

IT Outsourcing

From October, financial institutions have to notify National Regulator about outsourcing of the material IT activity - prior authorisation is no more required.

Amendments

The CSSF Circular 21/785 amends both, Circular on *Central administration, internal governance and risk management* Circular and *IT outsourcing relying on a cloud computing infrastructure* Circular, by replacing the prior authorisation requirement by a prior notification requirement in the case of material IT outsourcing.

Summary

In the context of growing importance of cloud-driven solutions, National Competent Authority in Luxembourg provides further details in respect to regulatory requirements around contractual clauses and obligation of notification prior to outsourcing of material IT activities.

In details



Amendment of Central administration, internal governance and risk management Circular (CSSF 12/552, CSSF 17/656, and CSSF 20/758)

- Institutions intending to rely on a material IT outsourcing must submit a prior notification concerning its project to the competent authority using the forms available on the CSSF website. This notification must be provided at least **three months** before the planned outsourcing comes into effect.
- Unless otherwise stated by the competent authority, the institution may implement the material IT outsourcing upon expiry of the time limit of three months starting from the notification date.
- In case of response from the competent authority, e.g. additional information request, partial or total refusal of the project, the competent authority may decide to suspend the time limit.
- The absence of response from the competent authority during the notification process is without prejudice to the supervisory measures or the application of binding measures and/or administrative sanctions which it might take at a later stage as part of the ongoing supervision, where it appears that these outsourcing projects do not comply with the applicable legal and regulatory framework.



Amendment of IT outsourcing relying on a cloud computing infrastructure Circular (CSSF 17/654)

- The service contract signed with the cloud computing service provider shall be subject to the law of one of the EU countries. Where the contract signed is a group contract which allows other entities of the group to benefit from the cloud computing services, the contract may also be subjected to the law of the country of the signing group entity, including where this country is outside the European Union.
- The service contract signed shall provide for a resiliency of the cloud computing services provided to the institution supervised by the competent authority and consuming cloud computing resources for the purpose of carrying out its activities (ISCR) in the European Union. In this way, in case of spread of processing, data and systems over different data centres worldwide, at least one of the data centres shall be located in the European Union and shall, if necessary, allow taking over the shared processing, data and systems in order to operate autonomously the cloud computing services provided to the ISCR. However, where the contract signed is a group contract, the resiliency of the cloud computing services in the European Union is not a requirement, but it shall be taken into account in the entity's risk analysis. If all data centres backing the cloud computing services are located within the European Union, the resiliency requirement for the cloud computing services in the European Union is by default fulfilled.

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