EUROPEAN CENTRAL BANK

BANKING SUPERVISION

Template for comments

ECB Guide on outsourcing cloud services to cloud service providers

Institution/Company

International Business Machines Corporation

Contact person

Mr/Ms

First name

Surname

Email address

Telephone number

☑ Please tick here if you do not wish your personal data to be published.

General comments

As a leader in the provision of cloud services to the financial services sector, IBM is pleased to provide comments to this consultation. IBM welcomes the ECB's guidance, especially the focus on the mitigation of concentration risks. IBM recommends aligning a few provisions more closely with EU data protection law and DORA.

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Please enter all your feedback in this list.
When entering feedback, please make sure that:
- **each comment deals with a single issue only;**
- **you indicate the relevant article/chapter/paragraph, where appropriate;**
- **you indicate whether your comment is a proposed amendment, clarification or deletion.**

Deadline:	15.07.2024

ID	Chapter	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	Chapter 2.3. ICT security, data confidentiality and integrity 2.3.2 Risks stemming from the location and processing of data	1st	10	Clarification	The "list of acceptable countries where … data can be stored or processed" and the related footnote is an incomplete reference to EU data transfer law. IBM recommends more clearly aligning this statement with existing law, including for example the acceptability of using standard contractual clauses in lieu of an adequacy determination.	Guidance should align with EU law.	,	Don't publish
2	2.4 Exit strategy and termination rights 2.4.1 Termination rights	5th	13	Clarification	IBM recommends that subcontract flow down requirements be aligned with the specific DORA Regulatory Technical Standards on the same topic, when finalized. IBM recommends that those provisions incorporate practical concepts of risk-based relevance, flexibility and proportionailty.	Guidance should align with DORA and be risk-based.	,	Don't publish
3	Box 2: Contractual clauses	2.5.3	16	Amendment	DORA requires financial entities and ICT third-party service providers to "consider" the use of standard contractual clauses developed by public authorities for specific services. Changing the statutory requirement to "consider" to supervisory guidance that "recommends" such use is inappropriate, especially when no standard contracts currently exist and any standard terms' suitability across a diverse range of future service offerings, potential use cases, and risk scenarios is questionable.	Guidance should be aligned with DORA.	,	Don't publish

4	2.4 Exit strategy and termination rights 2.4.1 Termination rights	1st and 2nd	12	Amendment	IBM recommends that termination rights be as specified by DORA Artticle 28(7). Many of the proposed additional triggers for termination are not risk based and are not commercially reasonable.	Guidance should be aligned with DORA.	,	Don't publish