

I. General comments on the document

In general terms, we agree about the content of the Paper. The topics addressed coincide with the concerns of the Superintendency of Financial Services in its role as financial regulator and supervisor of the management of outsourced services.

As issues to highlight in local experience, it is worth mentioning:

- The current legislation grants regulatory and supervisory powers of outsourced services "inherent to the business". This has led to some discussions with our supervisees institutions and, at times, to having some differences in its interpretation. The Superintendency of Financial Services has made a broad interpretation of this concept. In fact, every "supervisable activity" is considered to be covered (that is, any activity that, if carried out by the financial institution itself, it would be subject to supervision). In our experience, it is advisable to be very precise in the definitions, but at the same time, leave a margin of decision and action to the authority to preserve its powers granted in the different circumstances that reality imposes.
- The chain of participants in the provision of services is increasingly wide, and in some cases it is complex to detect and analyze. This makes it difficult for financial institutions to manage risk and ensure that all stakeholders comply with their information security and data protection policies. Therefore, this constitutes a great challenge for supervisors.
- Another challenge is related to the fact of contracting with providers that due to their relevance (local and / or global) impose on financial institutions (especially those of smaller size) based on their asymmetry of power, "adhesion contracts" with no chance to negotiate clauses. As supervisors, we can and must provide solutions through a fluid dialogue with the relevant providers that allows agreeing terms that ensure proper risk management for institutions and the supervisory risk. This must be carried out at the level of supranational supervisors' associations in the case of providers of global relevance, particularly to facilitate the tasks of the authorities of relatively less powerful countries.
- In the case of services that involve external data processing, access to them is of utmost concern for the supervisor, especially in the case of cross-border situations or when financial institutions cease to operate or in a takeover scenario. Therefore, contractual clauses must be established in a way that they protect the access to data by the supervisory authority, even in adverse or extreme circumstances.
- It is especially important to reinforce the cooperation mechanisms between supervisors and to document the procedures to be followed in each case since the cross-border provision of services makes the access and supervision tasks difficult in practice (further what is stipulated in regulations or contractually), especially when prompt action is required, and jurisdictional issues may arise between authorities.

II. Questions

- 1. What do you consider the key challenges in identifying, managing and mitigating the risks relating to outsourcing and third-party relationships, including risks in sub-contractors and the broader supply chain?**

The following challenges can be mentioned:

- Increasing complexity in the chains of participants in the provision of services that makes it difficult to identify the intervening legal entities and the obligations of each of the parties.

- Difficulties in ensuring that all stakeholders comply with the policies of financial institutions in terms of information security, current regulations on the matter and on the protection of personal data.
- Difficulties in determining the impact of each of the sub-contractors on business continuity and operational resilience.
- The provision of intra-group services is a challenge. While it clearly has positive aspects, it is actually difficult for financial institutions to adopt risk management practices similar to those applied when hiring other types of third parties. Especially in countries like Uruguay, many times the local institution contracts for the provision of services companies that participate in its chain of shareholders or are linked to them, so that the real possibilities of independent control and management of the risks involved are greatly affected. In practice, the decision to hire or not is often imposed from abroad, with limited local decision-making power.
- It is frequently observed that financial institutions carry out a reasonable risk analysis when hiring service providers, but they are not as good when considering the operational risks that outsourcing adds to their different processes.

2. What are possible ways to address these challenges and mitigate related risks? Are there any concerns with potential approaches that might increase risks, complexity or costs?

Some of the possible mitigators to be considered include:

- Have a detailed and updated inventory of the services provided by all suppliers (including sub-contractors participating in the supply chain), which provides relevant information on their impact on business processes, continuity and information security. At the same time, it allows the supervisor to analyze the concentration of certain suppliers and their systemic impact.
- Carrying out periodic evaluations of the information provided by the supplier regarding its policies and procedures and, additionally when it is necessary, to carry out on-site evaluations on technology management, information security, continuity, and main supplier processes, in the context of the services provided.
- Improve the training of those responsible for managing outsourced services in financial institutions based on globally recognized standards, and promote the exchange of experiences with the supervisor in accordance with good practices detected throughout the financial system.

A specific area of concern is the provision of supported services through cloud environments, where some of the considerations mentioned above are increased.

In this sense, further the considerations and contractual clauses required in compliance with the defined regulations, it is very important in this type of scenarios the definition and fulfillment of precise and reliable service level agreements that allow the mitigation of key risks.

On the other hand, it has been observed the concentration of critical services in the same provider by several institutions, which results in new potential risks of systemic nature. In addition to this, there is the participation of major global players in the supply chain, with a huge asymmetry of power with the contracting companies.

Managing emerging risks in these situations becomes even more complicated for supervisors in peripheral countries.

It is extremely important to work at the transnational level to standardize the regulatory requirements or at least generate a set of basic standardized requirements at international level. It is important to ensure access to data by the supervisor, especially in extreme situations.

3. What are possible ways in which financial institutions, third-party service providers and supervisory authorities could collaborate to address these challenges on a cross-border basis?

First, financial institutions and third-party service providers must establish contractual clauses that guarantee adequate service conditions, responsible risk management and supervisor access to information and the performance of its activities. Further this, it would be a good practice to carry out tests and drills to verify the effectiveness of the processes of all parties involved, regarding operational continuity, information security, cybersecurity and supervisory risks.

On the other hand, the strengthening of agreements between regulatory and supervisory entities in different regions would facilitate the task of supervisors and provide greater guarantees of being able to fulfill their tasks when the provision of services is cross-border, helping to overcome jurisdictional barriers.

In Uruguay, despite its small size and low relative relevance in the international financial market, some large service providers of global relevance through their regional representatives have begun to approach the supervisor in order to know its concerns and requirements and present their working models.

Generating these local instances of dialogue with the industry is key to facilitate the approach to this problem. However, as mentioned above, the discussion of these issues in international forums with the participation of supranational supervisors associations is relevant to establish standardized rules of the game and achieve greater enforcement, in particular to pave the way for the authorities in countries with a lower relative level of power.

4. What lessons have been learned from the COVID-19 pandemic regarding managing and mitigating risks relating to outsourcing and third-party relationships, including risks arising in sub-contractors and the broader supply chain?

As surveyed in recent months with supervised institutions, in general terms there is an acceptance of the performance of providers (direct and subcontracted) during the pandemic and the maintenance of the continuity of their services.

It could be observed that the criticality categorization of the providers was challenged in these circumstances and reality showed the institutions that some services that they had not considered too relevant were in fact especially important.

Therefore, the importance of analyzing the criticality of outsourced services based on different possible scenarios must be considered as a lesson learned. In Uruguay, the pandemic scenario was not sufficiently considered, and the institutions had continuity plans for events of shorter duration, not for a contingency sustained over time, which makes new providers appear as critical. However, the ability to adapt has been reasonably satisfactory.