

CSSF 22/806 ON OUTSOURCING ARRANGEMENTS

On April 22nd 2022, the CSSF published the long-awaited Circular on outsourcing arrangements which sets out the new regulatory requirements applicable to in-scope entities as of **June 30th 2022**.

The new Circular translates the EBA guidelines on outsourcing arrangements into locally adapted regulations. It introduces **more specific requirements for the management of outsourcing arrangements** compared to the requirements defined previously.



Key points

The new CSSF circular on outsourcing arrangements amends and the prior CSSF 12/552 and CSSF 20/758 regarding

- the scope and general principles governing outsourcing arrangements,
- the general requirements on the due diligence and governance regarding outsourcing arrangements, and
- the mandatory clauses to be included in the contracts.

Key changes introduced by the CSSF Circular 22/806



Scope and general principles

- The new Circular applies to all credit institutions, payment institutions, investment fund managers, UCITS, CCPs, APAs, CSDs and market operators.
- The CSSF added new general principles on outsourcing arrangements to be complied with, compared to the EBA guidelines and the CSSF Circular 12/552.
- Intra-group outsourcing needs to be treated with the same degree of due diligence and oversight than the third-party arrangements, especially regarding potential conflicts of interest.



Governance of outsourcing arrangements

- The CSSF introduces requirements specific to the outsourcing of internal control, financial and accounting functions.
- Each entity needs to have a written outsourcing policy approved by the management body, and to ensure its implementation.
- The notification requirements for critical or important outsourcing arrangements, cloud computing arrangements, and material changes to existing arrangements (e.g. sub-outsourcing) have been specified.



Mandatory clauses for outsourcing contracts

- All outsourcing arrangements need to include a number of clauses to be compliant with the new Circular, regardless of whether the underlying arrangement is classified as critical/important or not.
- Besides the general clauses of the agreement, special attention must be paid to clauses related to sub-outsourcing, the countries where services are performed, data transfers and storage, agreed service levels, audit rights, business continuity and the termination clauses.



What will come next?

- Financial institutions have to reassess their compliance of outsourcing processes and governance with the new circular.
- Revision of all existing outsourcing contracts before December 31st, 2022.
- Assessment and notification in a timely manner if the review and amendment of the outsourcing arrangements of critical or important functions, existing prior to June 30th, will not be finalised by the end of the year.



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