



payments and crypto network

Preparing an Application for Authorisation

A series of guides addressing common issues in relation to preparing an application for authorisation.

Guide 5: Outsourcing arrangements

The use of outsourcing to facilitate the delivery of services by payments and crypto firms is common place and well understood by the FCA. However, for a firm to outsource key business functions it will need to ensure that certain regulatory requirements and guidance are met.

Regulatory requirements are documented in the Electronic Money Regulations and Payment Services Regulations and guidance provided, in a number of documents, by the FCA and EBA. Outsourcing requirements apply to “operational functions” that relate to the provision of the regulated services and apply to intra-group outsourcing arrangements not just the use of third-parties. The FCA do not consider such operational functions to include legal advice, training or the purchase of standardised services, including market information services.

Firms will need to ensure that its outsourcing arrangements:

- do not impair the quality of internal control or the FCA’s ability to monitor the firm
- do not result in the delegation of responsibility for complying with regulatory requirements
- the relationship and obligations of the firm towards its customers is not substantially altered
- that compliance with conditions of authorisation are not altered; and
- no authorisation conditions require removal or variation.

Outsourcing policies and procedures should be developed to address the areas detailed below and be described in the application for authorisation. These outsourcing policies and procedures should be detailed in the firm’s Compliance Manual.

- **Service description** – the activities that will be outsourced should be defined in service descriptions, including service delivery metrics. Service descriptions would be based on the activities and responsibilities associated with the business function to be outsourced and will form the basis of the discussions to be held with prospective service providers, selection and due diligence of the service providers, and the

monitoring of service provision. Service descriptions should be documented and ideally approved by the Board.

- **Service provider due diligence** – a process will need to be developed in relation to the initial selection of service providers. On an ongoing basis the due diligence performed on service providers should be kept up to date as part of the ongoing monitoring arrangements. Commercially it makes sense to perform initial due diligence on service providers in order to select the best fit before outsourcing. For a regulated firm the initial due diligence should be a little more involved, beyond can they provide the services for a fair price and meet service levels. For example, will the service provider be willing to sign up to contractual agreements that will meet regulatory requirements, including the provision of audit rights to the firm and the FCA. Ongoing monitoring of the outsourcing arrangements would include the monitoring of service delivery in line with the service definition and associated service levels (as defined in the contractual agreement).
- **Contractual arrangements** – contractual agreements should be put in place between the firm and its service providers (including intra-group service providers). The contractual arrangement should include a clear service description and service levels as well as contractual terms such as audit rights for the firm and FCA, termination rights, handover rights.
- **Oversight arrangements** – the firm retains responsibility for all outsourced functions, this responsibility cannot be delegated. This necessitates the allocation of ‘oversight’ responsibility to an appropriate role within the business, typically the role that would have been responsible for the business function had it not been outsourced. The outsourced business function should be included in the staff organisation chart together with the reporting line to the oversight role.
- **Maintain a summary of outsourcing arrangements** - a table of the outsourcing arrangements should be included in the application for authorisation and for ongoing reference. The summary should include information such as the service description, service provider name, location, the role assigned with oversight responsibility and contact points.

