To: Ms Victoria Learmonth
Prudential Supervision Department
PO Box 2498
Wellington 6140
victoria.learmonth@rbnz.govt.nz

Deadline: 4 Dec 2015

Dear Ms Learmonth,

Re: The Asia Cloud Computing Association (ACCA) Comments on the Reserve Bank of New Zealand 's Review of the Outsourcing Policy for Registered Banks

The Asia Cloud Computing Association (ACCA) thanks the RBNZ for the opportunity to contribute to your review of New Zealand's Outsourcing Policy for Registered Banks.

The ACCA is the apex industry association that represents stakeholders of the Cloud computing ecosystem in Asia. Our mission is to accelerate the adoption of Cloud computing through Asia Pacific by helping to create a trusted and compelling market environment, and a safe and consistent regulatory environment for Cloud computing products and services. Through public education and advocacy, the ACCA provides a vendor-neutral platform to discuss implementation and growth strategies, share ideas, and establish policies and best practices relating to Cloud computing.

Response to the RBNZ's Review of the Outsourcing Policy for Registered Banks

In line with our mission to accelerate the use of Cloud computing through Asia Pacific, we offer the following responses to the questions posed by the RBNZ's Outsourcing Review which are most relevant:

(1) *Q9: Do you agree that there are functions that are so integral to carrying on the business of a bank that they should not be outsourced? Do you agree that these examples are appropriate? Are there any other functions or systems that should not be outsourced?*

The scenario posed in Paragraph 70 regarding regulatory reporting proposes that "a bank must be able to exclusively rely on data that it has direct ownership of, and control over", and that "the ownership and control of data used to calculate the New Zealand's bank's regulatory position must reside with the New Zealand bank." This position seems to suggest data residency, which reduces the cost and scaling efficiencies which Cloud computing offers as a solution.

We request that this position be clarified that this refers to the access and control of data, and does not necessarily advocate or call for information and data to be physically resident within New Zealand.

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(2) Q14: Do you agree that option two is the most appropriate option for the assessment of outsourcing arrangements? Please explain.

The suggestion in Paragraph 85 states that the RBNZ is considering that banks should be required to seek the RBNZ's non-objection before entering into an outsourcing agreement.

This process may be overly onerous and inefficient for all involved – banks, vendors, and the RBNZ. We suggest that an "inform" mechanism be put in place, similar to the approach adopted by South Korea, where banks and financial institutions report to the Financial Services Supervisor (FSS) about data processing outsourcing arrangement after the event.[1] Data processing involving customer financial data needs to be informed before the outsourcing arrangement is made.

In order to allow banks and other financial institutions to be more confident in engaging with technology, especially for improving business innovation and efficiency, the RBNZ may wish to issue guidance on the use of Cloud computing either as a standalone document or as an annexure to the Guideline, as well as make use of a checklist for outsourcing, such as the Compliance Checklist for Technology Risk Management Guidelines from the Monetary Authority of Singapore.[2]

(3) Q15: Do you agree that the approach outlined above is an appropriate way to manage the assessment of outsourcing proposals? If not, please explain.

To remove ambiguity in the response process, we suggest that outsourcing proposals received by the RBNZ be approved 20 business days after submission, unless the RBNZ advises otherwise.

Conclusion and Introduction of the ACCA's Report on Financial Services Institutions (FSI) Regulations impacting Cloud in Asia-Pacific Market

In addition to our comments to this review, we wish to call to your attention a recent report which we published: *Financial Services Institutions (FSI) Regulations impacting Cloud in Asia-Pacific Markets*, which reviewed the regulatory landscape around the use of Cloud technology for financial institutions. In the report, we compare regulations in 14 Asia Pacific countries with respect to nine areas: 1. Processes for adopting Cloud, 2. Contracts for Cloud Services, 3. Data location, 4. Data use limitations, 5. Security, 6. Data segregation, 7. Business continuity, 8. Audit, review and monitoring, 9. Exit. In the report, we also make recommendations to policymakers that help encourage the use of Cloud technology for efficiency and innovation.

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[1] See press release by the Korea Financial Services Commission (FSC), 9 Jun 2015, Revision to Regulation on Financial Institutions' Outsourcing of Data Processing Business & IT Facilities, http://www.fsc.go.kr/downManager?bbsid=BBS0048&no=97044. Also see Rob Bratby's post, "Good news from Korea for FSI cloud customers and CSPs" on 12 Jun 2015, where he writes that "FSIs will be allowed to outsource their data processing without notifying all the information to the FSS prior to outsourcing data processing. Instead they can report the outsourcing after the event to the FSS. FSIs will only be required to notify an outsourcing in advance to the FSS if customers' financial transaction information will be outsourced." http://robbratby.com/2015/06/12/good-news-from-korea-for-fsi-cloud-customers-and-csps/

[2] Monetary Authority of Singapore, n.d., Technology Risk, http://www.mas.gov.sg/regulations-and-financial-stability/regulatory-and-supervisory-framework/risk-management/technology-risk.aspx

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In line with this, we seek more detail and clarity to be provided by the RBNZ to reduce ambiguity for banks and cloud users, as detailed in our submission above. We recommend that the RBNZ consider the following five points in the review of outsourcing guidelines for New Zealand banks:

1. Regulations should be technology neutral. There should not be separate regulations for the use of Cloud Services.
2. Regulations should set out a clear process that should be followed for the adoption of Cloud Services (as if it were any other form of outsourcing) and approval for the use of Cloud Services should not be required.
3. The transfer of Data to other jurisdictions should be permitted, subject to appropriate safeguards (e.g. security, business continuity, access and audit).
4. Regulations should only identify the key issues that should be addressed in outsourcing contracts that include Cloud Services. They should not be prescriptive of the terms of an outsourcing contract that includes Cloud Services.
5. The use of independent third party audits should be an acceptable alternative to audits carried out by FSIs and the Regulators.

We believe that this report may be of interest to you in your deliberations as you review your outsourcing policy guidelines, and are attaching it for your interest and perusal. It is also available on our website at http://asiacloudcomputing.org/research/fsi2015

Thank you for the opportunity to respond to this review. If you require further information or clarification, or would like us to make a presentation on the findings of our report, please do contact me at

Yours sincerely,
Lim May-Ann
Executive Director
Asia Cloud Computing Association

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