Growing Asia's Markets

8 May 2023

To:
Hsou Yuan CHUANG
Director General
Banking Bureau
Financial Supervisory Commission
Republic of China (Taiwan)

Dear Director General,

RE: Comments on draft amendment to the Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation

We noticed that the esteemed Commission announced the draft amendment to the Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation ("**Regulations**") on 8 March 2023 and invited public comments. On behalf of the Asia Securities Industry and Financial Markets Association[1] ("**ASIFMA**") and its members, we are grateful for the opportunity to provide feedback. We welcome the general direction of the draft amendment and we are writing to provide our comments and seek for your clarifications on the draft amendment as follows. This response was drafted by the LexcelPartners team in Taiwan, based on the feedback of the members of the ASIFMA Cybersecurity & Technology Risk Working Group and Cloud Taskforce.

1. Subparagraph 20, Paragraph 1, Article 3 and Paragraph 2, Article 5

The amended Subparagraph 20, Paragraph 1, Article 3 and Paragraph 2, Article 5 provide that for the items not specified under Subparagraphs 1 to 19, Paragraph 1, Article 3 of the Regulations, if a financial institution applies for outsourcing of such items and it is approved and announced by the Commission ("**new types of outsourcing**"), **other financial institutions are not required to obtain regulatory approval to conduct such new types of outsourcing**.

We would like to seek your kind clarification on how to define the "new types of outsourcing". For example:

(1) Does the said Articles mean that for other banks to outsource the same operation, no regulatory approval is required notwithstanding the service provider is different from that in the first case approved by the Commission?

(2) If in the first case the financial institution was approved to outsource a specific function in one hub, and subsequently the said financial institution intends to add and outsource an additional hub for backup purpose, does it fall under the "new types of outsourcing" and no regulatory approval required?

[1] ASIFMA is an independent, regional trade association with over 165 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

Furthermore, we suggest that such new types of outsourcing should be formally announced by the Commission to define the permissible operation scope as it may be difficult for other financial institutions to fully understand the scope of such new types of outsourcing by the name of the operation only.

2. Article 18

Under the amended Article 18, **outsourcing of material retail financial business information systems offshore requires regulatory approval**.

(1) Confirmation of no regulatory approval required for corporate banking system/operational functions

Pursuant to the amended Article 18 and the press release announced by the Commission, only outsourcing of material retail financial business information systems offshore needs to be approved by the Commission. That is, for the outsourcing of corporate banking system/operational functions, no matter material or not, no regulatory approval is required. We would like to seek the Commission's kind confirmation in this connection.

(2) Possibility of overlap between "new types of outsourcing" and "outsourcing of material retail financial business information systems offshore"

Is there any possibility that the "new types of outsourcing" approved and announced by the Commission also constitutes "outsourcing of material retail financial business information systems offshore" under the amended Article 18? If yes, under such circumstances is a regulatory approval required for other financial institutions to outsource the same operation?

(3) Outsourcing of material information systems for commercial corporate credit cards business offshore

Certain banks cooperate with their corporate clients to issue commercial corporate credit cards, which are issued to managers and/or employees of such corporate clients instead of the public. While generally the banks consider it as corporate banking business, we would like to confirm with the Commission whether it holds the same view and thus outsourcing of material information systems for such business offshore does not require regulatory approval.

3. Paragraphs 3 and 5, Article 4 and Article 8

Under the amended Paragraph 3, Article 4 and Article 8, the Commission adopts a risk-based approach ("**RBA**") and the financial institutions shall formulate appropriate policies and principles to evaluate risks, materiality and impact on operations and customer rights and interests of outsourcing matters and adopt corresponding control measures based on the RBA. Furthermore, for material outsourcing, the financial institutions shall establish corresponding control and emergency response measures and conduct **regular drills**.

It is unclear under the amended Article 8 how the periodical drills shall be conducted or whether it shall be conducted by the financial institutions jointly with the service providers. We recommend:

(1) The periodical drill may be conducted in the form of tabletop exercise and financial institution may involve their service providers based on scenario requirements and risk assessment;

(2) The periodical drill with the service providers may be made optional based on scenario needs.

4. Others

To our understanding, in addition to the Banking Bureau, there are certain other governmental agencies governing outsourcing operations of financial institutions, including the Central Bank in relation to FX-related outsourcing, and the Financial Examination Bureau which conducts financial examination on the outsourcing operations of financial institutions. It would be greatly appreciated to better understand whether the amendment to the Regulations will, in any aspect, affect the current regulatory regimes of those agencies.

Thank you for your time and we hope to have the opportunity to discuss our comments above with the esteemed Commission. If you have any questions pertaining to this letter, please do not hesitate to reach out to Laurence Van der Loo, Executive Director, Technology and Operations, at lvanderloo@asifma.org.

Yours sincerely,

____

Laurence Van der Loo
Executive Director, Technology & Operations
Asia Securities Industry and Financial Markets Association