



Brussels, 7th January 2021

**EACB comments on the Financial Stability Board Discussion paper
Regulatory and Supervisory Issues Relating to Outsourcing and
Third-Party Relationships**

9 November 2020

General comments

The EACB welcomes the opportunity to comment on the Financial Stability Board (FSB) Discussion paper on Regulatory and Supervisory Issues Relating to Outsourcing and Third-Party Relationships.

Questions for public consultation

1. What do you consider the key challenges in identifying, managing and mitigating the risks relating to outsourcing and third-party relationships, including risks in sub-contractors and the broader supply chain?

From our perspective, there are major challenges in evaluating a third-party procurement or outsourcing comprehensively and correctly from an operational point of view. The more service providers are involved in an outsourcing, naturally, the more difficult it becomes to reduce or eliminate the risk involved.

On the other hand, it is often challenging to meet the diverse regulatory and legal requirements, which formulate comparable obligations in many aspects, but can differ from one another in detail areas and thus require an increased analysis and, if necessary, an implementation effort, which we perceive as inefficient from the perspective of further risk reduction.

Further challenges are related to the decreasing transparency caused by every additional provider in the supply chain, regarding risks of relocations, the determination of concentration and default risks as well as the determination of the step-in risk and, especially in the case of multi-client service providers, the determination of the risk share for an individual institution.

2. What are possible ways to address these challenges and mitigate related risks? Are there any concerns with potential approaches that might increase risks, complexity or costs?



From our point of view, these challenges can be addressed by carrying out a methodological review and assessment of the risks associated with external procurement and to implement adequate control mechanisms. There are concerns that without simplifying current regulations, new, additional approaches will increase the complexity and thus the increase of costs of outsourcing management without significantly reducing the risks.

We also consider the certification of IT support tools for outsourcing management and by that the establishment of a best practice standard as useful.

The centralization of preliminary checks of the service provider by a neutral body, especially in the case of multi-client service providers, such as Cloud providers, would lead to increased efficiency in audit practice and higher transparency for supervision, institutions, and service providers.

3. What are possible ways in which financial institutions, third-party service providers and supervisory authorities could collaborate to address these challenges on a cross-border basis?

Cross-border cooperation could be promoted by, among other things, the establishment of common, Europe-wide standards for outsourcing management. It is important that regulatory and supervisory authorities, namely the ECB, the EBA and the SRB, cooperate and coordinate as much as possible so that regulatory requirements are streamlined.

Therefore, efforts should be made to harmonize regulatory approaches and content, as well as definitions and categories of the different market segments (loans, securities, capital market) In addition, the principle of proportionality should be kept in mind in order to avoid an increase of the requirements step-by-step over time and making them more and more detailed.

In the context of outsourcing (especially, when discussing the definition of outsourcing and third-party relationships, like in section 1 "Definitions of outsourcing and third-party relationships" in the Annex of the Discussion Paper), we suggest taking into account a unique organizational structure of cooperative banking groups by providing for an exemption for the transfer of tasks to the central institution or a specialized separate legal entity within cooperative banking groups.

Due to their limited staff and technical resources small cooperative banks strongly rely (for certain services) on the specific knowledge of the central institution or a specialized legal entity within the cooperative group. In many cooperative groups the functions of hundreds of affiliated institutions are centralized at the central institution or a specialized legal entity. In those cooperative groups the central institution or a specialized separate legal entity has been set up mainly to perform standardized services for the affiliated institutions which would not be able to undertake those services by themselves (principle of subsidiarity). Classifying the transfer of tasks to the central institution or to a specialized separate legal entity within cooperative banking groups as outsourcing (in the regulatory sense) not only places a huge



additional administrative burden on numerous cooperative institutions but also impedes the cooperation and division of tasks within cooperative banking groups. Against this background the transfer of tasks to the central institution or a specialized separate legal entity within cooperative banking groups should not be considered as 'outsourcing' (in the regulatory sense) in order to preserve the unique structure and nature of cooperative banking groups that are built upon the idea of cooperation.

Please see also our answers to question 2.

4. What lessons have been learned from the COVID-19 pandemic regarding managing and mitigating risks relating to outsourcing and third-party relationships, including risks arising in sub-contractors and the broader supply chain?

The ongoing COVID-19-pandemic revealed the importance of some factors linked to *managing and mitigating* risks related to outsourcing and third-party relationships

- the importance the clients' payment behavior in order to ensure that the service provider does not get into financial distress and can continue to provide the services properly;
- the importance of measures aimed to reduce the effects of the COVID-19 pandemic, i.e. increase the home office quota at the service provider (including adjustment of the contractual agreements regarding home office) and the updating of exit strategies for key service providers (including review of the step-in risk assessment)
- the importance of increasing cybersecurity measures used by third providers since during COVID-19 pandemic, digital services and digital communication have significantly increased.