

Leveling the Financial Institutions Playing Field: EBA Publishes Revised Guidelines on Outsourcing Arrangements

IN SHORT

The Situation: The European Banking Authority ("EBA") published its [Final Report on EBA Draft Guidelines on Outsourcing Arrangements](#) ("Guidelines") on February 25, 2019, which will eventually replace the existing [CEBS Guidelines on Outsourcing](#), and integrate the more recent Recommendations on Cloud Outsourcing.

The Result: The Guidelines will increase the scope of the previous CEBS Guidelines to apply to payment and electronic money institutions, as well as credit institutions and MiFID investment firms ("in-scope firms"). Intra-group arrangements will be subject to similar requirements as third party outsourcings with respect to risk assessment, and arrangements with third countries and cloud service providers will also be exposed to additional risk assessment under the new Guidelines.

Looking Ahead: The Guidelines, which seek to facilitate a more harmonized governance framework for all outsourcing arrangements, will enter into force on September 30, 2019, and allow a transitional period until December 31, 2021.

The recently published EBA guidelines on outsourcing provide for far-reaching obligations for financial, payment, and electronic money institutions. In-scope institutions should consider the detailed documentation requirements ahead of the implementation date, such as the register of outsourcing arrangements and the specific contractual provisions for outsourcing agreements of critical or important functions. In addition to engaging with service providers, internal procedures will have to be amended accordingly.

WANT TO KNOW MORE?
Read the full version.

THREE KEY TAKEAWAYS

1. Outsourcings to third countries of functions requiring a license will need to be accompanied by cooperation agreements between relevant national competent authorities and may present difficulties. Without a cooperation agreement, in-scope firms may have to consider seeking alternative service providers.
2. Intra-group outsourcings will become subject to similar requirements as third-party outsourcings. Institutions may want to start engaging with their intra-group counterparties to meet the regulatory requirements.
3. Existing documentation of outsourcing arrangements will need to be amended to meet the detailed new requirements and require corresponding changes to



Michael R. Fischer
Frankfurt



Aidan Lawes
London



Philippe Goutay
Paris



Patrizia Gioiosa
Milan

YOU MIGHT BE INTERESTED IN: [Go To All Recommendations >>](#)



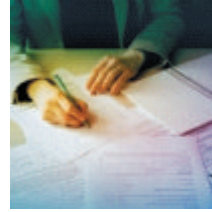
[How Green Are You? EU Proposes Climate-Related Update to Guidelines on Non-Financial Reporting](#)



[Belgium Enacts Historic Corporate Law Reform](#)



[CFTC Issues Advisory on Self-Reporting of Foreign Corrupt Practices for Non-Registrants](#)



[ISDA Publishes Legal Guidelines for Smart Derivatives Contracts](#)

SUBSCRIBE

SUBSCRIBE TO RSS



Jones Day is a global law firm with more than 2,500 lawyers on five continents. **One Firm WorldwideSM**

Disclaimer: Jones Day's publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information purposes only and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our "Contact Us" form, which can be found on our website at www.jonesday.com. The mailing of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the authors and do not necessarily reflect those of the Firm.

© 2019 Jones Day. All rights reserved. 51 Louisiana Avenue, N.W., Washington D.C. 20001-2113