

Regulations and guidelines 1/2012

Outsourcing in supervised entities belonging to the financial sector

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1 Scope of application and definitions

1.1 Scope of application

These regulations and guidelines shall be applied to the following supervised entities referred to in the Act on the Financial Supervisory Authority (878/2008): (*Issued on 23.1.2018, valid from 1.2.2018*)

- credit institutions
- management companies
- exchanges
- Finnish branches of foreign credit institutions authorised in a non-EEA country (branches of credit institutions of a third country)
- payment institutions

These regulations and guidelines shall be applied to the investment firms, as referred to in section 4 of the Act on the Financial Supervisory Authority, only with respect to the chapter 6 paragraph 11 of these regulations and guidelines

1.2 Principle of proportionality

These regulations and guidelines are applicable to different kinds of supervised entities and various management types. In applying these regulations and guidelines, supervised entities may take into account the nature, scale, complexity and risks of their activities and any other relevant factors in deciding on the appropriate and efficient manner of compliance with these regulations and guidelines.

1.3 Definitions

Outsourcing means an arrangement relating to the supervised entity's activities by which another service provider performs an activity or service which would otherwise be undertaken by the supervised entity itself.

Supervised entity refers to all supervised entities and foreign branches that fall within the scope of section 1.1 of these regulations and guidelines and that are referred to in the Act on the Financial Supervisory Authority.

2 Legal provisions and international recommendations

2.1 Legislation

These regulations and guidelines are related to the following legal acts: *(Issued on 23.1.2018, valid from 1.2.2018)*

- Credit Institutions Act (640/2014)
- Act on trading in financial instruments (1070/2017)
- Mutual Funds Act (48/1999)
- Payment Institutions Act (297/2010)

2.2 EU regulations

These regulations and guidelines are related to the following EU regulations: *(Issued on 23.1.2018, valid from 1.2.2018)*

- Regulation (EU) No 600/2014/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012; OJ L 173, 12.6.2014, p. 84
- Commission Delegated Regulation (EU) 2017/584/EU of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying organisational requirements of trading venues; OJ L 87, 31.3.2017, p. 350

2.3 EU directives

These regulations and guidelines are related to the following EU directives: *(Issued on 23.1.2018, valid from 1.2.2018)*

- Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU; OJ L 173, 12.6.2014, p. 349
- Directive 2009/65/EC (32009L0065) of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32—96) (Celex 32009L0065)



- Directive 2007/64/EC (32004L0039) of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing directive 97/5/EC (OJ L 319, 5.12.2007, p. 1—36)(Celex 32004L0039)

2.4 FIN-FSA's regulatory powers

FIN-FSA's right to issue regulations is based on the following national legal provisions: *(Issued on 23.1.2018, valid from 1.2.2018)*

- Credit Institutions Act, chapter 5 section 10 subsection 4
- Act on trading in financial instruments, chapter 3 section 36 subsection 1, paragraph 2
- Mutual Funds Act, section 26 a subsections 5 and 8
- Payment Institutions Act, section 23 subsection 6

2.5 International recommendations

In preparing these regulations and guidelines, the following publications have been taken into account: *(Issued on 23.1.2018, valid from 1.2.2018)*

- *Guidelines on outsourcing* issued by the Committee of European Banking Supervisors (CEBS, currently EBA) in December 2006
- *EBA Guidelines on Internal Governance* (EBA/GL/2017/11) issued by the European Banking Authority
- *Recommendations on outsourcing to cloud service providers* (EBA/REC/2017/03) issued by the European Banking Authority.

3 Objectives

- (1) Outsourcing of supervised entities' activities is covered by financial market regulation. In arranging outsourcing, supervised entities may seek to increase the efficiency, flexibility and competitiveness of their operations. However, responsibility for the outsourced activities remains with the supervised entity, and therefore supervised entities' internal control and risk management must also extend to outsourced activities. Supervised entities must send FIN-FSA advance notification of intentions to outsource material activities.
- (2) These regulations aim at ensuring that outsourcing does not in any way impair the criteria for the supervised entity's authorisation and that the supervised entity's operations, also with respect to the outsourced activities, have been arranged so that they are in compliance with all obligations laid down in legal requirements and FIN-FSA regulations and guidelines for internal control and risk management.
- (3) The purpose is also to ensure that outsourcing does not impair the possibilities of the supervised entity's management to direct and monitor activities or to obtain an overall picture of the supervised entity's risks. Supervised entities must be able to and capable of managing risks, irrespective of outsourcing.
- (4) Furthermore, the purpose is to ensure that, in using outsourced information technology resources via so-called cloud services¹, supervised entities ensure in particular that the risks involved with the services are managed, the continuity of the services is secured and that data protection is assured. *(Issued on 4.11.2014, valid from 1.1.2015)*
- (5) These regulations and guidelines are designed to ensure that outsourcing does not impair FIN-FSA supervision and inspection of supervised entities' activities.

¹ The supervised entity uses software, hardware or other services offered by an outside provider, via the information network.



4 Conditions for outsourcing

4.1 Functioning of risk management and internal control

- (1) Supervised entities to which chapter 5 section 10 subsection 1 of the Credit Institutions Act and section 26 a subsection 2 of the Mutual Funds Act are applicable may carry out their business through representatives or otherwise outsource activities material to their operations, unless this is likely to be detrimental to the institution's risk management or internal control or would significantly hinder the conduct of the institution's business. *(Issued on 4.11.2014, valid from 1.1.2015)*
- (2) According to chapter 3 section 4 subsection 2 of the Act on trading in financial instruments, the exchange may outsource any activity material to its operations, other than the operation of a regulated market, unless this is likely to be detrimental to the exchange's risk management or internal control or its business or other material activities. *(Issued on 23.1.2018, valid from 1.2.2018)*
- (3) According to section 23 subsection 1 of the Payment Institutions Act, payment institutions may outsource activities material to the provision of payment services, unless this is likely to be significantly detrimental to the institution's internal control.

4.2 Safeguarding official supervision

4.2.1 General

- (4) Supervised entities to which chapter 5 section 11 of the Credit Institutions Act, section 26 a subsection 7 of the Mutual Funds Act, and section 23 subsection 5 of the Payment Institutions Act are applicable shall ensure that outsourcing partners continuously provide them with all information necessary for official supervision, risk management and internal control, and that they have the right to forward such information to the Financial Supervisory Authority. Furthermore, a credit institution must ensure that it has the right to forward the information to the central body of the amalgamation of deposit banks, if it is under the inspection of the central body. *(Issued on 23.1.2018, valid from 1.2.2018)*
- (5) Section 23 subsection 1 of the Payment Institutions Act stipulates that payment institutions may outsource activities material to the provision of payment services, unless this is likely to be significantly detrimental to the supervision conducted by the Financial Supervisory Authority.
- (6) According to chapter 3 section 4 subsection 2 of the Act on trading in financial instruments, the exchange may outsource a function with material impact on its operation, with the



exception of the operation of a regulated market, if the outsourcing does not hinder the supervision conducted by the Financial Supervisory Authority. According to chapter 3 section 4 subsection 5 of the Act, the exchange must obtain the information required for the purposes of regulatory supervision and surrender it further to the Financial Supervisory Authority. *(Issued on 23.1.2018, valid from 1.2.2018).*

- (7) By virtue of section 24 subsection 2 of the Act on the Financial Supervision Authority, FIN-FSA shall, confidentiality provisions notwithstanding, have the right to obtain all information that is necessary for supervisory purposes at the place of business of a company which acts as the supervised entity's representative or a company which, by order of the supervised entity, performs tasks pertaining to the accounting, information system or risk management or other internal control of the supervised entity. *(Issued on 23.1.2018, valid from 1.2.2018)*

GUIDELINE (PARAGRAPH 8)

- (8) A clause granting FIN-FSA access to information and right of inspection should be included in outsourcing contracts, as referred to in chapter 7.

4.2.2 Outsourcing of a management company's investment activities to non-EEA states

- (9) Section 26 b subsection 2 of the Mutual Funds Act stipulates that management companies may outsource investment activities to representatives registered in non-EEA states only if adequate provision has been made for cooperation between the relevant foreign supervisory authority and FIN-FSA.

GUIDELINE (PARAGRAPH 10)

- (10) Cooperation between a relevant foreign supervisory authority and FIN-FSA, as referred to in paragraph 9 above, may be regarded as adequately provided for if the foreign authority has undersigned the *Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* issued by IOSCO in 2002. *(Issued on 23.1.2018, valid from 2.1.2018)*

4.3 Conditions for outsourcing the activities of the exchange

- (11) With respect to outsourcing of the activities of the exchange, FIN-FSA issues, by virtue of chapter 3 section 36 subsection 1 paragraph 2 of Act on trading in financial instruments, the following regulations in paragraphs 12–15 on conditions for outsourcing exchange activities as referred to in chapter 3 section 4 of the Act. *(Issued on 23.1.2018, valid from 1.2.2018)*

REGULATION (PARAGRAPHS 12–15)

- (12) In outsourcing a material activity other than the operation of a regulated market, the exchange shall ensure that outsourcing partners have the necessary resources and competence as well as financial capacity and expertise to handle the tasks involved. The exchange shall have procedures in place for assessing the performance of outsourcing partners.



- (13) In outsourcing a material activity other than the operation of a regulated market, the exchange shall, in its contingency planning, also provide for disruptions in outsourcing partners' services and require that they have contingency plans of their own.
- (14) In outsourcing a material activity other than the operation of a regulated market, the exchange shall ensure that outsourcing partners have taken measures to safeguard confidentiality of data related to the supervised entity and its customers.
- (15) In outsourcing a material activity other than the operation of a regulated market, the exchange shall maintain key areas of competence relating to outsourced activities, enabling it to resume the management of any outsourced activity (insourcing) or transfer them to another supplier.

4.4 Conditions for outsourcing payment service activities

- (16) According to section 24 subsection 1 of the Payment Institutions Act, payment institutions may provide payment services through a representative acting on the payment institution's responsibility. Issuance of electronic money may not be handed over completely to a representative.
- (17) According to section 24 subsection 2 of the Payment Institutions Act, payment institutions shall ensure with available means that representatives used in the provision of payment services are of good repute and qualified to conduct the activities.
- (18) According to section 23 subsection 5 of the Payment Institutions Act, payment institutions shall ensure that the operator of an outsourced function informs customers that it operates on the payment institution's responsibility. Section 24 subsection 2 of the Payment Institutions Act stipulates that, if payment services are provided through a representative, payment institutions shall ensure that the representatives inform the customers that they operate on the payment institution's responsibility
- (19) By virtue of section 23 subsection 6 of the Payment Institutions Act, FIN-FSA issues the following regulations payment institutions must adhere to in order to exercise due diligence within the meaning of section 23 subsection 4 of the Act when outsourcing activities material to payment services.

REGULATION (PARAGRAPHS 20–21)

- (20) Payment institutions shall ensure that outsourcing partners have the necessary resources and skills as well as financial capacity and expertise to handle the tasks involved. Supervised entities shall have procedures in place for assessing the performance of outsourcing partners.
- (21) In order to meet the requirement of due diligence, payment institutions shall ensure, for example, that outsourcing partners have the competence, resources and authorisation required by law to perform the outsourced activities. Payment institutions shall also ensure that outsourcing partners have adequately arranged the related internal control and risk management.

GUIDELINE (PARAGRAPHS 22–25)

- (22) FIN-FSA recommends that payment institutions should, in their contingency planning, also provide for disruptions in outsourcing partners' services and require that they have contingency plans of their own.
- (23) FIN-FSA recommends that payment institutions should ensure that outsourcing partners have taken measures to safeguard confidentiality of data related to the supervised entity and its customers.
- (24) FIN-FSA recommends that payment institutions should maintain key areas of competence relating to outsourced activities, enabling them to resume the management of any outsourced activity (known as 'insourcing') or transfer them to another supplier.
- (25) In outsourcing material activities, FIN-FSA recommends that payment institutions should ensure that outsourcing partners comply, as applicable, with FIN-FSA regulations and guidelines and other legal provisions such as those referring to the marketing of financial services and to customer protection.

4.5 Material activities

- (26) In supervised entities to which chapter 5 section 36 a subsection 2 of the Credit Institutions Act, section 26 a subsection 3 of the Mutual Fund Acts, and chapter 3 section 4 subsection 3 of the Act on trading in financial instruments, are applicable, activities are regarded as material if they are of such importance that any failure or weakness in carrying them out could have a significant impact on the supervised entity's ability to comply with legal provisions, regulations or guidelines issued under such provisions, or authorisation criteria, the supervised entity's financial standing or the continued conduct of business. *(Issued on 23.1.2018, valid from 1.2.2018)*
- (27) According to section 23 subsection 2 of the Payment Institutions Act, activities are regarded as material to a payment institution's operations if they are of such importance that any defect or failure in them would materially impair the payment institution's ability to comply with legal provisions, regulations or guidelines issued under such provisions, or authorisation criteria, the payment institution's financial performance or the soundness or the continuity the provision of payment services.

GUIDELINE (PARAGRAPHS 28–29)

- (28) At least the following areas should be regarded as material *(Issued on 23.1.2018, valid from 1.2.2018)*:
- operations requiring authorisation
 - tasks relating to supervised entity's internal control and risk management
 - internal audit
 - compliance function
 - key information systems for the conduct of business
 - mutual fund portfolio management, asset value calculation and maintenance of fund unit registers.

- (29) The following areas need not be regarded as material from the point of view of outsourcing: *(Issued on 23.1.2018, valid from 1.2.2018)*
- administrative functions, such as staff and material management, invoicing, fixed assets maintenance and premises security
 - advisory services
 - legal services
 - marketing and advertising services
 - standardised services, including market information services.

5 Outsourcing of activities requiring authorisation

5.1 General

- (1) In outsourcing activities requiring authorisation, supervised entities shall also take account of regulations and guidelines in chapter 4 on general conditions for outsourcing and requirements in chapter 6 set for risk management.
- (2) Section 26 b subsection 2 of the Mutual Funds Act stipulates that representatives used by management companies to carry out investment activities shall be enterprises that are appropriately authorised or registered and subject to prudential supervision.

GUIDELINE (PARAGRAPH 3)

- (3) Credit institutions may outsource other activities requiring authorisation than investment services either to representatives or entities appropriately authorised.

5.2 Outsourcing of management company activities

- (4) According to section 26 b subsection 1 of the Mutual Funds Act, utilising representatives must not prevent management companies from acting in the interest of unit holders of the mutual funds they manage.
- (5) According to section 26 b subsection 2 of the Mutual Funds Act, management companies that utilise representatives to manage their investment activities shall regularly inform representatives on their basic investment policies.
- (6) According to section 26 b subsection 3 of the Mutual Funds Act, tasks relating to the management of mutual funds must not be assigned to depositories of the mutual funds concerned or to other enterprises whose interests may conflict with the interests of the management company or the unit holders concerned. Any agreement that transfers a management company's responsibilities to a third party is invalid.
- (7) As regards tasks relating to the management of mutual funds and duties of depositories referred to in section 31a of the Mutual Funds Act, a management company or its representative, according to section 26 b subsection 4 of the Mutual Funds Act, may not have any staff in common with a depository of a mutual fund that it manages. *(Issued on 23.1.2018, valid from 1.2.2018)*

- (8) According to section 26 b subsection 5 of the Mutual Funds Act, fund prospectuses provided by management companies shall include details on the extent to which they utilise external service providers.
- (9) According to section 126 f of the Mutual Funds Act, a management company that, through a branch or without establishing a branch, manages a mutual fund in another EEA state than Finland, is subject to the outsourcing provisions of the Mutual Funds Act.

GUIDELINE (PARAGRAPHS 10–12)

- (10) Management companies should ensure that investment activities are managed in compliance with mutual fund rules and investment policy agreements.
- (11) If the keeping of fund unit registers is fully outsourced, it must be managed by an authorised registrar. If registering of new unit holders is outsourced, management companies should be in charge of the overall maintenance of the fund unit register. Management companies may, for example, keep registers of Finnish unit holders themselves and outsource the registry of foreign unit holders.
- (12) Despite outsourcing, management companies should always retain the right to execute subscription and redemption orders, including registration, in fund unit registers.

6

Risk management of outsourced activities

- (1) Supervised entities to which chapter 5 section 11 of the Credit Institutions Act, section 26a subsection 7 of the Mutual Funds Act, chapter 3 section 4 subsection 5 of the Act on trading in financial instruments, and section 23 subsection 5 of the Payment Institutions Act, are applicable, shall ensure that outsourcing partners continuously provide them with all information necessary for official supervision, risk management and internal control. *(Issued on 23.1.2018, valid from 1.2.2018)*

GUIDELINE (PARAGRAPHS 2–10)

- (2) FIN-FSA recommends that the supervised entity's board adopt outsourcing policies and have them regularly updated. The policies should include at least the following information: *(Issued on 4.11.2014, valid from 1.1.2015)*
- operational goals for outsourcing
 - activities that are to be regarded as material within the meaning of section 4.5
 - definition of the types of activity that may be outsourced under the supervised entity's operational policy
 - selection of the outsourcing partner and monitoring of the outsourced activity
 - issues dealt with in the outsourcing agreement
 - safeguarding the continuity of activities
 - decision-making process for outsourcing.
- (3) FIN-FSA recommends that the decision to outsource material activities always be preceded by an overall review of the risks for the project, taking into account the scope and importance of the activities concerned. The review should consider the risks of the new outsourcing project and outsourcing arrangements already made and provide for the management of those risks. Risk reviews should be updated on a regular basis.
- (4) FIN-FSA recommends that supervised entities ensure that outsourcing partners have the necessary resources and skills as well as financial capacity and expertise to handle the tasks involved. Supervised entities should have procedures in place for assessing the performance of outsourcing partners.
- (5) FIN-FSA recommends that supervised entities, in their contingency planning, also provide for disruptions in outsourcing partners' services and require that they have contingency plans of their own.



- (6) FIN-FSA recommends that supervised entities ensure that outsourcing partners have taken measures to safeguard confidentiality of data related to the supervised entity and its customers.
- (7) FIN-FSA recommends that supervised entities maintain key areas of competence relating to outsourced activities, enabling them to resume the management of any outsourced activity (known as 'insourcing') or transfer them to another supplier.
- (8) FIN-FSA recommends that in outsourcing material activities, supervised entities ensure that outsourcing partners comply, as applicable, with FIN-FSA regulations and guidelines and other legal provisions such as those referring to the marketing of financial services and customer protection as well as good practice in the provision of banking and securities services.
- (9) FIN-FSA recommends that supervised entities' risk management systems also handle the following risks attendant on outsourcing: *(Issued on 4.11.2014, valid from 1.1.2015)*
- The supervised entity's and outsourcing partner's strategies and business practices are mutually inconsistent
 - The supervised entity lacks the expertise and experience necessary to steer and control an outsourced activity
 - The supervised entity lacks readiness to resume the management of an outsourced activity or transfer it to another supplier
 - The termination and reorganisation of an outsourcing arrangement involves high costs
 - Risks relating to continuity of the supplier's operations have not been adequately accounted for (e.g. inadequate contingency planning)
 - The outsourcing partner's financial resources and staff skills are inadequate
 - The services provided by the outsourcing partner do not meet the supervised entity's quality criteria
 - Information security of an outsourced activity has not been safeguarded. Secret or confidential information has not been protected or its non-disclosure has not been ensured in a reliable manner, e.g. via encryption of data communications, protection of records, and rights management and access control.
 - The outsourcing partner does not follow binding rules for the activities in question or the code of conduct in the markets concerned
 - The monitoring of the supervised entity's counterparty risk becomes difficult if decision-making on customer relationships is outsourced
 - Uncertainties surrounding cross-border outsourcing where application and interpretation of contractual law is concerned.
- (10) FIN-FSA recommends that supervised entities' risk management be safeguarded in the eventuality that an outsourcing partner passes on outsourced activities to a third party.
- (11) FIN-FSA recommends that supervised entities subject to these regulations and guidelines comply with the EBA Recommendations on outsourcing to cloud service providers referred to in chapter 2.5. *(Issued on 23.1.2018, applicable from 1.7.2018)*



7 Outsourcing agreements

- (1) According to chapter 5 section 10 subsection 3 of the Credit Institutions Act, section 26 a subsection 4 of the Mutual Funds Act, chapter 3 section 4 subsection 4 of the Act on trading in financial instruments, and section 23 subsection 3 of the Payment Institutions Act, a supervised entity shall draw up a written agreement, giving the contents and period of validity of the contract, for each outsourcing project involving material activities. *(Issued on 23.1.2018, valid from 1.2.2018)*

GUIDELINE (PARAGRAPH 2)

- (2) FIN-FSA recommends that an outsourcing agreement concerning material activities include at least the following details: *(Issued on 4.11.2014, valid from 1.1.2015)*
- a description of the outsourced activity and of the required service level
 - a realisation schedule
 - FIN-FSA's rights to inspect and receive information on the outsourced activity
 - the supervised entity's and its auditor's rights to receive information on the outsourced activity
 - the supervised entity's right to forward information to FIN-FSA and the central body of an amalgamation of deposit banks.
 - the outsourcing partner's responsibility to inform the supervised entity of changes having a significant impact on the contractual relationship
 - the outsourcing partner's duty to inform the supervised entity of significant disruptions in the handling of the outsourced activity
 - the outsourcing partner's right to transfer contractual tasks to a third party and a statement on whether this requires the supervised entity's consent
 - the outsourcing partner's secrecy obligation during validity and after expiry of the contract
 - the outsourcing partner's obligations as regards contingency planning, information systems and information security, and the monitoring thereof
 - the counterparties' rights to cancel or terminate the contract
 - the legal right of a management company to terminate an agency relationship without notice, in the interest of unit holders
 - applicable legislation and resolution of disputes, when a material activity is subject to cross-border outsourcing.

8

Reporting to FIN-FSA

8.1 Supervised entities subject to reporting obligation

- (1) On the basis of the details in a supervised entity's notification for outsourcing arrangements, FIN-FSA will assess whether the planned outsourcing project is likely to impede the supervised entity's internal control or risk management, conduct of business or any other material activities or hinder efficient supervision by FIN-FSA. Material activities are defined in section 4.5 of these regulations and guidelines.

8.2 Regulatory basis

- (2) If an authorised credit institution intends to conduct business through an agent or otherwise outsource a material activity to an enterprise not belonging to the same consolidation group or amalgamation of deposit banks as the credit institution, chapter 5 section 10 subsection 4 of the Credit Institutions Act stipulates that the credit institution must notify FIN-FSA of the outsourcing plans in advance. *(Issued on 23.1.2018, valid from 1.2.2018)*
- (3) If an authorised management company intends to conduct business through an agent or otherwise outsource a material activity to an enterprise not belonging to the same consolidation group or amalgamation of deposit banks as the management company, section 26 a subsection 5 of the Mutual Funds Act stipulates that the management company must notify FIN-FSA of the outsourcing plans in advance.
- (4) If an authorised exchange intends to outsource a material activity, chapter 3 section 5 of the Act on trading in financial instruments stipulates that the exchange must notify FIN-FSA of its intentions in advance. *(Issued on 23.1.2018, valid from 1.2.2018)*
- (5) According to chapter 5 section 10 subsection 4 of the Credit Institutions Act, section 26 a subsection 5 of the Mutual Funds Act and chapter 3 section 5 of the Act on trading in financial instruments, FIN-FSA must be notified in advance of any essential changes in the contractual relationship between the supervised entity and the outsourcing partner. *(Issued on 23.1.2018, valid from 1.2.2018)*
- (6) According to section 23 subsection 5 of the Payment Institutions Act, a payment institution must notify FIN-FSA in advance of outsourcing of an activity material to payment services.
- (7) According to section 24 subsection 3 of the Payment Institutions Act, a payment institution must provide FIN-FSA with information on natural or legal persons acting as representatives in the provision of payment services.



8.3 Contents of FIN-FSA notification

8.3.1 Notification concerning the outsourcing of material activities

(8) FIN-FSA issues the regulation below concerning the content of a notification by virtue of the following legal provisions: *(Issued on 23.1.2018, valid from 1.2.2018)*

- chapter 5 section 10 subsection 4 of the Credit Institutions Act
- section 26 a subsection 5 of the Mutual Funds Act
- chapter 3 section 36 subsection 1 paragraph 2 of the Act on trading in financial instruments.

REGULATION (PARAGRAPHS 9–10)

(9) The notification submitted to FIN-FSA shall provide the following details:

- full name, domicile and business address of a natural person acting as outsourcing partner
- full name, business number, domicile and business address of a legal person acting as outsourcing partner
- a description of the type and scope of activity to be outsourced
- an overall review of the impact of the outsourcing project on the supervised entity's business
- account of the outsourcing partner's financial capacity to manage the activities to be outsourced
- account of how the intended outsourcing is accounted for in the supervised entity's internal control and risk management
- account of how the continuity and information security of the activity to be outsourced are ensured
- account of how the supervised entity intends to preserve key areas of competence relating to the outsourced activities so that they can be resumed by the supervised entity itself or transferred to another supplier
- specifications of the conditions for cancelling the outsourcing agreement
- in case of cross-border outsourcing to a non-EEA state, clarification of whether the host country's legal framework will permit FIN-FSA to obtain information needed to supervise the activities.

(10) A copy of the outsourcing agreement or a draft thereof shall be attached to the notification.

GUIDELINE (PARAGRAPHS 11–12)

(11) FIN-FSA recommends that, if an outsourced material activity is outsourced further to a third party, the supervised entity notify FIN-FSA of it as prescribed in paragraphs 9 and 10 in the regulation above. *(Issued on 23.1.2018, valid from 1.2.2018)*

- (12) FIN-FSA recommends that payment institutions submit a notification concerning the outsourcing of activities material to payment services as referred to in section 23 subsection 5 of the Payment Institutions Act in accordance with paragraphs 9 and 10 in the regulation above. *(Issued on 23.1.2018, valid from 1.2.2018)*

8.3.2 Notification concerning the use of a representative in the provision of payment services

- (13) According to section 24 subsection 3 of the Payment Institutions Act, a payment institution shall provide FIN-FSA with the full name, domicile and business address of natural persons acting as their representatives. If the representative is a legal person, FIN-FSA shall be provided with the representative's full name, business number, domicile and business address.
- (14) Section 24 subsections 3 and 4 of the Payment Institutions Act stipulate that the notification submitted to FIN-FSA shall also include the following details:
- names of the representative's board of directors and their deputies, managing director and deputy managing director
 - report, submitted with form M of FIN-FSA standard RA6.1, on fitness and propriety of members and deputy members of the board of directors, managing director and deputy managing director
 - representative's internal control mechanisms for the prevention of money laundering and terrorist financing:
 - internal guidelines accepted by the representative's management relating to customer due diligence
 - how the representative ensures compliance with the obligation of obtaining information and reporting suspicious transactions included in regulations and guidelines on the prevention of money laundering and terrorist financing
 - account of risk management arrangements relating to the prevention of money laundering and terrorist financing, and of the continuous monitoring of customer relationships and business transactions
 - account of the retention of customer due diligence documents, persons responsible and employee instructions and training.



9

Revision history

These regulations and guidelines have been amended after their entry into force as follows:

Issued on 13.2.2013, valid from 1.3.2013

- chapters 1.1, 2.1, 2.3, 4.1–4.3, 4.5, 5, 6.1–6.3, 7, 8.1.1 and 8.2.1 complemented with the provisions of the new Investment Services Act (747/2012) and Act on trading in financial instruments (748/2012)
- content of chapter 8.1.1 paragraph 3 revised in view of the obligation imposed in the Investment Services Act on supervised entities to file an advance notification to FIN-FSA on outsourcing the provision of an investment service
- order of presentation in chapter 4.2 revised so that the chapter has 12 paragraphs instead of 8.

Issued on 4.11.2014, valid from 1.1.2015

- the title of the regulations and guidelines changed
- chapters 1.1, 2.1–2.4, 3, 4.1–4.4, 4.6, 5.1, 5.2, 5.3, 6, 7, 8.2 and 8.3.1 revised
- order of presentation of sections 5 and 6 on outsourcing and risk management of activities subject to authorisation changed
- section 4.3 divided in two subsections, of which the latter was previously section 6.3

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- chapters 2.1, 2.2, 2.3, 4.1, 4.2.1, 4.3, 4.5, 6, 7, 8.2 and 8.3.1 complemented with the provisions of the new Act on trading in financial instruments
- investment firms and alternative investment fund managers providing investment services deleted from chapter 1.1 Scope of application, the related references to applicable laws in chapters 1.1, 2, 4, 5, 6, 7 and 8 deleted and numbering of chapters 4, 5 and 8 changed due to the national transposition of MiFID II, leading to the repeal of the FIN-FSA's regulatory powers specified in chapter 7 section 23 subsection 1 paragraphs 1 and 2 of the Investment Services Act
- new chapter 2.2 EU regulations added, as a result of which changes in the numbering of chapter 2

- a reference to EBA Recommendations on outsourcing to cloud service providers added in chapter 6, as a result of which changes in the numbering of the chapter