

In case of discrepancies between the French and the English text, the French text shall prevail.

Luxembourg, 17 May 2017

To all credit institutions and other
professionals of the financial sector

CIRCULAR CSSF 17/657

Re: Update of Circular CSSF 06/240 on the administrative and accounting organisation; IT outsourcing and details regarding services provided under the status of support PFS, Articles 29-1, 29-2, 29-3, 29-4, 29-5 and 29-6 of the Law of 5 April 1993 on the financial sector, as amended; amendment of IT outsourcing conditions for branches located abroad

Ladies and Gentlemen,

1. The purpose of this circular is to amend Circular CSSF 06/240 on the administrative and accounting organisation; IT outsourcing and details regarding services provided under the status of support PFS; amendment of IT outsourcing conditions for branches located abroad.
2. Circular CSSF 06/240 is amended as follows:
 - Amendment of the purpose: the reference to the articles of the Law of 5 April 1993 on the financial sector, as amended (the Law), is extended from 29-1 to 29-6 and the notion of “amendment of IT outsourcing conditions for branches located abroad” is removed.
 - The first paragraph of the first page is amended as follows: the reference to the articles of the Law is extended from 29-1 to 29-6.
 - The second paragraph of the first page is amended as follows:
 - In the 5th indent, the words “as a complement to “Circulars CSSF 05/178 and 12/552” are replaced by “as a complement to “Circulars CSSF 17/565 and CSSF 12/552” and a footnote stating “Repeals and replaces Circular CSSF 05/178” is inserted after “CSSF 17/656”. The numbers of the subsequent footnotes are increased by one.

- The 7th indent “IT outsourcing by a subsidiary or branch, located abroad, of a financial professional.” is deleted.
- Throughout the document, [...] the references to the status of IT systems and communication networks operator of the financial sector (OSIRC) are replaced by “OSIP” for Article 29-3 and “OSIS” for Article 29-4.
- Throughout the document, the reference to Circular CSSF 05/178 is replaced by the reference to Circular CSSF 17/656 which repeals and replaces Circular CSSF 05/178.
- In point 1.1.:
 - The second sentence of the second paragraph is amended and extends the reference to the articles of the Law from 29-1 to 29-6.
 - In the 3rd paragraph, the beginning of the sentence is replaced by “Considering that Articles 29-3(2) and 29-4(2) state that “IT systems operators...are entitled”.
 - The 4th paragraph “This confirms the point in Circular CSSF 05/178, which states that “*the financial professionals concerned may however not evade the liability which they assume to maintain secret the information which is entrusted to them, except towards a support PFS, in the context of a service level agreement falling under the tasks entrusted.*” is deleted.
- Paragraph 2.1. is replaced by: “Financial professionals subject to the conditions set out in Circular CSSF 17/656 “or Circular CSSF 12/552” or Circular CSSF 17/654 on cloud computing shall ensure to conclude contracts in Luxembourg, for IT systems operation services (OSIP or OSIS) as defined in Chapter 3 of the present circular, with companies having an adequate authorisation.”. The footnote inserted after “or Circular CSSF 12/522” remains.
- After the second sentence in paragraph 2.5., the following text is inserted: “Thus, an administrative agent authorised under Article 29-2 of the Law may also use cloud computing services within the meaning of Circular CSSF 17/654, provided that these cloud computing services are not directly provided to the financial professional outside the scope of the provision of administrative services. The administrative agent shall, however, comply with the provisions of Circular CSSF 17/654 on cloud computing, in its capacity as ISCR (institution supervised by the CSSF and consuming cloud computing resources). ”
- Paragraph 3.1. is replaced by: “Where a technical service is not part of IT outsourcing relying on a cloud computing infrastructure as defined in Circular CSSF 17/654, it will be considered as operating activity when: ”
- The following paragraph 3.2. is added and the subsequent paragraphs are renumbered accordingly: “Where a technical service is part of IT outsourcing relying on a cloud computing infrastructure as defined in Circular CSSF 17/654, it shall be considered as operating activity when it complies with the definition of resource operation of Circular CSSF 17/654. ”
- The following paragraph 3.3.1. is added and the subsequent paragraphs are renumbered accordingly: “Provision of cloud computing services within the meaning of Circular CSSF 17/654”.

- In paragraph 3.3.2., the following footnote is added after “confidential data”: “Only production systems are supposed to contain confidential data. The development and test systems should not contain confidential data. ”
- At the end of paragraph 4.3., “and CSSF 12/552” is added.
- The first sentence of paragraph 4.5. is replaced by: “The financial professional shall be cautious when IT tasks linked to resource operation within the meaning of Circular CSSF 17/654 on cloud computing, system, network or database administration entrusted to temporary staff are realised on production equipment and not on development or test environments. ”
- At the end of the second-to-last sentence of paragraph 5.1.2., a reference to the status of PSDC is added: “If so, the service provision must be entrusted to a PFS authorised as administrative agent or PSDC (Articles 29-5 and 29-6 of the LFS) for archiving with probative value.”
- The following point 6.4 is added: “Assistance with remote control, by a cloud provider within the meaning of Circular CSSF 17/654 is only allowed as support and under the control of the resource operator and not directly to the ISCR. Indeed, the resource operator is the guarantor of the operation made for the ISCR. ”, including a footnote after the term “ISCR”: “Within the meaning of Circular CSSF 17/654”.”
- Point 8 is removed in full.

Entry into force and other provisions

3. The changes brought by this circular to Circular CSSF 06/240 shall enter into force with immediate effect.

Yours faithfully,

COMMISSION de SURVEILLANCE du SECTEUR FINANCIER

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