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EACB comments on BCBS
Core principles for effective banking supervision
(d551)

General comments

The EACB welcomes the opportunity to comment on the Basel Committee's review of the *The Core Principles for Effective Banking Supervision (Core Principles)*.

Reviewing and enriching the Principles will certainly contribute to a wider level playing field at global level. We agree with the intention to see the Core Principles as a "living" standard that evolves in response to – but also in tune with – global financial developments, emerging risks and trends, and changes to the global regulatory and supervisory landscape. At the same time it is important for institutions to have the right degree of predictability in supervisory expectations and stability in regulatory and supervisory requirements.

The opening section should also make it clearer that the Principles do not add new requirements that are not already provided in more detail in the specific standards.

Introduction to the principles and proportionality

We welcome the fact that proportionality is given greater attention than in the past with the inclusion of a dedicated section, we would encourage the Basel Committee to consistently continue along this path.

While the Charter of the Basel Committee explicitly states that the BCBS "expects full implementation of its standards by BCBS members and their internationally active banks", jurisdictions do apply the Basel framework to a wider population of institutions, thus making a proportionate policy design particularly relevant.

It is clear that proportionality does not mean lower or less conservative standards, but it should be ensured that the framework is overall fit for purpose and that the supervisory practices and expectations are commensurate with banks' business model, risk profile, complexity and that they are appropriate for the broader characteristics of a particular financial system.

It is therefore essential to consistently embed proportionality in the document (para. 02.9 and following) to avoid the misleading impression that a proportionate approach would only apply where it is explicitly mentioned in individual principles (cf. Principle 16, 19, 24, 28). This is key to ensure that policy design is balanced and fit for purpose from inception, as incremental adjustments at the moment of standard implementation are much more complex.

We also suggest a consequent anchoring of proportionality in Principle 1 (3). While "upward proportionality" is mentioned ("*The supervisor has the power <u>to increase</u> the prudential requirements for individual banks and banking groups based on their risk profile and systemic importance*"), we consider it appropriate to also open the door for "proportionality downwards", for example by taking up paragraph 02.12 in a consequential manner.

The importance of the principle of proportionality is also emphasized by the increase in the frequency of supervisory on-site inspections/investigations reported by members, which take up a growing amount of the banks' resources, while "freezing" significant parts of the daily work. Another related topic leading to capacity

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issues is the length of the investigations, with examinations that can succeed one another for months. While responding to supervisory requests is not disputed, the overall principles should encourage supervisors to perform their tasks efficiently also with regard to the resources and time constraints of institutions.

<u>Principle 1 – Responsibilities, objectives and powers</u>

- *Essential criteria, (5)(a)*

The wording "*including records that are held by service providers and may be accessed either directly or through the supervised bank) in order to review compliance with internal rules and limits as well as external laws and regulations*" should be kept. Otherwise, the statement is fully inclusive and does not reflect on the purpose of the actions undertaken.

- *Essential criteria, (7)*

We believe that the following statement should be amended "*The supervisor has access, whether directly or through the supervised bank, to all necessary information for conducting such a review irrespective of where it is available.*" This approach seems in fact to conflict with the aim to increase the focus on proportionality as the bank is required to ensure the availability of information throughout the whole group "*irrespective of where it is available*", without consideration for the required efforts.

<u>Supervisory techniques and tools (Principle 9)</u>

In the revised paragraph 11 of Principle 9, the cooperation between supervisory authority and independent third parties in the fulfilment of its tasks is described in summary form. We welcome this new, clearer presentation of the essential principles of cooperation with third parties. In this context, we suggest taking this adjustment as an opportunity to include the general principle of proportionality of the costs incurred in cooperation with third parties and the requirement of proper accounting of such costs. Banks are often burdened with excessive costs from the activities of such third parties and their fee statements are not always fully comprehensible. Therefore, a transparency requirement is necessary, as the control of the costs, their appropriateness as well as their understandability are within the responsibility of the supervisory authority, which is ultimately the client of the third party.

<u>Principle 10 – Supervisory reporting</u>

The essential criteria corresponding to the former (10) should be kept as it ensures a clear definition and communication of tasks.

<u>Principle 15 – Risk management process</u>

As outlined in the principles (e.g. in Principle 15), we see that one of the main roles of the supervisor is to determine whether banks have a comprehensive risk management process (including effective board and senior management oversight) to identify, measure, evaluate, monitor, report and control or mitigate all material risks on a timely basis.

This places the focus of the supervisor's responsibility on monitoring that banks manage their risks adequately; however, the supervisor should not influence business decisions taken by banks. We would welcome a clearer outline of the separation of roles, thereby distinguishing between the supervision of adequate risk management and business decisions taken by banks.

Transactions with related parties (Principle 20)

Footnote 54 provides, among other things, for classifying as related parties also those "*parties that can exert a significant influence on the board or the senior management*". This extension is problematic insofar as it is completely unclear which parties are meant here beyond those mentioned in the previous sentence. It would lead to considerable uncertainties in the identification of related parties, multiplying efforts without a clear outcome. We recommend to delete this extension of the notion of related parties.

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