Basel Committee on
Banking Supervision

SRP

Supervisory review process

SRP99

Application guidance

Version effective as of 15 Dec 2019

First version in the format of the consolidated framework.

BANK FOR INTERNATIONAL SETTLEMENTS

Supervisory transparency and accountability

99.1 The supervision of banks is not an exact science, and therefore, discretionary elements within the supervisory review process are inevitable. Supervisors must take care to carry out their obligations in a transparent and accountable manner. Supervisors should make publicly available the criteria to be used in the review of banks' internal capital assessments. If a supervisor chooses to set target or trigger ratios or to set categories of capital in excess of the regulatory minimum, factors that may be considered in doing so should be publicly available. Where the capital requirements are set above the minimum for an individual bank, the supervisor should explain to the bank the risk characteristics specific to the bank which resulted in the requirement and any remedial action necessary.

Enhanced cross-border communication and cooperation

99.2 Effective supervision of large banking organisations necessarily entails a close and continuous dialogue between industry participants and supervisors. In addition, the Framework will require enhanced cooperation between supervisors, on a practical basis, especially for the cross-border supervision of complex international banking groups.

99.3 The Framework will not change the legal responsibilities of national supervisors for the regulation of their domestic institutions or the arrangements for consolidated supervision as set out in the existing Basel Committee standards. The home country supervisor is responsible for the oversight of the implementation of the Framework for a banking group on a consolidated basis; host country supervisors are responsible for supervision of those entities operating in their countries. In order to reduce the compliance burden and avoid regulatory arbitrage, the methods and approval processes used by a bank at the group level may be accepted by the host country supervisor at the local level, provided that they adequately meet the local supervisor's requirements. Wherever possible, supervisors should avoid performing redundant and uncoordinated approval and validation work in order to reduce the implementation burden on banks, and conserve supervisory resources.

99.4 In implementing the Framework, supervisors should communicate the respective roles of home country and host country supervisors as clearly as possible to banking groups with significant cross-border operations in multiple jurisdictions. The home country supervisor would lead this coordination effort in cooperation with the host country supervisors. In communicating the respective supervisory roles, supervisors will take care to clarify that existing supervisory legal responsibilities remain unchanged.

99.5 The Committee supports a pragmatic approach of mutual recognition for internationally active banks as a key basis for international supervisory co-operation. This approach implies recognising common capital adequacy approaches when considering the entities of internationally active banks in host jurisdictions, as well as the desirability of minimising differences in the national capital adequacy regulations between home and host jurisdictions so that subsidiary banks are not subjected to excessive burden.

99.6 Before giving consent to the creation of a cross-border establishment, the host country authority and the bank's and banking group's home country authorities should each review the allocation of supervisory responsibilities recommended in the Concordat[1] in order to determine whether its application to the proposed establishment is appropriate. If, as a result of the establishment's proposed activities or the location and structure of the bank's or the banking group's management, either authority concludes that the division of supervisory responsibilities suggested in the Concordat is not appropriate, then that authority consults with the other authority on how to promote effective supervisory cooperation, either generally or in respect of specific activities. A similar review should be undertaken by all authorities if there is a significant change in the bank' s or banking group's activities or structure.

Footnotes

[1] *See Principles for the supervision of banks' foreign establishments (Concordat), Basel Committee, May 1983, www.bis.org/publ/bcbsc312.htm .*

99.7 Before giving either inward or outward consent for the creation of a cross-border banking establishment, a supervisory authority should establish an understanding with the other authority that they may each gather information to the extent necessary for effective home country supervision, either through on-site examination or by other means satisfactory to the recipient, from the cross-border establishments located in one another's jurisdictions of banks or banking groups chartered or incorporated in their respective jurisdictions. Through such bilateral arrangements, all home country authorities should be able to improve their ability to review the financial condition of their banks' and banking groups' cross-border banking establishments.

Guidance related to the supervisory review process

99.8 The Basel Committee has published guidelines and sound practices which supervisors should take into account during the supervisory review process. These documents are available on the website of the Bank for International Settlements (www.bis.org/bcbs/publications.htm).

Pillar 2 for systemically important banks

99.9 The higher loss absorbency requirement for global systemically important banks (G-SIBs) incorporates elements of both Pillar 1 and Pillar 2. The indicator-based measurement approach, the pre-specified requirements for banks within each bucket and the fixed consequences of not meeting the requirement can be considered close to Pillar 1. However, the use of supervisory judgment to finalise the allocation of individual banks to buckets can be considered close to Pillar 2. Irrespective of whether the higher loss absorbency requirement is considered to be a Pillar 1 or a Pillar 2 approach, it is essentially a requirement in addition to other capital buffers and the minimum capital requirement, with a predetermined set of consequences for banks that do not meet the requirement. The same is true of the higher loss absorbency requirement for domestic systemically important banks (D-SIBs).

99.10 In some jurisdictions, Pillar 2 may need to adapt to accommodate the existence of the higher loss absorbency requirements for G-SIBs or D-SIBs. Specifically, it would make sense for authorities to ensure that a bank's Pillar 2 requirements do not require capital to be held twice for issues related to the externalities associated with distress or failure of G-SIBs or D-SIBs if they are captured by the higher loss absorbency requirement. However, Pillar 2 will normally capture other risks that are not directly related to these externalities of G-SIBs and D-SIBs (eg interest rate and concentration risks), so capital meeting the higher loss absorbency requirement should not be permitted to be simultaneously used to meet Pillar 2 requirement that relate to these other risks.