

Osborne Clarke's 2022 Future of Financial Services Week



Spotlight: The Future of IT procurement in Financial Services

26 January – 3 February 2022



Speaking with you today on...

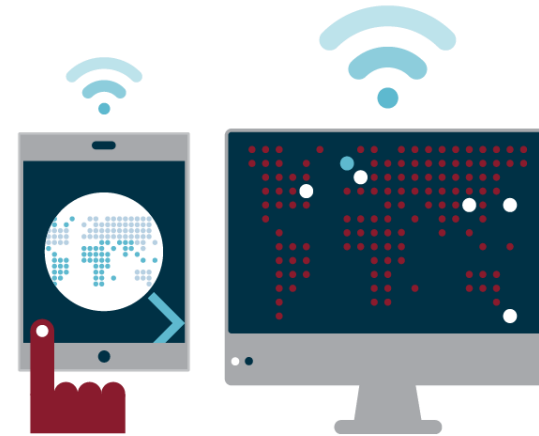
The Future of IT Procurement in Financial Services



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Continued and increasing use of IT and FinTech solutions within Financial Services sector means continued and increasing regulatory scrutiny.

Not new for the sector – for example, UK's SYSC rules, FCA Principles for Business, PRA Fundamental Rules. However, regulatory trends are becoming more intrusive and prescriptive.

Leading to greater complexities for procurement and more complex regulatory landscapes and supply chain considerations.

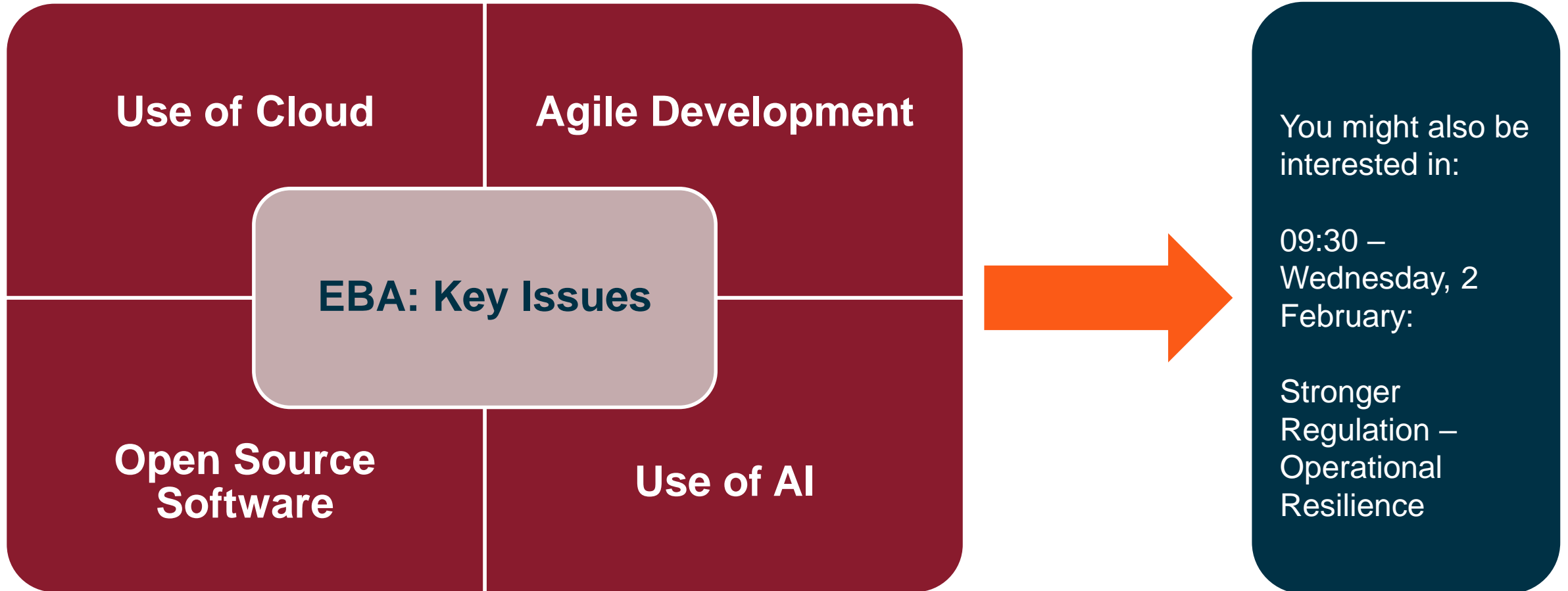


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What we'll be covering



EBA Outsourcing Guidelines – Some Key Problem Areas (1)

Generally increased compliance burden

More expansive, prescriptive outsourcing regime poses practical issues, and likely to continue this way

Change in contracting required – likely consequential changes to providers' own procedures, policies and processes

Specific topics and provisions now need to be included when procuring outsourced solution

Access and Audit Rights

Key issue for providers – set expectations at outset of procurement, as may affect pricing/commercials offered

Difference between critical and non-critical functions – risk based approach to degree of audit rights requested for non-critical functions

But consider if a function could become critical over time

EBA Outsourcing Guidelines – Some Key Problem Areas (2)

Contractual Requirements

Prescriptive approach in things to include in contracts – need internal processes/controls to ensure captured through procurement and contracting

For example, specific audit rights, termination rights and cooperation rights

Consider building into procurement requirements (RFP) or template documentation

Subcontracting

More restrictive – rights of consent, rights to object, etc. will need to be imposed on relevant providers

Outline as part of procurement exercise from outset to ensure provider can comply (and if comes at a price)

What follow-on rights/remedies should there be – e.g. if FI objects to a subcontracting?

Use of Cloud – Some Key Considerations



Cloud increasingly popular, but aspects making it beneficial can be seen as risk areas from regulatory perspective.

More than most markets, cloud providers often have standard terms – so providers into FS space likely to develop own amended terms.



Agile Development Methodologies – increased popularity



- Drive for innovation means more development under agile methodologies
- What is agile – umbrella term for iterative and incremental approach
- Tension with regulatory approach for clear contracting
- Balance between agility and appropriate risk management

Agree exact methodology



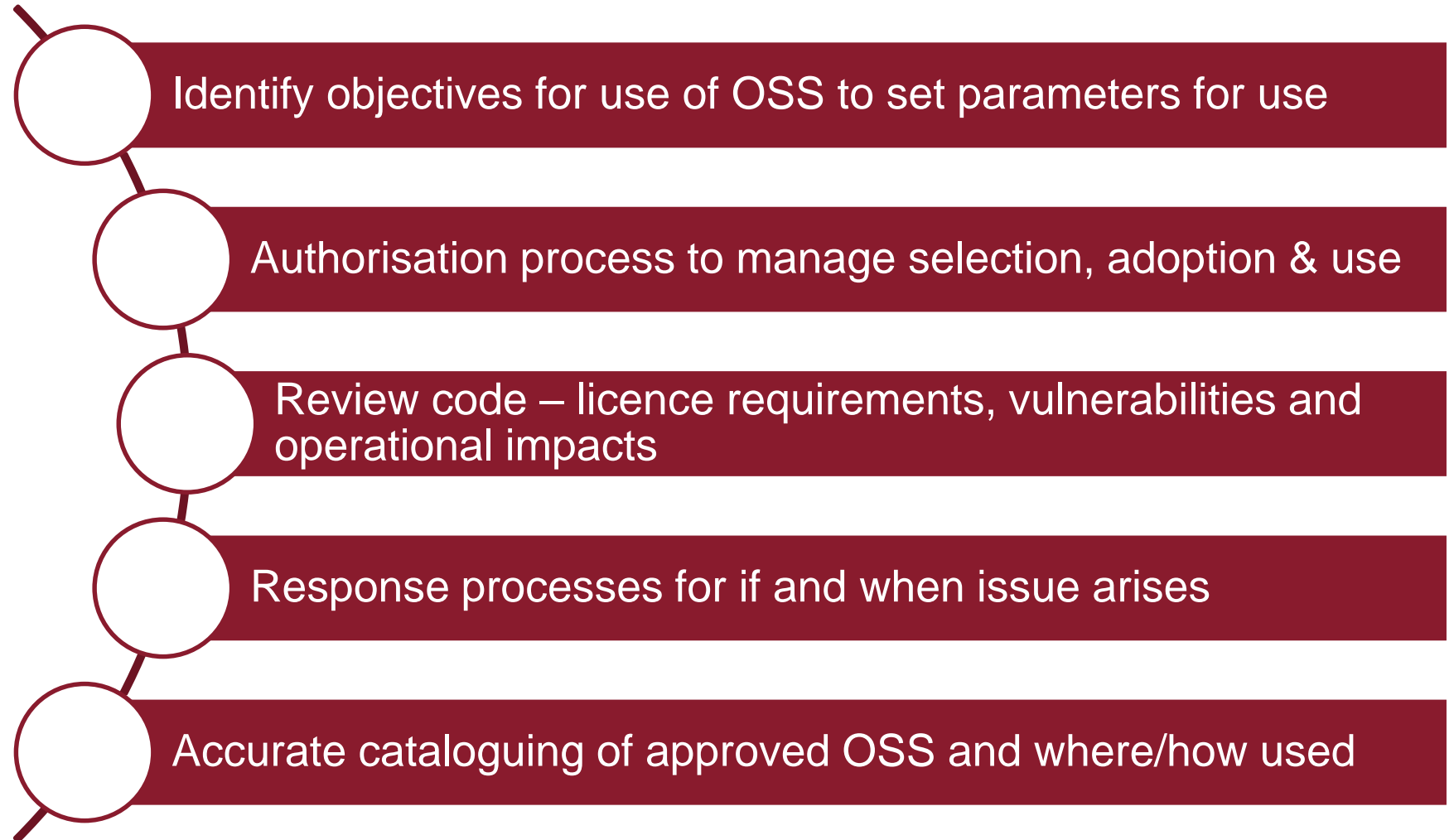
Risk assessment at outset of development process



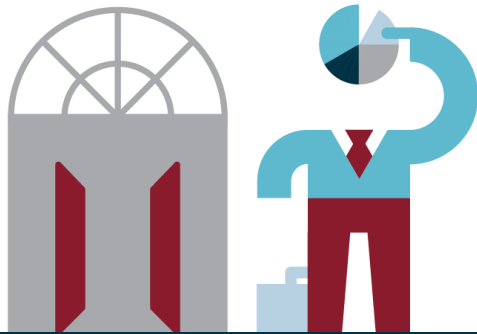
Parameters for reconsideration of assessments/governance

Use of Open Source Software

Growing use of OSS by Financial Institutions – but, important to understand operational risks and have processes/policies in place to protect and mitigate risks.



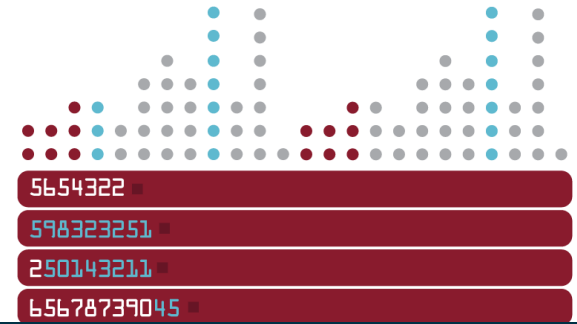
Use of AI – Some Key Thoughts



- Use in FS sector increasing – cryptocurrency, robo-advice, machine learning fraud tools etc.
- Greater regulation likely: EU already published proposal in April 2021



- EU regulation not specific to FS sector, but will have future impacts.
- Tiered system of "high risk" uses have greatest obligations – use in FS sector likely to fall under this category.
- UK may develop own approach, but likely to be broadly similar.



- Currently, no specific AI regulation, but existing regulatory framework will capture considerations.
- Tension with control/governance of risk?
- Accountability/ethics?

In Conclusion...

- Overall theme – continued trajectory of more invasive and prescriptive regulatory landscape.
- Some key issues to focus on practically:
 - Greater focus on firms making appropriate assessments: need suitable outsourcing policies to evidence full consideration of proposed services
 - Prescriptive requirements and contracting: must ensure procurement and compliance teams understand and build in requirements from outset of service acquisition
- Potential for divergence in requirements between UK and EU regimes.



Any questions?



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