.e., a substantial part of the critical or important function) and record it in the outsourcing register.

61. When sub-outsourcing significant outsourcing service, the institution shall, by written agreement with the outsourcing provider:

61.1. clarify all conditions not covered by the sub-outsourcing of the significant outsourcing service;

61.2. clarify all conditions to be complied with in the case of sub-outsourcing of the significant outsourcing service;

61.3. indicate that the outsourcing provider has a duty to monitor the services it has subcontracted in order to ensure that all contractual obligations between the outsourcing provider and the institution are constantly fulfilled;

61.4. stipulate that the outsourcing provider must obtain the written consent of the institution in accordance with the requirements set forth in Article 28 of Regulation (EU) 2016/679 before sub-outsourcing in the field of personal data;

61.5. indicate that the outsourcing provider is obliged to inform the institution of any planned cases of sub-outsourcing or any significant change thereof, in particular if this may affect the ability of the outsourcing provider to perform its obligations under the outsourcing contract. If changes are planned with regard to subcontractors and the time-limits, during which the institution receives information on the planned changes, it shall ensure that the institution can carry out a risk assessment of the proposed changes and have the right to object to the changes before the planned sub-outsourcing or substantial changes enter into force;

61.6. ensure that the institution has the right to object to the planned sub-outsourcing or substantial changes in relation to that and that the approval of the institution is required;

61.7. ensure that the institution has the right to terminate the outsourcing contract immediately if the sub-outsourcing significantly increases the risks of the institution or if the outsourcing provider performs sub-outsourcing without notifying the institution.

62. The institution may agree with sub-outsourcing only if the subcontractor undertakes:

62.1. to comply with the legal acts, regulatory requirements and contractual obligations applicable to its outsourcing activities;

62.2. to grant the institution and the Commission the same access and audit rights like those granted by the outsourcing provider.

63. The institution shall ensure that the outsourcing provider monitors subcontractors appropriately in accordance with the policies and procedures determined by the institution. If the sub-outsourcing may significantly adversely affect the performance of critical or important functions or increase risks, and the conditions referred to in Chapter XIV of these Regulations may not be met, the institution shall exercise the right to object to the sub-outsourcing or terminate the outsourcing contract.

# **XV. Security of data and systems**

64. The institution shall ensure that the outsourcing provider complies with the relevant information technology security standards.

65. The institution shall monitor compliance with the data and system security requirements set forth in the outsourcing contract (for example, in relation to the outsourcing of cloud services or other information and communication technology services).

66. In the case of the processing or transfer of personal data or confidential data, the institution shall ensure that the outsourcing contract specifies the place or places (country or region) of the storage and processing of personal data.

67. The institution shall stipulate in the outsourcing contract the obligation of the outsourcing provider to protect confidential information, personal data or otherwise sensitive information in accordance with the requirements of the regulatory enactments regarding data and information protection specified for the institution.

68. If the institution delegates performance of functions to cloud computing outsourcing providers and in cases when personal data or confidential data is processed or transferred, the institution shall take a risk-based approach with regard to the location or locations (country or region) of storage of data and processing of data for information security considerations.

# **XVI. Rights of access, availability of information and audit**

69. The institution shall specify in the outsourcing contract the requirement that the internal audit function shall perform inspections on the functions delegated to the outsourcing provider by using a risk-based approach.

70. Irrespective of whether the function delegated to the outsourcing provider is critical or important, the outsourcing contract shall provide the right to the Commission to have access to the information and perform examination in accordance with Section 12 of the Law on Recovery of Activities and Resolution of Credit Institutions and Investment Brokerage Companies and Sections 8 and 106 of the Credit Institutions Law with regard to outsourcing providers located in the Member States, as well as shall apply them to outsourcing providers located abroad.

71. With regard to critical or important functions delegated to the outsourcing provider, the outsourcing contract shall provide that the service provider provides the institution and the Commission, including the resolution authority, and any other person authorized by the institution or the Commission with:

71.1. access to all relevant business premises (such as headquarters and operational centres), including all equipment, systems, networks, information and data used for the function delegated to the outsourcing provider, including the related financial information, to the staff and external auditors of the service provider ("right to access and information");

71.2. examination of the use of outsourcing and right to audit ("right to audit") to monitor the use of outsourcing and to ensure compliance with all binding regulatory and contractual requirements.

72. In order to delegate the functions that are not critical or important to the outsourcing provider, the institution shall provide the right to access and audit in accordance with Paragraph 71 of these Regulations by using a risk-based approach, taking into account the nature of the function delegated to the outsourcing provider and related operational and reputational risks, their scope and possible impact on business continuity and the time-limit specified in the contract. The institution shall take into account that the function may become critical or important.

73. The institution shall ensure that the outsourcing contract or any other contractual arrangement does not impede or restrict the effective exercise of the right to access and audit of the institution, the Commission or third parties that they have authorized to exercise their rights.

74. In exercising its right to access and audit, the institution shall determine the frequency and the field of audits in accordance with a risk-based approach and shall comply with relevant generally accepted national and international auditing standards.

75. Without limiting the liability for the use of outsourcing, the institution may use:

75.1. joint audits organized together with other clients of the same service provider, carried out by the institution itself and by clients or any third party appointed by them, in order to make more efficient use of audit resources and reduce administrative burdens for both clients and the service provider;

75.2. certificates issued by third parties and audit reports prepared by third parties or internal audit reports submitted to it by the service provider.

76. In order to delegate critical or important functions to an outsourcing provider, the institution shall assess whether the third party certificates and reports referred to in Paragraph 75.2 of these Regulations shall be appropriate and sufficient to ensure compliance with regulatory requirements, but shall not rely solely on such reports.

77. The institution shall use the certificates referred to in Paragraph 75.2 of these Regulations and audit reports prepared by third parties only if:

77.1. the appropriate audit plan with regard to the functions delegated to the outsourcing provider is prepared;

77.2. the certification or audit reports relate to the systems (for example, processes, applications, infrastructure, data centres, etc.) and control measures identified by the institution, and comply with the relevant regulatory requirements;

77.3. the content of certification or audit reports is thoroughly assessed on an regular basis and the reports and certificates are checked for obsolescence;

77.4. the main systems and controls are included in future versions of the certification or audit report;

77.5. the person issuing the certificates or preparing the audit reports has the appropriate competence and authorization (for example, with regard to the rotation, qualifications, knowledge, examination or re-examination of the evidence in the relevant audit file);

77.6. certificates are issued and the audit is performed in accordance with generally accepted professional standards and includes an examination of the operational effectiveness of the essential control measures;

77.7. it has the contractual right to request that the scope of the certification or audit reports is applied to other related systems and controls. The number and frequency of such requests for amendments to the scope must be proportionate and legitimate from the perspective of risk management;

77.8. it reserves the right to perform individual audits at its own discretion if a critical or important function has been delegated to the outsourcing provider.

78. Where necessary, the institution shall carry out security inspections and tests to assess the effectiveness of the cyber security and information and communication technology security measures implemented by the service provider.

79. The institution shall ensure that the outsourcing provider is duly informed of the planned visit prior to the planned on-site visit of the institution, the Commission or their authorised persons, except when it is not possible in cases of emergency or crisis.

80. When performing an audit of an outsourcing provider that provides outsourcing services to several customers, it shall be ensured that risks to the operating environment of other clients (such as impact on service levels, data availability and confidentiality) are eliminated or mitigated.

81. When the use of outsourcing involves a high level of technical complexity, like in the case of cloud services, the institution shall verify whether the person carrying out the audit, regardless of the fact if the person is the internal auditor of the institution, a group of auditors or external auditors acting on its behalf, are appropriate and have the appropriate qualifications and knowledge to carry out the relevant audit or assessment effectively. The same shall apply to any representative of the staff of the institution who reviews certifications or audits of third parties, performed by service providers.

# **XVII. Supervision of functions delegated to outsourcing providers**

82. The institution shall, by using a risk-based approach, continuously supervise the activities of service providers in relation to any outsourcing contract, paying particular attention to critical or important functions delegated to outsourcing providers, and ensure the availability, integrity and security of data and information. If the risk, nature or extent of the function delegated to the outsourcing provider has significantly changed, the institution shall re-assess the critical importance or significance of this function in accordance with Chapter V of these Regulations.

83. The institution shall perform supervision and management of the use of outsourcing with due care, diligence and qualifications.

84. The institution shall regularly, at least once a year, update the performed risk assessment in accordance with the requirements specified in Chapter X of these Regulations and periodically report to the management body on the risks identified with regard to the delegation of critical or important functions to outsourcing providers.

85. The institution shall supervise and manage the internal concentration risk arising from the use of outsourcing, taking into account the provisions of Chapter X of these Regulations.

86. The institution shall continuously supervise the compliance of the use of outsourcing with its policy requirements and quality standards, in particular with regard to critical or important functions delegated to outsourcing providers, and shall ensure:

86.1. receiving of reports from service providers;

86.2. evaluation of the performance results of service providers and received reports;

86.3. reviewing of all important information received from service providers, including reports on business continuity arrangements and inspections.

87. If, in accordance with the applicable law, the institution finds shortcomings in the performance of the function delegated to the outsourcing provider, in particular in cases when the service provider fails to perform the critical or important function delegated to it effectively enough, it shall take appropriate corrective measures and in case of need may terminate the outsourcing contract immediately.

# **XVIII. Outsourcing exit strategy**

88. Where critical or important functions are delegated to an outsourcing provider in accordance with the policies, procedures and business continuity plans of the institution, the institution shall prepare and document a strategy for outsourcing exit, including at least:

88.1. the conditions, reasons and possible situations for termination of the outsourcing contract;

88.2. action in the event of non-compliance with the obligations of the outsourcing provider;

88.3. action in case of deterioration of the quality of the provided function and actual or potential malfunctions caused by incorrect or unsuccessful provision of the function;

88.4. significant risks associated with the proper and continuous implementation of the function;

88.5. the scope of the analysis to be carried out and the resources that would be required to implement the exit from the outsourcing contract and determining during what time it would be possible to perform it;

88.6. the authorized employees and their responsibilities, resources for the management of the implementation of the outsourcing exit strategy and the performance of the necessary activities;

88.7. the criteria for taking over the functions delegated to the outsourcing provider and the transferred data;

88.8. indicators used for supervision of the use of outsourcing, including indicator values that indicate an unacceptable level of outsourcing quality and the need to use the outsourcing exit strategy.

89. The institution shall ensure that, upon exit of the outsourcing contract, unduly disruptions in its operations are not caused, its compliance with regulatory requirements are not affected and the continuity and quality of the provision of services of the institution is not endangered. To ensure this, the institution shall:

89.1. develop and implement a comprehensive, documented and, where appropriate, well-tested outsourcing exit strategy (for example, an analysis of the potential costs, impacts, resources required and time associated with the transfer of the function provided by the outsourcing provider to an alternative service provider);

89.2. identify alternative solutions and develop a transition plan so that the institution can further transfer the functions and data delegated to the outsourcing provider to another service provider or take over functions, or take other measures to ensure the continuous implementation of critical or important functions or activities in a controlled and sufficiently verified manner, taking into account the problems that may arise due to the location of the data and taking the necessary measures to ensure business continuity during the transition period.

# **XIX. Documents and information to be submitted to the Commission for receipt of a significant outsourcing service**

90. At least 30 working days before the conclusion of a contract on the outsourcing of critical or important functions, the institution shall submit to the Commission a written notice prepared in accordance with Annex 1 to these Regulations and it shall be accompanied by:

90.1. a draft outsourcing contract or a copy of the contract;

90.2. outsourcing policies and procedures (if not already submitted to the Commission);

90.3. any other information that the institution considers necessary to justify the decision of the institution to delegate a critical or important function to the outsourcing provider.

91. At least 30 working days before the significant amendments, planned to be made to the concluded significant outsourcing contract, the institution shall submit to the Commission a written notice prepared in accordance with Annex 2 to these Regulations and it shall be accompanied by:

91.1. amendments to the outsourcing contract;

91.2. amendments to the outsourcing policy and procedures (if not already submitted to the Commission);

91.3. any other information that the institution considers necessary to justify the decision of the institution to make significant amendments to the concluded significant outsourcing contract.

92. If the information provided by the institution in accordance with Paragraphs 90 and 91 of these Regulations is not sufficient to assess the risks assumed by the institution by delegating a critical or important function to an outsourcing provider, the Commission may request additional information, for example, about:

92.1. the results of the risk analysis performed;

92.2. the business continuity plan of the outsourcing provider and its suitability for the performance of the functions of the institution which have been delegated to the outsourcing provider;

92.3. outsourcing exit strategy;

92.4. resources and arrangements put in place to ensure the supervision of the functions delegated to the outsourcing provider;

92.5. other aspects as necessary for the performance of the assessment of the Commission.

93. The following amendments to the concluded significant outsourcing contract shall be considered significant:

93.1. significant expansion or narrowing of the scope of outsourcing;

93.2. change of the outsourcing provider;

93.3. sub-outsourcing.

94. Based on the information provided by the institution and taking into account the nature and complexity of the of critical or important functions of the institution, the competence and market position of the outsourcing provider, the Commission shall assess the compliance of the planned significant outsourced service with the requirements determined by Section 10.1 of the Credit Institution Law and these Regulations, as well as the ability of the Commission to carry out the supervision of the institution with regard to the function delegated to the outsourcing provider.

# **XX. Final provisions**

95. The institution shall establish an outsourcing register in accordance with the requirements determined in Chapter IX of these Regulations and shall submit this information to the Commission by 15 March 2022.

96. In order to determine whether the functions delegated to outsourcing providers before the date of entry into force of these Regulations are critical or important, the institution shall carry out an assessment of these functions in accordance with Chapter V of these Regulations by 1 March 2022.

97. The institution shall ensure the compliance of significant outsourcing contracts with the requirements specified in Chapter XII of these Regulations by 1 March 2022.

# **Informative Reference to the European Banking Authority Guidelines**

These Regulations contain legal norms arising from the Guidelines of the European Banking Authority of 25 February 2019EBA/GL/2019/02 "Guidelines on outsourcing".

to Regulation No. \_\_, dated \_\_\_\_.2019

Medicine S. Purgaile

**THIS DOCUMENT IS SIGNED ELECTRONICALLY WITH**

**A SECURE ELECTRONIC SIGNATURE AND CONTAINS A TIME-STAMP**

Annex No. 1

to Regulation No. 84

of the Finance and Capital Market Commission of 06 July 2021

**NOTIFICATION ON SIGNIFICANT OUTSOURCING**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(name of the institution)

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(registration number, address)

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(date)

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| --- | --- | --- |
| **General information on the outsourcing of critical or important functions to an outsourcing provider** | | |
| 1. | **Description of a critical or important function**  (nature and scope of the service) | |
| [*Text*] | |
| 2. | **Grounds for the decision to outsource a critical or important function to the outsourcing provider**  (indicate the benefits that the institution expects from delegating the function to an outsourcing provider and provide a brief summary of the risk assessment performed in accordance with Chapter X of these Regulations) | |
| [*Text*] | |
| 3 | **Outsourcing provider with whom it is planned to enter into an outsourcing contract**  (name, address, registration number, area of activity) | |
| [*Text*] | |
| 4. | **A description of how the function delegated to the outsourcing provider will be integrated into the internal control and risk management system of the institution** | |
| [*Text*] | |
| 5. | **Information on the submission of outsourcing policies and procedures to the Commission**  (indicate the date of submission to the Commission or attach an updated version) | |
| 6. | **Information regarding the compliance of the requirements included in the draft contract with the requirements specified in Chapter XII of these Regulations** | |
| **Requirements to be included in the outsourcing contract** | **Reference to the requirement contained in the contract or its draft** |
| 6.1. | Subject-matter of the contract |  |
| 6.2 | the date of commencement of the work and, where appropriate, the date of termination or notice of termination of the contract in respect of the outsourcing provider and the institution |  |
| 6.3. | legal acts governing outsourcing contract |  |
| 6.4. | financial obligations of the contracting parties |  |
| 6.5 | an indication regarding the permission to sub-outsource significant outsourcing or essential parts thereof in accordance with the provisions referred to in Chapter XIV of these Regulations for sub-outsourcing |  |
| 6.6 | the place or places (countries or regions) where the critical or important function will be provided or the relevant data will be stored and processed, including the possible place of storage and the conditions to be met, including the requirement to inform the institution if the service provider proposes to change this place or places |  |
| 6.7 | if necessary, rules on access to the relevant data, as well as their availability, integrity, privacy and security, according to the provisions of Chapter XV of these Regulations |  |
| 6.8 | the right of the institution to constantly monitor the activities and results of the outsourcing provider |  |
| 6.9. | agreed service criteria, including well-defined quantitative and qualitative targets for the functions outsourced to the outsourcing provider, allowing for timely monitoring so that appropriate corrective action can be taken without undue delay in the event of non-compliance with the agreed service criteria |  |
| 6.10. | the obligation of the outsourcing provider to report to the institution, including the outsourcing provider's report on any process development that may significantly affect the ability of the service provider to effectively perform a critical or important function in accordance with the harmonized service criteria and applicable legal acts and governing requirements, as well as an obligation to submit reports of the service provider's internal audit function in case of need |  |
| 6.11 | information on whether the service provider is required to take out compulsory insurance against certain risks and, if so, the level of insurance cover required |  |
| 6.12. | requirements to implement and verify operational contingency emergency situation plans |  |
| 6.13. | conditions ensuring access to data held by the institution in the event of insolvency, resolution or termination of the operation of the service provider |  |
| 6.14. | the obligation of the service provider to cooperate with the Commission, including with other persons authorized by it |  |
| 6.15. | a reference to the powers of the resolution authority in accordance with provisions of Sections 90-93 of the Law on Recovery of Activities and Resolution of Credit Institutions and Investment Brokerage Companies |  |
| 6.16. | the right of the institution and the Commission to carry out checks and audits on the service provider's activities |  |
| 6.17. | the right to terminate the outsourcing contract, as well as a requirement for the institution to inform the Commission on the termination of the outsourcing contract |  |

Annex No. 2

to Regulation No. 84

of the Finance and Capital Market Commission of 06 July 2021

**NOTIFICATION ON SIGNIFICANT AMENDMENTS TO THE CONCLUDED SIGNIFICANT OUTSOURCING CONTRACT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(name of the institution)

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(registration number, address)

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(date)

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| **General information on making amendments to a significant outsourcing contract** | |
| 1. | **Outsourcing provider with whom the significant outsourcing contract is concluded**  (name, address, registration number, area of activity) |
| [*Text*] |
| 2. | **Description of the planned amendments to the concluded significant outsourcing contract** |
| [*Text*] |
| 3 | **Grounds for the decision to make amendments to the significant outsourcing contract**  (indicate the reason for the planned amendments and provide a brief summary of the risk assessment performed in accordance with Chapter X of these Regulations) |
| [*Text*] |
| 4. | **A description of how changes to the procedure on receipt of outsourcing are integrated into the internal control and risk management system of the institution** |
| [*Text*] |
| 5. | **Information on the submission of outsourcing policies and procedures to the Commission**  (indicate the date of submission to the Commission or attach an updated version) |

1. Commission Delegated Regulation (EU) 2016/778 of 2 February 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary *ex post* contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines. [↑](#footnote-ref-1)
2. Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [↑](#footnote-ref-2)
3. See also the Guidelines of the European Banking Authority on Information and Communication Technologies and Security Risk Management (https://eba.europa.eu/-/eba-consults-onguidelines-on-ict-and-security-risk-management) and the G7 Fundamental Elements of Cybersecurity for the Financial Sector (<https://ec.europa.eu/info/publications/g7-fundamental-elements-cybersecurity-financial-sector_en> ); Regulations No. 150 of the Commission "Regulations on Information Technology and Security Risk Management", adopted on 08.11.2020. [↑](#footnote-ref-3)