



June 12, 2023

BANKING AGENCIES RELEASE INTERAGENCY GUIDANCE ON THIRD-PARTY RELATIONSHIPS: RISK MANAGEMENT

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency issued guidance on managing risks associated with third-party relationships on June 6, 2023. The new guidance replaces prior guidance by the banking agencies on third-party relationships identified in the release. The agencies describe the guidance as a broad, principles-based approach in response to comments on the prior draft guidance released in July of 2021 requesting that the guidance address specific topics or types of relationships.

The guidance emphasizes that a bank's use of third-parties does not diminish the bank's responsibility to meet regulatory requirements to the same extent as if its activities were performed by the banking organization in-house. The guidance indicates that it applies to fintech relationships, among other types of third-party relationships. In fact, the guidance explicitly states that the agencies decided not to exclude any specific third-party relationships from the scope of the guidance, making the guidance relevant to managing all third-party relationships. The guidance provides a long and detailed discussion of areas for consideration in regard to third-party relationships and indicates that a bank must analyze the risks associated with each third-party relationship and adjust its risk management practices commensurate with the bank's size, complexity and risk profile and with the nature of its third-party relationships. Not all of the areas of consideration will apply to all third-party relationships, but it is the bank's responsibility to assess what areas of consideration apply in the context of each third-party relationship.

The guidance addresses the life cycle of a third-party relationship discussing the following stages: planning prior to entering into a third-party-relationship, due-diligence relating to the selection of the entities to enter into third-party relationships with, contract negotiations in regard to third-party relationships, on-going monitoring of third-party relationships during the term of the relationship and finally termination of third-party relationships, with

various topics addressed under each stage.

Management practices the guidance recommends during all stages of a third-party relationship, subject to risk and complexity, are:

1. Oversight & Accountability
2. Independent Reviews
3. Documentation and Reporting

The guidance indicates that the scope of supervisory review will vary depending on the degree of risk and the complexity of the relationship and the activities. Based on the length and detail in the guidance, banks should expect and prepare for a high level of regulatory scrutiny, especially in regard to fintech relationships. As the guidance is both general and detailed, banks will need to analyze what parts of the guidance are relevant to different third-party relationships.

If you have questions regarding the guidance or third-party relationships, please do not hesitate to contact us. □

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