



COMMENTS FROM THE ASSOCIATION OF SUPERVISORS OF BANKS OF THE AMERICAS (ASBA) TO THE CONSULTATIVE DOCUMENT

“Guidance on the Application of the Core Principles for Effective Banking Supervision to the Regulation and Supervision of Institutions Relevant to Financial Inclusion”

*(ISSUED BY THE BASEL COMMITTEE ON BANKING SUPERVISION FOR COMMENTS BY
31 March 2016)*

I. Background

The Basel Committee on Banking Supervision has issued this consultative document as a Guideline “...intended to help supervisors respond to changes and innovations in products, services, and delivery channels of financial institutions working to reach the approximately 2 billion adults who do not have an account at a formal financial institution (referred to in this Guidance as “unserved and underserved customers”).¹

The document also “...examines the risks presented by banks and nonbank financial institutions in their endeavour to reach the unserved and underserved customers and, using the lens of the Core Principles, guides prudential supervisors on the application of a proportionate regulatory and supervisory approach. In addition, the Guidance addresses issues related to consumer protection and to anti-money laundering and combating the financing of terrorism (AML/CFT).”

II. Purpose of the Guidance

The document is envisioned to address specifically issues related to nonbank financial institutions. It can also be useful to prudential supervisors and authorities engaged in regulation and supervision and with responsibilities aimed at financial consumer protection and competition, as well as to promote cooperation and collaboration among a wide range of authorities.

The Committee states that “of the 29 Core Principles issued by the Basel Committee, this Guidance has identified 19 Core Principles, where there is a need for providing additional guidance in their application to the supervision of the financial institutions engaged in serving the financially unserved and underserved.”²

The following are the comments made by the members of ASBA to the consultative document proposed by the BCBS.

¹ Guidance on the Application of the Core Principles for Effective Banking Supervision to the Regulation and Supervision of Institutions Relevant to Financial Inclusion. Basel Committee on Banking Supervision. December 2015.

² *Idem*. Cf page 4.



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I. General Comments

- i. In the introduction to the Guidance, the Association recommends adding language on the purpose of financial sector regulation and supervision, clearly indicating that Guidance is not designed to inhibit the surge of new operators and technologies in the financial sector.
- ii. The Guidance rightly estates “that financial education and financial consumer protection are complementary policy objectives and that each may increase the effectiveness of the other.”³ However, aside from high level Principle 5, which also speaks to consumer protection, the Guidance remains somewhat silent on the importance of having financial education programs that will help the consumer make better decisions on the trusting of his resources to banking or non-banking entities.
- iii. The Association recommends to include in the Guidance that when deposit-taking entities become significant in size -measured by the size of deposits and number of clients- the applicable prudential regulation must be similar to the one applied to other entities that receive deposits; thus, providing adequate protection to depositors.

II. Specific Comments

1. Principle 3

Under Principle 3 on Cooperation and Collaboration the document states that “Most often, banks are supervised by the central bank or a separate banking supervisor. Prudential responsibilities over one or more types of nonbank deposit-taking institutions may be assumed by the banking supervisor or by other authorities, such as a specialized nonbank regulator, the finance ministry, and in some cases, the cooperative agency.”

The Association recommends to include the need to adopt practical mechanisms to facilitate the communication about risks or events affecting the system’s stability between public authorities. For instance, the need to establish channels to allow the supervisor of telecommunications to inform timely about how possible risks in this sector could affect the financial system.

2. Principle 5

The Association suggests adding language to make sure that the authority in charge of issuing licenses has the powers to verify that the managing structure of the proposed entity does not interfere with the efficient application of guidelines devoted to consumer protection and market conduct.

³ Guidance, Annex A



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3. **Principle 11**

The Association suggests adding that proper communication channels be established between different supervisors to allow an expeditious alerts’ flow between authorities regarding non-compliance of third parties (e.g. telecommunications companies).

4. **Principle 28**

Principle 28, states the need for companies to disclose their business model. However, it should be considered that some aspects of any business strategy are protected by commercial or other secrecy provisions. Therefore, the Association recommends adding language leaving the disclosure of these aspects to the supervisor’s discretion.

5. **Annex A**

The Association suggests considering recommending the implementation of periodic surveys to all segments of financial consumers to assess their needs in the financial field; the level of attention devoted to them; and the quality of the financial services being provided.

6. **Annex E**

The point on Labor-Intensive Methodology could be complemented with a statement indicating that a factor of success for financial entities is to have adequately selected and trained personnel to assess correctly all data gathered and to procure adequate credit granting and recovery processes.