6th July 2010

Association for Financial Markets in Europe Response

Basel Committee on Banking Supervision Consultative Document

Good Practice Principles for Supervisory Colleges

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to respond to the Basel Committee on Banking Supervision Consultative Document "Good Practice Principles for Supervisory Colleges" (March 2010).

AFME was formed on 1 November 2009 following the merger of LIBA (the London Investment Banking Association) and the European operation of SIFMA (the Securities Industry and Financial Markets Association). AFME represents a broad array of European and global participants in the wholesale financial markets, and its 197 members comprise all pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with SIFMA in the US, and the Asian Securities Industry and Financial Markets Association through the GFMA (Global Financial Markets Association), and provides members with an effective and influential voice through which to communicate the industry standpoint on issues affecting the international, European, and UK capital markets. For more information please visit the AFME website, www.AFME.eu.

General comments

In general, we consider that the proposed Principles represent a practical statement of the way in which colleges of supervisors should operate. We agree that efficient and effective colleges can play an important role in both micro prudential and macro prudential supervision.

Colleges need to operate in a way that optimises cooperation and streamlining of supervisory tasks. That optimisation needs to take account of the global and regional dimensions. The guidelines could go further in some areas to ensure colleges play a central part in the supervisory process for complex global groups. In this context, it is important for the Principles to dovetail well with the Committee of European Banking Supervisors' proposed guidelines for the operational functioning of colleges (published for consultation in December 2009 and issued on 15 June 2010).

We support the role of the home state supervisor as taking the lead in the college's activities, acting as the point of contact, and facilitating more efficient communication.

A particular area of concern is the confidentiality of market sensitive information either provided by the firm or resulting from the work of the college. Particular care is needed to ensure that the confidentiality of such information is properly protected at all times.

Firms would welcome greater transparency about the operation of their colleges. In particular, they would welcome receiving notification, in advance of college meetings to which they are invited, information on the work programme and likely data requests, to enable planning. Firms would also welcome the ability to contribute to debates and fuller feedback after college meetings on the outcome of the college, including a right to reply.

We agree that to work effectively colleges need to operate on the principle of mutual trust and respect and within a framework that allows and encourages supervisors and those that they regulate to share information and views appropriately and openly with each other. In recent times requests for information and inspection visits seem to have become uncoordinated and often take place outside traditional channels. It is crucial that as these principles are put into operation the rebuilding of trust remains a core objective for all stakeholders.

Principle 2: College Structures

Supervisory colleges should be structured in a way that enhances effective oversight of international banking groups, taking into account the scale, structure, and complexity of the banking group and the corresponding needs of its supervisors. Whilst a college is a single forum, multiple or variable sub-structures may be used as no single college structure is likely to be suitable for all banks.

We support the distinction between unitary colleges and dual core and universal colleges, which combine efficiency with full participation. In some cases it may be appropriate to allow broader participation within the core college in the interests of efficiency and effective oversight. However, we recognise that, in other cases, variable structures will be needed as contemplated by the proposed guidance. In particular, college structures involving firms operating within the EU will need to accommodate the EU legislative requirements for colleges of EU supervisors for such firms. Some examples of best practice may be helpful given the variable structures envisaged.

We welcome the emphasis in the guidance on the strong role for the home supervisor in the governance of the college.

Principle 3: Information sharing

College members should make their best efforts to share appropriate information with respect to the principal risks of the banking group. Mutual trust and relationships are key for effective information sharing. Nonetheless,

formal confidentiality agreements, such as contained in Memoranda of Understanding (MoUs), among college members facilitate this process.

As noted in our introductory remarks, firms regard it as essential that their confidential information is adequately protected. In this regard, firms consider it desirable that there be formal confidentiality agreements, such as those in MoUs, whenever possible. Supervisors should exercise caution about the disclosure of information where such agreements do not exist. It is important that the disclosing supervisor is able to establish the commitment by the receiving supervisor to maintain the confidentiality of information.

Some legal restrictions on information sharing remain and supervisors should actively seek to remove these where appropriate.

Principle 5: Collaborative Work

Supervisory colleges should promote collaborative work between members, as appropriate, to improve the effectiveness of the oversight of international banking groups. Collaborative work should be based on agreement between supervisors and should recognise national legal constraints.

We strongly support sharing and allocation of tasks as this should reduce the burden on the banking group of multiple supervisors. The examples quoted could be extended to include information requests, synchronisation and alignment of ICAPP reports, common reporting requirements/formats and deadlines.

With respect to model validation, we think that it is important that even if the wider college has reviewed a model, the existence of college structures should not hold up the consideration of non-material variations to the model by the home supervisor.

Principle 6: Interaction with the Institution

Interaction between the college members and the banking group should complement the interaction that individual supervisors (both home and host) have with the specific entity they supervise.

We welcome the commitment to interaction with the banking group. We stress the importance of fuller feedback to firms on the outcome of college meetings, to maximize the benefit of the colleges' work and the quality of engagement with the supervised group. It is also essential that the consolidating supervisor organises meetings between college members and the senior management of the group for this purpose. It is important for the group to receive information on areas of supervisory concern in advance of such meetings to allow a proper exchange of views during the meeting.

We also welcome the commitment to coordination of information requests to be made of the banking group to minimise the burden of multiple supervisors.

Principle 8: Macro Prudential Work

Supervisory colleges can help ensure that the intensity of supervision of large, complex, internationally active banking groups is tailored to their systemic importance. Supervisory colleges should facilitate the process of identification and dissemination of information relevant to macro prudential analysis.

We agree that the college should have a role in both assessing and responding, as regards particular groups, to the recommendations of the macro-prudential oversight bodies, where they identify issues in the supervision of the group which may have systemic significance. We support a clear link between macro- and micro-prudential supervision and the colleges provide an appropriate mechanism for such analysis. There needs to be a transparent dialogue to provide clarity on how the Principles would be applied if the macro-prudential assessment of risk made by the college were different from the conclusions reached by those bodies responsible for macro-prudential oversight.

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