



CORPORATE GOVERNANCE PRINCIPLES FOR BANKS

ICAEW welcomes the opportunity to comment on the consultative document *Corporate governance principles for banks* published by the Basel Committee on Banking Supervision in October 2014, a copy of which is available from this [link](#).

This response of 9 January 2015 has been prepared on behalf of ICAEW by the Financial Services Faculty. As a leading centre for thought leadership on financial services, the Faculty brings together different interests and is responsible for representations on behalf of ICAEW on governance, regulation, risk management, auditing and reporting issues facing the financial services sector. The Faculty draws on the expertise of its members and more than 25,000 ICAEW members involved in financial services.

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1. We support the work of the Basel Committee on Banking Supervision ('the Committee') in issuing guidelines for corporate governance principles for banks. We recognise that effective corporate governance is critical to the proper functioning of the banking sector and the economy as a whole. The comments below are made in view of the principles as a whole, with comments on specific principles and points of detail as relevant. We do not propose to comment on each principle individually. Efficient and cost-effective governance process within a bank will decrease the need for regulatory intervention and may permit the regulatory supervisor to further rely on the bank's internal processes. Regulators may also be able to focus their attention on a smaller number of key individuals and assess their abilities more closely.

MAJOR POINTS

Banks only

2. There is a case for banks, particularly large banks and similar institutions capable of creating systemic risk, having enhanced systems of governance because of their inherent complexity and the public interest in their stability. We believe that banking supervisors can have a role in promoting robust governance in the firms they regulate and support the revision of the Committee's guidance. There are a number of existing legal and governance requirements that banks are already subject to across different jurisdictions. It is important in setting guidance for governance in banks that it does not create standards for other types of organisation. The Committee is right to focus on areas of particular relevance for banks in the guidance.

Principles better than detailed rules

3. We support the approach of setting high level principles, rather than prescriptive rules, as good governance is a dynamic process where the substance operational effectiveness is more important than the form of compliance with any set of rules. There can be a number of different ways to design a robust governance framework. For example, in the UK companies typically operate under a unitary board system with collective responsibility while in other parts of Europe it is more common to use a two-tier board structure which splits management and supervisory responsibilities. Both systems are capable of delivering good (and bad) governance and the guidelines should be capable of working across different legal, regulatory and governance requirements that banks may face in different international jurisdictions..
4. Overall, we believe that the draft guidelines provide a sufficiently detailed set of principles covering appropriate areas without introducing potentially inappropriate prescriptive requirements. The guidelines would not, on their own, be sufficient for supervisors or boards to assess the effectiveness of a bank's governance. Judgement will always be needed to assess effectiveness. While the language is in many places non-specific and subjective, we believe this is appropriate as more specific language may lead towards more of a tick-box approach, rather than an intelligent assessment of the best way to achieve effective governance.

DETAILED POINTS

5. The introduction places strong emphasis on the board's responsibilities in ensuring that banks' corporate culture, activities and behaviour are safe and sound and that senior management acts with integrity and in compliance with applicable laws and regulations. We believe that it would be more effective for the document to state that these are the values the Basel Committee expects all those who are charged with banks' corporate governance should strive for.
6. Principles 7 and 8 describe risk related responsibilities (identification, monitoring, controlling and communication) with no clear distinction between the board functions, which are about setting the risk appetite and oversight of risk management (which can be delegated to the risk committee), and senior management functions, which are to implement board decisions and to

design and operate an effective risk management framework. We believe that these distinctions need to be more clearly set out.

7. Principle 13 addresses dialogue between supervisors and directors and senior managers. It could also cover dialogue between supervisors and external auditors. As we suggested in our last representation to the committee¹, a regular two way dialogue between auditors and supervisors would allow both parties to make more informed risk assessments, which would have a positive impact on the quality of both audit and regulation. We continue to believe that this is the case and encourage the Basel Committee to emphasise the importance of this constructive dialogue both in terms of formal meetings and more informal communication.

¹ ICAEW Representation 89/13 – External audit of banks