What does the new **interagency guidance** mean for bank third-party risk management programs?

Evolved regulatory guidance aligns with evolved third-party risk

In June 2023, the primary federal banking regulators responsible for overseeing third-party risk management (TPRM) programs in the banking industry issued new guidance, “Interagency Guidance on Third-Party Relationships: Risk Management.”

The new guidance replaces existing TPRM guidance from all three agencies: the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corp. (FDIC), and the Board of Governors of the Federal Reserve System (Fed).

The agencies’ goal is to create alignment and help banking organizations manage risks associated with third-party relationships, including fintechs.[1]

Based on our TPRM specialists’ review of the interagency guidance, we have several broad takeaways:

- In response to the ongoing rise in third-party incidents and cybersecurity breaches, the agencies seek to clarify their expectations regarding how banks manage third-party risk.
- The new guidance attempts to align the level of regulatory expectation more accurately with the level of risk regardless of a banking organization’s asset size or primary regulator.
- The interagency guidance addresses the significant changes in outsourcing relationships with third parties since the previous TPRM guidance was published. Banking organizations now outsource more bank processes than ever before, and the industry has experienced a rapid spike in banking as a service (BaaS) relationships.

[1] Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corp., and Office of the Comptroller of the Currency, “Interagency Guidance on Third-Party Relationships: Risk Management,” June 6, 2023, https://www.federalregister.gov/documents/2023/06/09/2023-12340/interagency-guidance-on-third-party-relationships-risk-management

Many leaders in the banking industry are wondering: What does the new guidance mean for our organization's TPRM program?

Below is a high-level summary of expected changes based on a banking organization's current regulator.

FDIC and Fed

Banking organizations regulated by the FDIC and Federal Reserve System will see the most change and should anticipate significant – although risk-adjusted – enhancements to regulatory requirements across many different areas.

Smaller organizations with complex, risky third-party relationships should expect the biggest impact.

Areas of change:

- The list of due diligence topics to be covered under a third-party assessment has become significantly more extensive in the guidance.
- The guidance expands the level of detail in many areas, especially those related to oversight and accountability.
- Terminations of third parties and ongoing monitoring are now covered in a stand-alone section that organizations must address.
- **(Fed only)** The scope of the relationships covered under the guidance is expanded. Previously, the guidance had covered only traditional outsourcing relationships.

OCC

For banking organizations regulated by the OCC, the new guidance contains some minor clarifications and small enhancements, but most areas remain materially the same.

Areas of change:

- The definition of critical vendors has been enhanced to provide more guidance.
- The guidance is slightly more prescriptive in areas such as contract negotiation, business continuity, and responsibilities for providing, receiving, and retaining information.

Crowe third-party risk management specialists have reviewed the interagency guidance and created a visual guide to illustrate the anticipated changes from existing TPRM guidance. The tables on the following pages summarize the degree of change in various stages of the risk management life cycle for each regulatory agency.

Stage of risk management life cycle	OCC	Fed	FDIC
Planning	Somewhat enhanced	Somewhat enhanced	Somewhat enhanced
Due diligence and third-party selection	Somewhat enhanced	Somewhat enhanced	Somewhat enhanced
Strategies and goals	Substantially the same as previous	Substantially the same as previous	Materially expanded or did not exist in previous guidance
Legal and regulatory compliance	Somewhat enhanced	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Financial condition	Somewhat enhanced	Substantially the same as previous	Materially expanded or did not exist in previous guidance
Business experience	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Qualifications and backgrounds of company principals	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Risk management	Substantially the same as previous	Somewhat enhanced	Materially expanded or did not exist in previous guidance
Information security	Somewhat enhanced	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Management of information systems	Substantially the same as previous	Somewhat enhanced	Materially expanded or did not exist in previous guidance
Operational resilience	Somewhat enhanced	Somewhat enhanced	Materially expanded or did not exist in previous guidance
Incident reporting and management programs	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Physical security	Substantially the same as previous	Somewhat enhanced	Materially expanded or did not exist in previous guidance
Reliance on subcontractors	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Insurance coverage	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Contractual arrangements with other parties	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance

● Substantially the same as previous ● Somewhat enhanced ● Materially expanded or did not exist in previous guidance

Stage of risk management life cycle	OCC	Fed	FDIC
Contract negotiation	🔵	🔵	🔵
Nature and scope of arrangement	⚪	🔵	🔵
Performance measures or benchmarks	⚪	🔵	⚪
Responsibilities for providing, receiving, and retaining information	🔵	🟡	🟡
The right to audit and require remediation	⚪	⚪	⚪
Responsibility for compliance with applicable laws and regulations	⚪	⚪	🟡
Cost and compensation	⚪	⚪	⚪
Ownership and license	⚪	⚪	⚪
Confidentiality and integrity	⚪	🔵	⚪
Operational resilience and business continuity	⚪	🔵	⚪
Indemnification and limits on liability	⚪	🔵	⚪
Insurance	⚪	⚪	🟡
Dispute resolution	⚪	⚪	⚪
Customer complaints	⚪	⚪	⚪
Subcontracting	⚪	⚪	🟡
Foreign-based third parties	⚪	⚪	🟡
Default and termination	⚪	⚪	⚪
Regulatory supervision	⚪	🟡	🟡

⚪ Substantially the same as previous 🔵 Somewhat enhanced 🟡 Materially expanded or did not exist in previous guidance

Stage of risk management life cycle	OCC	Fed	FDIC
Ongoing monitoring	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Termination	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Governance	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Oversight and accountability	Substantially the same as previous	Substantially the same as previous	Somewhat enhanced
Independent reviews	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Materially expanded or did not exist in previous guidance
Documentation and reporting	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Somewhat enhanced
Supervisory reviews of third-party relationships	Substantially the same as previous	Materially expanded or did not exist in previous guidance	Somewhat enhanced

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Have more questions? Want a detailed analysis of the new interagency guidance, tailored to your organization?

Reach out to our third-party risk management team, and we can provide an in-depth breakdown of the effects of the regulatory changes based on your specific situation and regulator. We can also answer any questions you might have and talk about how to optimize your third-party risk management program to prepare for the changes.

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