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COMMENT ON PROPOSED GUIDANCE · OCC, FEDERAL RESERVE BOARD, FDIC, NCUA · 91 FR 58536 18 OCTOBER 2026

Comment on the Proposed Interagency Third-Party Risk Management Guidance of 15 September 2026: One Illustrative Factor for the Termination Stage

Comment on the proposed interagency Third-Party Risk Management Guidance of the OCC, the Board of Governors of the Federal Reserve System, the FDIC and the NCUA, 91 FR 58536 (15 September 2026; comments due on or before 16 November 2026). The comment proposes one addition to the illustrative list of potential negative factors in the termination stage, continuing dependence on the terminated third party after transition, and records two short observations on subcontractors and on relationship-level assessment. It proposes no framework, no evidentiary standard and no record. No banking organization or third party is assessed and no score is offered or implied.

Submitted by: Ivan Savich, Creator of the Black Hole Index (independent researcher)

Addressed to: Office of the Comptroller of the Currency (OCC) (Docket ID OCC-2026-0793, RIN 1557-ZA18); Board of Governors of the Federal Reserve System (Docket No. OP-1881); Federal Deposit Insurance Corporation (ZRIN 3064-ZA58); National Credit Union Administration (Docket No. NCUA-2026-1684, RIN 3133-ZA54)

Docket: Proposed Third-Party Risk Management Guidance, 91 FR 58536 (15 September 2026); comments due on or before 16 November 2026; the same comment is addressed to the four agencies and is to be filed with each by the method it specifies; non-confidential in its entirety and may be published in full, including the contact details below

Scope: the termination stage of the proposed guidance (Section III.B.2.iv) and the operational resilience planning and subcontractor passages (III.B.2.v); the risk-assessment observation on relationship-level assessment (III.B.1.iii, footnote 13); residual risk acceptance where alternative options are limited (III.B.3)

Relationship to the instrument's record: no banking organization has been assessed with the instrument, and no third party has been assessed in its capacity as a provider to banking organizations; the record cited in paragraph 2.2 concerns a provider's enterprise-software stack in a United Kingdom competition investigation and is cited for its method only; no score is offered or implied for any firm or for the industry

Independence: this comment is submitted in the author's personal capacity as an independent researcher; no third party commissioned or funded the preparation of this comment or the underlying Black Hole Index research; the author has no professional or financial interests relevant to the subject of this guidance that require disclosure

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1. Introduction and purpose

1.1. I am the Creator of the Black Hole Index (BHI), an open measurement instrument for structural lock-in on digital platforms, published with its rubrics, data and corrections under CC-BY 4.0; its records have been filed with competition regulators in the United Kingdom, the European Union and Japan. [3, 4, 5, 6, 7, 8, 9] No banking organization has been assessed with it, and this comment offers no score for any firm or for the industry. The notice's term "banking organization", and its short form "organization", are used as the notice uses them (footnotes 1 and 7 of the notice describe the first by reference to statute; the second is the notice's own short form).

1.2. The agencies invite comments on all aspects of the proposed guidance. [1, Section I] This comment addresses one point in the termination stage. The proposed guidance names, among the reasons for a termination, the three states a termination can end in, an alternate third party, in-house performance or discontinuance, and gives as examples of the potential negative factors to be weighed the costs and fees associated with termination, extended transition timespans, operational complications, the likelihood of service or data access disruptions, data retention and destruction issues, and the handling of joint intellectual property. [1, Section III.B.2.iv] Most of those examples, and all of those that concern the terminated party's systems, formats and data, are elements of what this comment calls residual dependency: what still ties the banking organization to the terminated third party after the contract has ended. Residual dependency is not the notice's residual risk, which the notice defines as the risk remaining after mitigating measures are applied; it is one source of that risk.

1.3. The comment makes no assessment of any banking organization or third party and takes no position on the merits of the principles-based approach, on tailoring or on the rescission of the 2023 guidance. It proposes one addition to the termination stage, in the notice's own illustrative form, and records two short observations on passages where the same distinction applies. It proposes no framework, no evidentiary standard and no record.

1.4. Section 2 states the distinction and the proposed addition. Section 3 records the observation on subcontractors and section 4 the observation on relationship-level assessment under concentration. Section 5 notes where the distinction bears on residual risk acceptance. Section 6 states the limitations of the instrument and of this comment. Section 7 concludes. An appendix maps each passage addressed to the paragraphs that address it.

2. Termination is not exit: the distinction and the proposed addition

2.1. The instrument scores separately whether a party's data and state can be exported, whether functionally equivalent alternatives exist, and whether the work the provider performs can be done by people in reasonable time and at reasonable cost, because the three fail separately. [3] A terminated contract and a complete data export can coexist with no practical exit when the activity cannot be resumed in-house or with an alternative third party without the terminated party's cooperation, interfaces, formats or continuing services.

2.2. The instrument's regulatory records apply this by defining a completed exit in advance and recording, component by component, the documented conditions that exit from one component attaches to another. [6, Sections 3.4 and 4.2] That record concerns a provider's enterprise-software stack in a United Kingdom competition investigation; it is cited here for the method and is not a finding about that provider's services to banking organizations.

2.3. The proposed guidance observes that for a lower-risk relationship it may be easy and cost-effective to switch seamlessly to an alternative third party, that as complexity and materiality increase the organization weighs the potential negative factors against the potential beneficial factors it also lists, and that the agencies will give due consideration to the organization's reasonable determinations that an alternative third party can provide the services as contracted for and within the banking organization's risk appetite and tolerances. [1, Section III.B.2.iv] Under operational resilience planning it gives, as an example of an assurance that oversight assesses, the existence of alternative back-up providers that can provide an easy transition of services. [1, Section III.B.2.v, Operational Resilience Planning] In both places the ease of transition is the organization's judgement, and the comment does not suggest any evidentiary standard for it. The one change the comment proposes is to the illustrative list of potential negative fac-

tors in the termination stage: that it include, alongside data retention and destruction issues, continuing dependence on the terminated third party after transition. The guidance states that its examples are illustrative only, may not be relevant to all banking organizations or relationships, and are not comprehensive, so the addition names a factor without creating an expectation; the due-consideration sentence would be unchanged. [1, Section III.B.2]

3. Subcontractors

3.1. The proposed guidance states that the use of subcontractors may lessen a banking organization's control of activities, and that oversight may be exercised through contractual terms governing the use of subcontractors or by assessing the third party's own third-party risk management. [1, Section III.B.2.v, Subcontractors] A continuing dependence after transition can sit in a component the primary third party itself obtains from a subcontractor, an identity, hosting, data or integration layer that the organization cannot see from the primary contract, and that the primary third party cannot release the organization from because it does not control it. The comment records this as the reason the proposed factor is worded as dependence on the terminated third party, read to include dependence through that party's subcontractors, rather than on its contract.

4. Relationship-level assessment under concentration

4.1. The proposed guidance observes that some banking organizations assess an overall third-party relationship rather than each activity, and that they commonly do so where the organization is exposed to concentration risk from a third party because it relies on that third party for extensive services. [1, Section III.B.1.iii, footnote 13] Where a relationship is assessed as a whole for that reason, the extent of reliance and the difficulty of ending it are different quantities, and the second is the one the termination stage weighs; the proposed factor would give the second a name in the same list the organization already consults.

5. Residual risk acceptance where alternative options are limited

5.1. The proposed guidance's third component, residual risk acceptance, contemplates proceeding with a relationship where a risk cannot be significantly mitigated, including where the banking organization has limited alternative options. [1, Section III.B.3] Limited alternative options is the condition in which the proposed factor matters most, because it is the condition in which a termination, if it comes, is most likely to leave a dependence behind. A method for recording residual dependency before and after a substitution is described in a consultation response to the Competition and Markets Authority dated 17 October 2026, should the agencies' staff wish to consult it; nothing in it is proposed for inclusion in the guidance and nothing in this comment depends on it. [7, Section 4]

6. Limitations

6.1. No banking organization has been assessed with the instrument, and no third party has been assessed in its capacity as a provider to banking organizations. The comment generalises a measurement distinction from other sectors and is an analytical frame, not evidence about banking organizations, about any provider or about the industry; the author claims no bank-supervisory expertise.

6.2. The instrument's own validation is incomplete: each platform is scored by a single evaluator, its structural constants are not empirically calibrated, and its external validity evidence is a concurrent co-

hort of fourteen platforms, four of whose criterion values are not measured annual rates (three asserted characterisations and one share figure), on which simpler forms correlate at least as strongly as the full formula; these limits are documented in the published methodology and corrigendum. [3; 4, items 11 to 13, 15 and 16] Nothing in this comment depends on a score.

6.3. The method referred to in paragraph 5.1 has not been applied to a real environment and is not validated.

6.4. The comment states no legal or supervisory conclusion and takes no position on the merits of the proposed guidance beyond the addition proposed in paragraph 2.3 and the observations in paragraphs 3.1 and 4.1.

7. Conclusion

7.1. The proposed guidance already names the three states a termination can end in and gives as examples the factors that make up residual dependency after a contract ends. The comment proposes that the illustrative list of potential negative factors in the termination stage also name continuing dependence on the terminated third party after transition. It imposes no standard, since the list is illustrative by the guidance's own terms. The comment is addressed to the four agencies, is to be filed with each by the method it specifies in the notice, and may be published in full. [1, Addresses; 2] I remain available to answer questions on the method.

Appendix: crosswalk of the passages addressed to the paragraphs of this comment

PASSAGE IN THE PROPOSED GUIDANCE	PARAGRAPHS
Section III.B.1.iii, Risk Assessment, footnote 13 (relationship-level assessment under concentration)	4.1
Section III.B.2, illustrative character of the oversight examples	2.3
Section III.B.2.iv, Termination: the three states a termination can end in; the illustrative list of potential negative factors; the due-consideration sentence	1.2, 2.3, 7.1
Section III.B.2.v, Cross-Cutting Oversight Topics: Operational Resilience Planning (alternative back-up providers)	2.3
Section III.B.2.v, Cross-Cutting Oversight Topics: Subcontractors	3.1
Section III.B.3, Residual Risk Acceptance (limited alternative options)	5.1

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References

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[2] Board of Governors of the Federal Reserve System (2026). Proposals for comment: submission page. https://www.federalreserve.gov/apps/proposals/

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[4] Savich, I. (2026). Corrigendum 1 to The Black Hole Index: A Structural Lock-In Measurement Framework. https://blackholeindex.com/paper-corrigendum-1.md

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