

January 8th, 2021

Financial Stability Board (FSB)
Secretariat
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Delivered by email: fsb@fsb.org

Re: CBA¹ Comments on FSB Discussion Paper on Regulatory and Supervisory Issues Relating to Outsourcing and Third-Party Relationships

Dear Sir/Madame:

The Canadian Bankers Association (CBA) is pleased to provide its comments on the FSB discussion paper: Regulatory and Supervisory Issues Relating to Outsourcing and Third-party Relationships (**Discussion Paper**).

Technology-neutral, principles-based approach

The CBA is a strong proponent of a competitive and innovative financial services sector that uses leading technological solutions to better serve clients and meet evolving client expectations. In an environment of continuous change, we support technology-neutral, principles-based guidance on outsourcing and third-party relationships to allow flexibility for banks to maintain and enhance resilience within the financial industry even in the face of a changing landscape of increased technology adoption. The CBA believes a principles-based approach would enable banks to determine how to manage and mitigate against risks arising from outsourcing and third-party relationships in a manner that is proportionate to the risks they may pose. As technology evolves, this approach will be particularly important in providing banks

¹ The Canadian Bankers Association is the voice of more than 60 domestic and foreign FIs that help drive Canada's economic growth and prosperity. The CBA advocates for public policies that contribute to a sound, thriving banking system to ensure Canadians can succeed in their financial goals. www.cba.ca

with the flexibility needed to address risks and to develop enhanced operational resilience while enabling banks to provide innovative financial services.

Managing risks during the pandemic

The pandemic presented an unparalleled velocity of change to the financial sector and the broader economy. Banks' abilities to respond to this unprecedented event with unwavering stability is a direct result of prior significant investments in technology and resources that have leveraged sound operational risk programs in preparation for challenging events like the one we face currently. The pandemic reinforced the notion that operational resilience is really the combination of people resilience, organisational capabilities and financial resilience which, when combined, promote stability within a bank.

Globally, the pandemic highlighted the need for further consistency in and coordination of the approach to operational resilience, as well as the need to maintain flexibility for financial institutions to adapt to challenging circumstances within their own respective business models. This flexibility extends to banks' partnerships with third parties to enable the financial industry to be agile and respond quickly to change with minimal disruption. As the Discussion Paper highlights, we note that partnerships with third-party information and communication technology providers, such as telecommunications, have been important facilitators for the transition to working remotely while continuing to provide clients with ongoing access to banking services. From the CBA's perspective, the industry's response to the pandemic illustrates banks have effectively managed the relationships with third-party providers and reinforces the industry's ability to maintain effective operational resilience under the existing regulatory framework.

Support harmonization and coordination across jurisdictions

Fragmentation across global regulatory requirements not only exacerbates complexity around compliance but may also have a detrimental impact on banks' ability to manage risks across global operations in the event of conflicting requirements. As the FSB summarizes in the Discussion Paper, we note that a number of other jurisdictions and global standard setters have evolved their views or are in the process of reviewing their guidance relating to third-party relationships and outsourcing. Given there are multiple jurisdictions reviewing this issue, including Canada, we believe there is an increased risk for potentially divergent or contradictory requirements. For this reason, it is our view that the FSB can play a role to support collaboration and coordination among domestic authorities to promote a harmonized approach towards global standards and reduce the risk of regulators issuing duplicative, conflicting or unduly burdensome requirements for banks that operate across international borders.

Outsourcing and third-party relationships

As we note above, we support a technology-neutral, principles-based approach to guidance on outsourcing and third-party relationships. We believe the concept of criticality of outsourcing and third-party relationships should be considered when assessing regulatory approaches given that the risks arising from a third-party relationship can vary significantly. It is our view that the banks themselves are best positioned to adjust the level of assessment, control and monitoring of the third-party relationship based on the materiality of the relationship. If the relationship with a third-party is assessed to be material to a bank, a bank will take the necessary steps to ensure suitable controls are in place to monitor and manage risks that may arise from the arrangement. While we agree that banks should be accountable to maintain continuity of client services, it is our view that banks should not be required to have full back-up of all operations in place in case of the failure, which would undermine the objective of rectifying disruptions based on a criticality analysis and defeat any efficiency gains. In many cases, banks will identify services with lower business availability requirements in order to prioritize spend and focus on more critical services to ensure operational resiliency.

The Discussion Paper cites some challenges among authorities regarding the possibility of systemic risk arising from concentration of some outsourced and third-parties services to financial institutions and the potential concerns surrounding the substitutability of these services. We believe it is important to recognize there may be challenges that could arise as a result of the concentration of these providers; however, we do not believe concentration risk can be solved with substitutability. For example, diversifying among cloud service providers (CSPs) may result in increased complexity and challenges for banks as they would have to monitor risk exposures and core technology infrastructures across the different environments and therefore potentially elevate operational and system risk. Overly prescriptive mitigants to concentration risk may risk increasing operational complexity, and therefore operational and systemic risks, which is counter to regulators' policy intent of ensuring operational resiliency.

We note that banks may have some services that are easily commoditized and may be readily ported to other organizations (e.g. payments provider) whereas some services are not readily portable (e.g. clearing and settlement services) and alternatives are not always immediately available due to the limited amount of vendors available and lack of standardization to support portability (e.g. CSPs). In cases where suppliers maybe reluctant or slow to make the necessary changes and/or no immediate substitute suppliers exist, we believe it is beneficial to have transition strategies, allowing banks time to find alternative solutions. For example, highly specialized or proprietary software or services may not be immediately replaceable, and in these instances, banks will factor this in as part of determining their overall operational risk

strategy and transitional assistance clauses. In light of this reality, we believe recommendations, if any, should balance the potential for material customer service disruption or undue burden to regulated financial institutions with other considerations. Banks already undertake risk-based approaches to managing risks associated with third-party relationships if substitutability of a service is not tenable.

Cloud Computing

Some jurisdictions have considered developing guidance specifically geared toward CSPs; however, it is our view that developing recommendations to address potential risks arising specifically on cloud risk management is not warranted. As the FSB acknowledges in the Discussion Paper, many of the issues explored in the December 2019 FSB Report on *Third-party Dependencies in cloud services* are not just relevant to cloud services but to outsourcing and third-party relationships in general. For this reason, we caution against recommendations in support of prescriptive guidance that may constrain banks' ability to leverage the full capabilities offered by CSPs as it may constrain banks' ability to adapt to changing technology and stifle innovation.

Elaborating on our views above, we note that many of the key benefits and challenges raised in the Discussion Paper are not limited to CSPs and are relevant to the broader category of outsourcing and third-party relationships. This includes benefits such as improved resilience and innovation along with the challenges cited in the Discussion Paper such as audit and access rights. On resiliency of CSPs, we believe it important to underscore that multiple levels of redundancy can enhance resiliency and mitigate against the risk of possible significant disruptions. The CBA believes that wherever possible, any regulatory guidance should leverage existing industry standards and certifications for supervisory requests to ensure cross-border compatibility and avoid placing additional burdens on financial institutions. This may include alignment on terminology such as a clear definition on what is considered to be a CSP². In light of these views, we believe that there are existing industry frameworks that address risks associated with CSPs and banks determine how to leverage these frameworks to address potential risks to their business.

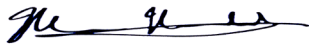
Finally, we agree with the views expressed by the FSB that effective cross-border cooperation and dialogue among supervisory authorities, as well as the effective application of existing standards and other emerging practices, are important to address the challenges and risks relating to this issue. Moving forward, we welcome ongoing dialogue and collaboration with

² For example, cloud service is already well defined with essential characteristics in ISO/IEC 17788:2014 Information Technology - Cloud Computing -Overview and Vocabulary, and NIST Special Publication 800-145 - The NIST Definition of Cloud Computing.

regulators on the inherent challenges arising from outsourcing and third-party relationships in the context of regulatory requirements.

We appreciate the opportunity to provide comments on this important topic. We would be pleased to discuss our submission in greater detail at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marina Mandal', with a horizontal line underneath the name.

Marina Mandal