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4 December 2015

Ms Victoria Learmonth  
Prudential Supervision Department  
Reserve Bank of New Zealand  
PO Box 2498  
Wellington 6140  
NEW ZEALAND  
Email: Victoria.learmonth@rbnz.govt.nz

Dear Ms Learmonth

**Re: Reserve Bank of New Zealand (RBNZ) Consultation paper: Review of outsourcing policy for registered banks**

Salesforce welcomes the opportunity to comment on the consultation paper.

Salesforce.com, inc. (“Salesforce”) is a provider of software as a service (“SaaS”) and platform as a service (“PaaS”) offerings.

Customer trust is our number one value. Our success depends on delivery reliable services to our customers around the globe.

Salesforce provides its services to financial institutions carrying on business and regulated in New Zealand.

Salesforce has worked closely with financial regulators around the globe to address their concerns associated with outsourcing.

Salesforce agrees with RBNZ that outsourcing arrangements have the potential to open up access to cost savings and expertise that cannot be supported in house, as well as providing efficiency improvements, and allows financial institutions to focus on their core businesses.

As Salesforce provides the same service to all customers we must implement across the board the highest level of security required by our most demanding customers in regulated industries including financial services.

Salesforce’s security is also continuously validated by third parties as demonstrated by its comprehensive list of privacy and security assessments and certifications, such as:

- ISO (International Organization for Standardization) 27001



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- SOC (Service Organization Controls) 1 Type II
- SOC 2 Type II (Trust Principles report)
- SOC 3
- PCI-DSS (Payment Card Industry Data Security Standard)
- TRUSTe Certified Privacy Seal

Salesforce has endeavored to respond to questions that are of most relevance.

**Q1: Do you agree with the analysis of the problem? Do you agree that the issues identified in paragraph 21 appropriately identify the potential problems with the banks' use of outsourcing?**

Salesforce agrees that the focus of outsourcing policy should be on the soundness of banks.

We are of the view that in house systems integration deployments may pose as much or more risk than risks associated with outsourcing.

In-house systems are often platform constrained and are thus unable to fully derive economies of scale and scope. This results in them having legacy issues and they are generally costly to maintain and difficult to re-integrate with replacement systems.

Many banks mix service offerings using interoperability and data portability which is increasingly a required feature of "as-a-service" offerings.

Furthermore, there is more competition generally in outsourcing services versus in house implementations.

Dependency risks on service providers may be managed through ensuring customer data portability and through other appropriate contractual provisions to protect business continuity of the outsourcing financial services provider.

There is also concentration risk. The risk of a concentrated single supplier to many banks failing and thus disrupting a financial system, however, this risk may be mitigated by diversification of service providers.

Many as-a-service offerings such as enterprise resource planning, customer relationship management and other business process services are designed for global markets and used across many industry sectors.

Generally speaking, except in unusual circumstances, the risk may be managed by consideration of the materiality of the outsourcing, evaluation of the resilience of the service provider and mitigation of any possible dependency risk through data portability and other appropriate contractual provisions to protect business continuity of the outsourcing financial services provider.

**Question 2: Without an outsourcing policy how would you propose that a failure is managed?**



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Salesforce is of the view that regulators should issue guidance to FSIs on outsourcing rather than adhering to a specific set of rules. A specific set of rules may impact the way FSIs handle their information to ensure efficiency, without compromising on security.

In other words, a more principles based rather than rules based approach that can address technological advances.

Furthermore, we believe that regulators should wherever reasonably practicable take advantage of international standards. There is a trend for regulators to set out in detail the security requirements in their regulations. We urge that the RBNZ consider advocating international standards. If RBNZ is of the view that these standards are not adequate, there is an opportunity to identify areas that RBNZ considers insufficient and supplement existing international standards with additional requirements.

**Q7: Does the proposed definition appropriately define outsourcing? If not, please provide an alternative definition that, in your opinion, better captures what is meant by the term outsourcing.**

**Q8: Are there any other functions that should be excluded from the outsourcing policy, but are not captured in the list above?**

Outsourcing is proposed to be defined by scoped inclusion and then exception, namely:

- a registered bank's use of a third party (either an affiliated entity within a corporate group or an entity that is external to the corporate group) to perform activities on a continuing basis that could be undertaken by the registered bank, now or in the future;
- but not: telecommunication services and public utilities; postal services; specialised training; discrete advisory services (e.g. legal opinions); independent audit reviews; market information services; independent consulting; services that the registered bank is not legally able to provide; printing services for marketing materials; repair and maintenance of fixed assets; supply and service of leased telecommunication equipment; travel agency and transportation services; temporary help and contract personnel; fleet leasing services; specialised recruitment; and conference organising.

The apparent intent of the exceptions is to carve-out services which whilst not integral to provision of financial services, are material to the ability of the bank to conduct its operations: for example, no financial institution can operate without electricity or telecommunications or market information services.



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We suggest that a more flexible definition would be more appropriate. We suggest a definition based on that developed by the Monetary Authority of Singapore in its September 2014 *Guidelines on Outsourcing* Consultation Paper P-019-2014<sup>1</sup> with some amendments:

*“outsourcing arrangement” means an arrangement in which a service provider provides the institution with a service that may currently or potentially be performed by the institution itself and which includes the following characteristics:*

- (a) *the institution is dependent on the service on an ongoing basis but such service excludes services that involve the provision of a finished product (e.g. insurance policies); and*
- (b) *the service is inherently, in the manner of use of the service by the institution integral to the provision of a financial service by the institution, or the service is provided to the market by the service provider in the name of the institution.*

Payments and clearing services and systems would fall within this definition. Other services which facilitate provision of financial services, but which are not particular or core to provision of financial services, would not.

Alternatively, the list of exclusions could add services which are not inherently in their manner of use by the institution integral to the provision of a financial service by the institution.

**Q13: Do you agree that all contracts for outsourcing arrangements should be required to include the terms outlined in paragraph 81?**

Prior to responding to paragraph 81, it should be noted paragraph 82 also notes “further contractual provisions that the Reserve Bank would expect to see included in robust outsourcing arrangements are identified in appendix one”.

A list of matters that the Reserve Bank would expect to see included in robust outsourcing arrangements will inevitably become a checklist for all outsourcing arrangements, regardless of whether the outsourcing arrangement is a material outsourcing contract, regardless of whether each of the items listed in appendix one is relevant or appropriate to or for a particular outsourced service or function, and regardless of whether the matter was specifically addressed in paragraph 81 or not.

We suggest that the list in appendix one might more appropriately be expressed as an indicative list of matters which the RBNZ considers generally should be addressed in material outsourcing contracts.

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<sup>1</sup>Based in part on a definition proposed by the Monetary Authority of Singapore, *Guidelines on Outsourcing* Consultation Paper P-019-2014 (Sept. 2014), [http://www.mas.gov.sg/~media/MAS/News%20and%20Publications/Consultation%20Papers/ConsultationPaper\\_Guidelines%20on%20Outsourcing.pdf](http://www.mas.gov.sg/~media/MAS/News%20and%20Publications/Consultation%20Papers/ConsultationPaper_Guidelines%20on%20Outsourcing.pdf).



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We also suggest that the mandatory requirements in paragraph 81 should only apply to material outsourcing arrangements, applying the definition of outsourcing arrangements suggested above and then adding a further threshold of materiality as follows:

*“Material outsourcing arrangement” means an outsourcing arrangement as defined above where a service failure or security breach has the potential to materially and adversely impact a financial institution’s business operations, or its ability to manage risk.*

Applying this definition of material outsourcing arrangement, we then consider the matters listed in paragraph 81. These are:

- 1.1 a contractual provision to ensure continuing access on normal commercial terms to services when the bank enters statutory management;
- 1.2 parallel rights for arrangements made through the parent or a related party to ensure continuing access to the services where the bank is separated from its parent; and
- 1.3 the ability for the Reserve Bank to have access to documentation and information related to the outsourcing arrangement.

We consider that it would be reasonable to expect as a condition to continuing availability of outsourced services for the benefit of the relevant New Zealand financial institution’s customers, that the service provider be paid any outstanding amounts and also receive assurance for ongoing payments.

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

We suggest that option two is the most appropriate option for the assessment of outsourcing arrangements but that it be applied only to material outsourcing arrangements, applying the definition of outsourcing arrangements suggested above.

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

The approach outlined in option two will allow the Reserve Bank to focus efficiently on those arrangements that pose significant risk to soundness, while allowing banks to claim the competitive advantages of outsourcing.

To that end, we suggest that outsourcing proposals be deemed approved 20 business days after submission, unless RBNZ advises within that 20 business day auto approval period that either a full application is required or that further information is required, in which event the 20 business day auto approval period starts again.

We consider that the matters listed in paragraph 100 are appropriate matters for assessment, assuming that the requirement for assessment is limited to material outsourcing arrangements.



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In conclusion, Salesforce recommends the following:

- Regulations should be technology neutral. There should not be separate regulations for the use of Cloud Services.
- Salesforce is of the view that risk and principles based guidance to FSIs to outsourcing is preferable rather than requiring adherence to a specific set of rules. A specific set of rules may adversely impact the way FSIs handle their information to ensure efficiency, without compromising on security.
- RBNZ should consider these guidelines being consistent with international standards. There is a trend for regulators to set out in detail the security requirements in their regulations. RBNZ should consider advocating international standards.
- Appendix one might more appropriately be expressed as an indicative list of in-principle matters which the RBNZ considers should be addressed in material outsourcing contracts.
- Mandatory requirements in paragraph 81 should only apply to material outsourcing arrangements.
- That the outsourcing guide be applied to all new agreements rather than renewal of existing agreements

Thank you for the opportunity to respond to the consultation paper. Should you require further information, please do not hesitate to contact me at [sgrigorian@salesforce.com](mailto:sgrigorian@salesforce.com)

Yours sincerely

Sassoon Grigorian  
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