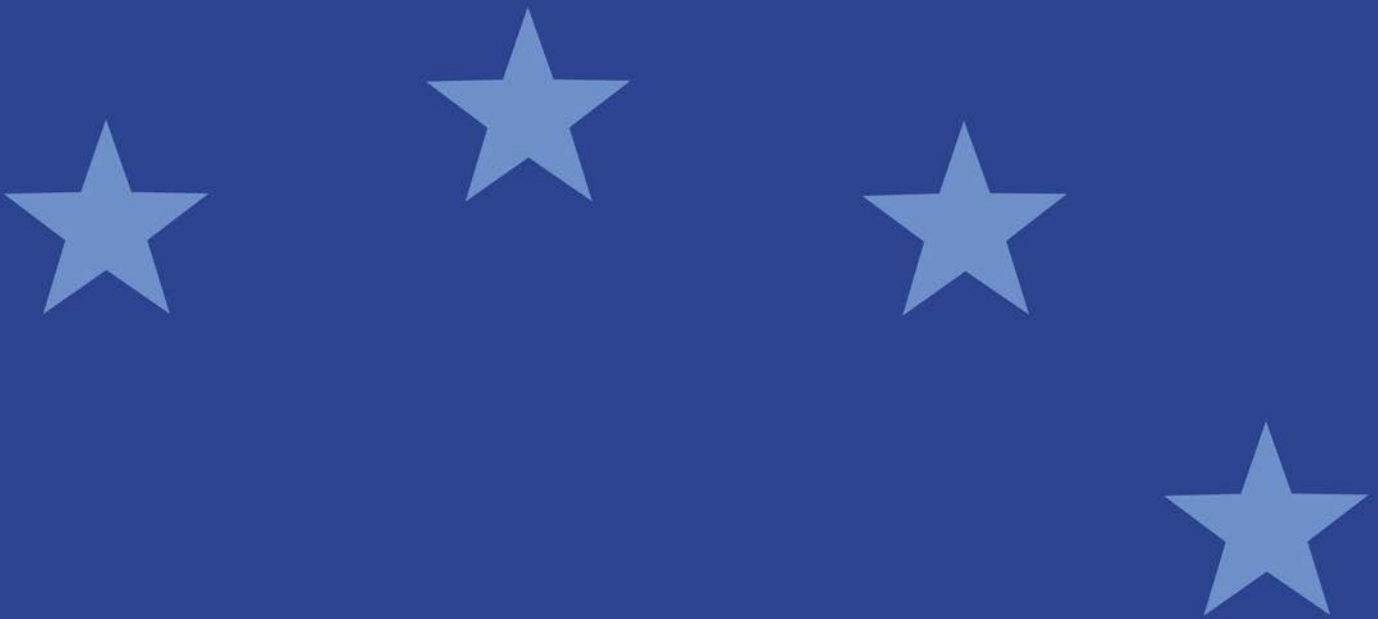


# Response Form to the Consultation Paper

## Guidelines on Outsourcing to Cloud Service Providers





## Responding to this paper

ESMA invites comments on all matters in this consultation paper on guidelines on outsourcing to cloud service providers and in particular on the specific questions summarised in Appendix I. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **01 September 2020**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

### Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_COGL\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_COGL\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_COGL\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA's website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading "Your input – Open consultations" → "Consultation on Outsourcing to Cloud Service Providers").



## **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

## **Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](#).

## **Who should read this paper**

This paper is primarily of interest to national competent authorities and financial market participants. In particular, this paper is of interest to alternative investment fund managers, depositaries of alternative investment funds, undertakings for collective investment in transferable securities (UCITS) management companies, depositaries of UCITS, central counterparties, trade repositories, investment firms and credit institutions which carry out investment services and activities, data reporting services providers, market operators of trading venues, central securities depositories, credit rating agencies, securitisation repositories and administrators of benchmarks ("firms"), which use cloud services provided by third parties. This paper is also important for cloud service providers, because the draft guidelines seek to ensure that the risks that may arise for firms from the use of cloud services are properly addressed.



## General information about respondent

Name of the company / organisation	Association française de la gestion Financière (AFG)
Activity	Investment Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	France

## Introduction

*Please make your introductory comments below, if any*

<ESMA\_COMMENT\_COGL\_1>

Generally speaking, it is important that these guidelines take into account the reality of economic relationships between small players (notably UCITS or FIA management companies) and certain large cloud service providers, which may be in a quasi-monopoly situation. It is then illusory that an asset management company can impose controls or significant contractual modifications of clauses in their relations with the most important suppliers.

<ESMA\_COMMENT\_COGL\_1>

## Questions

**Q1** : Do you agree with the suggested approach regarding a firm's governance and oversight in relation to its cloud outsourcing arrangements? Please explain.

<ESMA\_QUESTION\_COGL\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_COGL\_1>

**Q2** : Do you agree with the suggested documentation requirements? Please explain.



<ESMA\_QUESTION\_COGL\_2>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_2>

**Q3** : Do you agree with the suggested approach regarding the pre-outsourcing analysis and due diligence to be undertaken by a firm on its CSP? Please explain.

<ESMA\_QUESTION\_COGL\_3>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_3>

**Q4** : Do you agree with the proposed contractual requirements? Please explain.

<ESMA\_QUESTION\_COGL\_4>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_4>

**Q5** : Do you agree with the suggested approach regarding information security? Please explain.

<ESMA\_QUESTION\_COGL\_5>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_5>

**Q6** : Do you agree with the suggested approach regarding exit strategies? Please explain.

<ESMA\_QUESTION\_COGL\_6>  
It is necessary to take into account here the fact that the exit of a system can be long and expensive and not take place at short notice. in any case, here too it appears difficult for a management company to "ensure" that the service provider has erased the data. The management company can only "ask" the service provider to delete or erase the data..  
<ESMA\_QUESTION\_COGL\_6>

**Q7** : Do you agree with the suggested approach regarding access and audit rights? Please explain.

<ESMA\_QUESTION\_COGL\_7>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_7>

**Q8** : Do you agree with the suggested approach regarding sub-outsourcing? Please explain.

<ESMA\_QUESTION\_COGL\_8>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_8>



**Q9** : Do you agree with the suggested notification requirements to competent authorities?  
Please explain.

<ESMA\_QUESTION\_COGL\_9>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_9>

**Q10** : Do you agree with the suggested approach regarding the supervision of cloud outsourcing arrangements by competent authorities? Please explain.

<ESMA\_QUESTION\_COGL\_10>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_10>

**Q11** : Do you have any further comment or suggestion on the draft guidelines?  
Please explain.

<ESMA\_QUESTION\_COGL\_11>  
We suggest that the guidelines clearly specify that the the controls of the competent authorities are exercised "ex-post". il does not seem possible to have agreements approved "ex-ante".»  
<ESMA\_QUESTION\_COGL\_11>

**Q12** : What level of resources (financial and other) would be required to implement and comply with the guidelines and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organization, where relevant.

<ESMA\_QUESTION\_COGL\_12>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_COGL\_12>